

**Minutes of the Council of the City of Easton, Pa.
March 13, 2013**

Easton, Pa
Wednesday
March 13, 2013
6:00 p.m.

City Council met in stated session at the above date and time, in Council Chambers, 6th floor, One S. Third Street to consider any business that may lawfully be brought before the body and to receive a presentation on the proposed new City Hall and Transportation Facility.

The invocation was given by Mr. Brown followed by the Pledge of Allegiance.

ROLL CALL

Present: Brown, Fleck, Ruggles, Vulcano, Warren, Panto (Phone) (6)
Absent: Warner (1)

Also in attendance were Thomas A. Hess, City Clerk, William Murphy, City Solicitor, Beth Knickerbocker, Assistant City Solicitor and Glenn Steckman, City Administrator. There were approximately sixty other persons present.

APPROVAL OF AGENDA

On motion of Mr. Fleck and Mr. Warren the Agenda was approved by the following vote:

Yeas: Brown, Fleck, Ruggles, Vulcano, Warren, Panto (6)
Nays: None (0)

ACTION ON MINUTES

On motion of Mr. Brown and Dr. Ruggles the February 27, 2013 Council Meeting minutes were approved as submitted by the following vote:

Yeas: Brown, Fleck, Ruggles, Vulcano, Warren, Panto (6)
Nays: None (0)

RESOLUTION

The next item on the Agenda was a proposed Resolution recognizing the death of Salvatore J. LaRosa, a former City Employee.

The following Resolution was introduced by Mayor Panto:

44-2013

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The above Resolution was adopted on motion of Mayor Panto and Mrs. Vulcano by following vote:

Yeas: Brown, Fleck, Ruggles, Vulcano, Warren, Panto (6)
Nays: None (0)

Mayor Panto, Mr. Brown and Mrs. Vulcano offered words regarding Mr. LaRosa's service and dedication to the City and to Council members personally.

Mr. LaRosa's daughter was presented with a framed Resolution and thanked Council for the honor bestowed on her father.

SWEARING IN OF FIREFIGHTER JORGE RIVERA

At this time Mayor Panto swore in Jorge Rivera as a Fire Fighter with the City, and wished him good luck in his future with the City's Fire Department.

PRESENTATION

Proposed City Hall and Transportation Facility Project

At this time Mayor Panto spoke regarding the background, changes, since its inception, the layout of the proposed building and the surrounding area, for the proposed new City Hall and Transportation Facility Project.

Gretchen Longenbach, Director of Economic Development furnished an update on the Economic Development activity in the City.

Chris Heagele, Director of Finance spoke regarding the project budget and its financial benefits to the City.

Mr. Biando, an architect for Spillman and Farmer Architects, spoke regarding the proposed building.

Council members made comments and asked questions regarding the design, size, layout, entrances, ceiling heights of the building, existing power lines behind the building, if the footprint of the building was in the flood plain, and if there would be sufficient storage space in the building for City Hall records, which were answered by Mayor Panto, Mr. Biando, and Ms. Longenbach.

Council members said that they were very supportive of this proposed project.

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Rich Hieshetter, 304 W. Monroe Street spoke and asked questions regarding the use of City recyclable materials to be used in the proposed building.

Mr. Hieshetter's questions were answered by Mayor Panto and Randy Gallato, from Spillman and Farmer.

Becky Bradley, Director of Planning and Codes spoke regarding design conception and details of the building and why it was chosen.

Dr. Ruggles said that the proposed Management Agreement had changed from what the members had received in their packets, and asked for the changes to be explained.

Graham Simmons, Attorney to the Easton Parking Authority, Mr. Murphy and Ms. Longenbach went over the changes to the Agreement.

There were no other comments or questions from Council or the audience.

CITIZENS RIGHT TO BE HEARD – (Agenda Items Only)

There were no remarks from the audience

REPORTS RECEIVED BY COUNCIL

There were no reports received by Council.

REPORTS OF COMMITTEES

Mr. Brown, Chairman of the Finance Committee spoke regarding legislation that he would have for later in the meeting regarding amending the 2013 Recreation Fund Budget, amending the 2012 Alpha Building Fund Budget, for amending the 2013 General Fund Budget, and for approving a Settlement Agreement with Thomas W. Olick.

Mrs. Vulcano, Chairman of the Economic Development Committee spoke regarding legislation that she would have for later in the meeting regarding approving a Construction Management Agreement with J. G. Petrucci, Co. Inc.

Dr. Ruggles, Chairman of the Planning Committee, reported that he would be meeting with the Police Department and the Planning/Codes Department regarding the existing Dumpster Ordinance.

Mr. Warren, Chairman of the Public Safety Committee spoke regarding legislation that he would have for later in the meeting regarding authorizing Fire Chief John Bast to sign all PEMA and FEMA papers regarding damage from Hurricane Sandy.

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Dr. Warner, Chairman of the Public Works Committee was absent.

Mr. Fleck, Chairman of the Administration Committee spoke regarding legislation that he would have for later in the meeting for amending the Council Rules and Regulations Ordinance.

Mr. Murphy, City Solicitor reported that before the Council meeting Council had met in Executive Session and had discussed a personnel matter and a contract.

Ms. Knickerbocker, Assistant City Solicitor had no report.

Mayor Panto reported that he had been in Washington D.C. and had discussions on the Sequester and what impact it would have on Cities.

UNFINISHED BUSINESS

Bill No. 15, (Ordinance 5400) Amending the 2012 Alpha Building Fund Budget was adopted on motion of Mr. Brown and Mr. Fleck by the following vote:

Yeas: Brown, Fleck, Ruggles, Vulcano, Warner, Panto (6)
Nays: None (0)

Ordinance 5400 amends the 2012 Alpha Building Fund Budget by increasing Revenues and Expenditures by \$16,157.81.

Bill No. 16, (Ordinance 5401), Amending the 2012 Unemployment Fund Budget was adopted on motion of Mr. Brown and Mr. Warren by the following vote:

Yeas: Fleck, Ruggles, Vulcano, Warner, Panto, Brown (6)
Nays: None (0)

Ordinance 5401 amends the 2012 Unemployment Fund Budget by increasing Revenues and Expenditures by \$3,000.38.

Bill No. 17, Amending the Code of the City of Easton Pa., by deleting and repealing Chapter 39 thereof, Council Rules and Regulations, and replacing it with a new Chapter 39, to be entitled Council Rules and Regulations, was moved and seconded on motion of Mr. Fleck and Mr. Warren.

There was a discussion between Council members, Mr. Murphy, the City Clerk and Mr. Heagele regarding proposed changes to items in the new proposed Chapter 39. During that discussion Mr. Brown read from an American Center for Law and Justice article entitled Public Prayer, which he requested to be made part of the record. (See attachment)

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Bill No. 17 was amended in the following way on motion of Mr. Fleck and Mr. Warren by the following vote:

1. Changing the word workshop to read Committee meetings in all the sections throughout the proposed new chapter.
2. In Section 39-10, change that the City Clerk must attend all meetings of Council to attendance at Council committee meetings and Public Hearings shall be required at the direction of the Chair.
3. In Section 39-15 add "vote" to what the Presiding Officer may do.
4. In Section 39-16 remove "Moment of Silence" and replace it with "Invocation".
5. In Section 39-16 move Public Comment on Agenda items only to before Consent Agenda.
6. In Section 39-18 change "in one public place in City Hall" to "in the City Clerks Office".

Yeas: Ruggles, Vulcano, Warren, Panto, Brown, Fleck (6)
Nays: None (0)

Amended Bill No. 17, (Ordinance 5402) Amending the Code of the City of Easton, Pa. by deleting and repealing Chapter 39 thereof, Council Rules and Regulations, and replacing it with a new Chapter 39, to be entitled Council Rules and Regulations, was adopted on motion of Mr. Fleck and Mr. Warren by the following vote:

Yeas: Fleck, Brown, Panto, Warren, Vulcano, Ruggles (6)
Nays: None (0)

Ordinance 5402 repealed the existing Chapter 39, Council Rules and Regulations, and replace it with a new Chapter 39, same title.

CORRESPONDENCE

The following correspondence was received by Council.

- (a) Randall John E. Fieund, Esquire, Letter Notification of Territory from the Easton Area School District to the palisades School District.
- (b) Sanford Ames Jr., letter regarding encrypted channels on RCN Cable.

NEW BUSINESS

A March 7, 2013, memorandum regarding a proposed 2013 Budget Amendment for the N. 4th Street Parcel Purchase was received from Chris Heagele, Director of Finance.

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Bill 18, Amending the 2013 General Fund Budget was introduced by Mr. Brown and ordered processed for adoption.

This Bill would amend the 2013 General Fund Budget by increasing Revenues and Expenditures by \$75,000.

A February 25, 2013 memorandum regarding a Bid opening was received from Scott Klabunde.

The next item on the Agenda was a proposed Resolution which would approve a Contract with Bestline Leasing Inc., for the purchase of a new Genie Electric Trailer-mounted Z Boon.

The following Resolution was introduced by Dr. Ruggles:

45-2013

The above Resolution was adopted on motion of Dr. Ruggles and Mr. Warren by the following vote:

Yeas: Brown, Fleck, Ruggles, Vulcano, Warner, Panto (6)
Nays: Nays (0)

The next item on the Agenda was a proposed Resolution which would encourage everyone to participate in Earth Hour on Saturday, March 23, 2013.

The following Resolution was introduced by Dr. Ruggles:

46-2013

The above Resolution was adopted on motion of Dr. Ruggles and Mrs. Vulcano by the following vote:

Yeas: Fleck, Ruggles, Vulcano, Panto, Brown (6)
Nays: None (0)

The next item on the Agenda was a proposed Resolution which would authorize John B. Bast to execute for and in behalf of the City all required PEMA forms and documents for Hurricane Sandy.

The following Resolution was introduced by Mr. Warren:

47-2013

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The above Resolution was adopted on one vote on motion of Mr. Warren and Dr. Ruggles by the following vote:

Yeas: Ruggles, Vulcano, Warren, Panto, Brown, Fleck (6)
Nays: None (0)

The next item on the Agenda was a proposed Resolution that would authorize the Administration to seek proposals for the sale of the Alpha Building and to appropriate the said proceeds to the construction of the new Easton City Hall and Transportation Center.

The following Resolution was introduced by Mayor Panto:

48-2013

The above Resolution was adopted on motion of Mayor Panto and Mr. Brown by the following vote:

Yeas: Vulcano, Warren, Panto, Brown, Fleck, Ruggles (6)
Nays: None (0)

The next item on the Agenda was a proposed Resolution which would authorize the City Administration to sell, by auction, City-owned items.

The following Resolution was introduced by Dr. Ruggles:

49-2013

The above Resolution was adopted on motion of Dr. Ruggles and Mr. Warren by the following vote:

Yeas: Warren, Panto, Brown, Fleck, Ruggles, Vulcano (6)
Nays: None (0)

The next item on the Agenda was a proposed Resolution which would approve an Agreement with Mark Bonstein to conduct an Auction of City property on April 6, 2013.

There was a discussion between Council members and Mr. Murphy regarding the number of people that would be working the auction, and the clause to jointly and severally indemnify, defend and hold the Auctioneer and staff harmless from and against any liabilities to anyone regarding the auction sale for any damages, losses or expenses.

The proposed Resolution was withdrawn on motion of Mayor Panto and Mr. Fleck by the following vote:

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Yeas: Panto, Brown, Fleck, Ruggles, Vulcano, Warren (6)
Nays: None (0)

The next item on the Agenda was a proposed Resolution which would approve a Construction Management Agreement with J.G. Petrucci, Co., Inc.

The following Resolution was introduced by Mrs. Vulcano:

50-2013

The above Resolution was adopted on motion of Mrs. Vulcano and Mr. Warren by the following vote:

Yeas: Fleck, Ruggles, Vulcano, Warren, Panto (6)
Nays: None (0)

The next item on the Agenda was a proposed Resolution which would approve a Settlement Agreement with Thomas W. Olick.

The following Resolution was introduced by Mr. Brown:

51-2013

The above Resolution was adopted on motion of Mr. Brown and Mr. Warren by the following vote:

Yeas: Ruggles, Vulcano, Warren, Panto, Brown, Fleck (6)
Nays: None (0)

CITIZENS RIGHT TO BE HEARD

There were no remarks from the audience.

ADJOURNMENT

With no further business, the meeting was adjourned at 8:58 p. m. on the motion of Mr. Fleck and Mr. Brown by the following vote:

Yeas: Panto, Warren, Vulcano, Ruggles, Fleck, Brown (6)
Nays: None (0)


Thomas A. Hess, City Clerk



Public Prayer

As Christians we are called to pray, and many Americans are responding to that call in a powerful way. America has a long history of official government acknowledgment of the role of religion in American life. At the ACLJ, we continue to fight for your right to pray in public, according to the dictates of your conscience.

As Christians we are called to pray, and many Americans are responding to that call in a powerful way. Unfortunately, despite the long history of official government acknowledgment of the role of religion in American life, some may challenge the right of private citizens to participate in prayer on public property. At the ACLJ, we continue to fight for your right to pray in public, according to the dictates of your conscience.

Private religious speech, including prayer, is protected by the First Amendment.

The First Amendment to the United States Constitution prohibits the government from “abridging the freedom of speech.” U.S. Const., Amend. I. Subsequent Supreme Court precedent establishes that private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression.” *Capitol Square Review and Advisory Board v. Pinette*, 515 U.S. 753, 760 (1995). Thus, one’s participation in activities such as prayer, worship, and other religious speech, is protected under the First Amendment. *See Widmar v. Vincent*, 454 U.S. 263, 269 (1981) (specifically including “religious worship and discussion” as forms of protected speech).

One of the most frequently advocated positions for restrictions on religious speech is that of achieving the “separation of church and state.” Achieving that objective, however, cannot justify suppressing private speech, because the Establishment Clause only forbids Congress from making a law “respecting an establishment of religion.” The Supreme Court has recognized that “there is a crucial difference between government speech endorsing religion, which the Establishment Clause forbids, and private speech endorsing religion, which the Free Speech and Free Exercise Clauses protect.” *Bd. of Educ. of the Westside Comm. Sch. v.*

Mergens, 496 U.S. at 250 (plurality). Therefore, a private citizen may engage in prayer in public without fear of violating the Establishment Clause.

Furthermore, the government may not deny equal access to a public forum (such as a public library meeting room or school auditorium made available for public use) for prayer and worship based on concerns about violating the Establishment Clause. Recent Supreme Court pronouncements render untenable any suggestion that speech by private parties, in public fora available for use by a variety of private organizations, could somehow trigger a violation of the Establishment Clause. See *Good News Club v. Milford Central School*, 533 U.S. 98, 112-20 (2001); *Rosenberger v. Rector and Visitors of the Univ. of Virginia*, 515 U.S. 819, 839 (1995). Thus, when a municipal government allows non-religious speakers to engage in protected speech activities on courthouse lawns, steps, or the like, it is simply acting in a neutral manner, rather than violating the Establishment Clause, when it affords religious speakers the same rights.

The Supreme Court has stated, “The Establishment Clause does not license government to treat religion and those who teach or practice it, simply by virtue of their status as such, as subversive of American ideals and therefore subject to unique disabilities.” *Mergens*, 496 U.S. at 248 (plurality) (quoting *McDaniel v. Paty*, 435 U.S. 618, 641 (1978) (Brennan, J., concurring in judgment)). Accordingly, the First Amendment precludes any governmental effort to single out, censor, or otherwise burden one’s private speech solely because that speech is religious.

Legislative Sessions and other State and Local Government Meetings Can Be Constitutional If Done Properly.

Many communities nationwide include a short prayer as a part of school board meetings, town council meetings, legislative sessions, and other public functions. The Supreme Court has acknowledged the fact that:

The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom.

Marsh v. Chambers, 463 U.S. 783, 786 (1983). However, the constitutionality of public prayer has become a prominent issue in recent years because the major Supreme Court decision in this area—*Marsh*—has not been interpreted uniformly by the lower federal courts across the country. While *Marsh* upheld the centuries-old practice of opening legislative sessions with a prayer, it did not clearly answer important questions about the content of permissible prayers, the kind of public events at which prayer may occur, and whether it is permissible to limit the prayer to one particular person.

As such, Schools, legislatures, municipalities and other governmental bodies considering opening their meetings with a word of prayer should consult their own attorney(s) directly for legal advice specific to their situation.

Public Officials May Call on the Public for a Time of Voluntarily Prayer.

From the nation's founding to the present day, presidents and governors have called for voluntary prayer or reflection in response to natural disasters, tragedies, and other significant events. For example, those who signed the Declaration of Independence believed that God hears and answers prayer, as they "appeal[ed] to the Supreme Judge of the world to rectify their intentions." *Declaration of Independence* (U.S. 1776). The Declaration recognizes that human liberties are a gift from "Nature's God," as "all men . . . are endowed by their Creator with certain unalienable Rights." *Id.* Public proclamations of thanksgiving and prayer are a longstanding part of American history. *County of Allegheny v. ACLU*, 492 U.S. 573, 671-72 (1989) (Kennedy, J., concurring in part and dissenting in part); *see also Marsh v. Chambers*, 463 U.S. 783 (1983) (recognizing that historic practice is relevant to Establishment Clause analysis).

As the Supreme Court has noted, "To invoke Divine guidance on a public body entrusted with making laws is not, in these circumstances, an 'establishment' of religion or a step toward establishment; it is simply a tolerable acknowledgement of beliefs widely held among the people of this country." *Marsh*, 463 U.S. at 792.

It is important to note that the Constitution cannot be interpreted to purge all religious reference from the public square. "A relentless and all-pervasive attempt to exclude religion from every aspect of public life could itself become inconsistent with the Constitution." *Lee v. Weisman*, 505 U.S. 577, 598 (1992).

Since "[t]here is always someone who, with a particular quantum of knowledge, reasonably might perceive a particular action as an endorsement of religion," it is important to remember that "[a] State has not made religion relevant to standing in the political community simply because a particular viewer of [religious activity] might feel uncomfortable." *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 780 (1995) (O'Connor, J. concurring). The Establishment Clause "is not about the perceptions of particular individuals or saving isolated nonadherents from the discomfort of viewing symbols of a faith to which they do not subscribe." *Id.* at 779. Thus, the fact that some individuals may disagree with public prayer resolutions does not make the practice unconstitutional.

CITY COUNCIL
AGENDA

Stated Session
Wednesday
March 13, 2013
6:00 P.M.

1. CALL TO ORDER
2. INVOCATION
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL
5. APPROVAL OF AGENDA
6. ACTION ON MINUTES – February 27, 2013 Council meeting minutes.
7. RESOLUTION – Death of Salvatore J. LaRosa
8. SWEARING IN – Firefighter Jorge Rivera
9. PRESENTATION – City Hall and Transportation Facility
10. CITIZENS RIGHT TO BE HEARD – (Agenda Items Only)
11. REPORTS RECEIVED BY COUNCIL
12. ACCEPTING REPORTS ON BEHALF OF COUNCIL.
13. REPORTS OF COMMITTEES
 - (a) Finance (Kenneth Brown)
 - (b) Economic Development (Sandra Vulcano)
 - (c) Planning (Roger Ruggles)
 - (d) Public Safety (Jeffrey Warren)
 - (e) Public Works (Elinor Warner)
 - (f) Administration (Michael Fleck)
 - (g) Report of City Solicitor (Attorney William Murphy)
 - (h) Report of Mayor (Salvatore J. Panto Jr.)
14. UNFINISHED BUSINESS
 1. Bill 15, Amending the 2012 Alpha building Fund Budget.
 2. Bill 16, Amending the 2012 Unemployment Fund Budget.
 3. Bill 17, Amending the Code of the City of Easton, Pa., by deleting and repealing Chapter 39 thereof, Council Rules and Regulations and replacing it with a new Chapter 39, to be entitled Council Rules and Regulations.

15. CORRESPONDENCE

- (a) Randall R. Rhoades, letter regarding PMRS Interest Rate Change.
- (b) Sanford Ames, Jr., letter regarding encrypted channels on RCN Cable.

16 NEW BUSINESS

(a) Introduction of Legislative Bills

1. Bill 18, Amending 2013 General Fund Budget

- (b) Approving a Contract with Bestline Leasing Co.(R)
- (c) Encouraging participation in Earth Hour.(R)
- (d) Authorizing Chief John Bast to execute forms on behalf of the City.(R)
- (e) Authorization to seek proposals for sale of the Alpha Building.(R)
- (f) Authorizing Auction of City owned items.(R)
- (g) Approving a contract with Mark Bonstein to conduct City's auction (R)
- (h) Authorizing the City to proceed with Construction of City Hall/Transportation Facility.(R)
- (i) Approving a Construction Management Agreement.(R)
- (j) Approving a Settlement Agreement with Thomas W. Olick.(R)

17 CITIZENS RIGHT TO BE HEARD - On any matter.

18. ADJOURNMENT