

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

Easton, Pa
Wednesday
May 22, 2013
6:00 p.m.

City Council met in stated session at the above date and time, at the Easton Area Community Center, 9th and Washington Street, to consider any business that may lawfully be brought before the body.

The invocation was given by Mayor Panto followed by the Pledge of Allegiance.

ROLL CALL

Present: Brown (6:02 p.m.), Fleck, Ruggles, Vulcano, Warner, Warren, Panto (7)
Absent: None (0)

Also in attendance were Thomas A. Hess, City Clerk, William Murphy, City Solicitor and Glenn Steckman, City Administrator. There were twenty-six other persons present.

APPROVAL OF AGENDA

On motion of Mr. Fleck and Mr. Warren the Agenda was amended by removing Bills 25 & 26 from the Consent Agenda and by removing proposed Bill 27, from the Agenda, by the following vote:

Yeas: Brown, Fleck, Ruggles, Vulcano, Warner, Warren, Panto (7)
Nays: None (0)

ACTION ON MINUTES

On motion of Dr. Warner and Mr. Warren, the May 8, 2013 Council Meeting minutes were approved as submitted by the following vote:

Yeas: Brown, Fleck, Ruggles, Vulcano, Warner, Warren, Panto (7)
Nays: None (0)

PUBLIC COMMENT – (Agenda Items Only)

Attorney Michael M. Monsour, 2640 West View Drive Wyomissing Pa., said that he had sent Council and the Mayor, as well as Adams Outdoor Advertising's attorney, a letter outlining one of the problems that his client, Lamar Outdoor Advertising of Allentown, Pa., saw with the proposed lease between the City and Adams Advertising for a billboard to be erected at Hacketts Park. He said that one of the main problems was that the lease may violate the deed of the park land, but he said that he felt that it deprived his client of the same opportunity that

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

had been afforded to Adams to have billboard advertising in the City and provide revenue to the City. He suggested that Council take no action, later in the meeting, on proposed Bill 26, to allow time to look into all the possible ramifications of approving the lease with Adams. He said that his client and possible other companies would also like to provide the City with advertising and to generate revenue for the City.

Mayor Panto asked if Attorney Monsour was saying that Council had arrived at this point without guidance and due diligence.

Attorney Monsour said that in the event that Council and the Administration had not looked at everything, they might want to wait thirty days. He said that his client was ready and willing to begin new business with the City.

The Mayor said that his company and other companies could.

Attorney Monsour said that the problem was based on his reading of the proposed Bill, as it existed at this time, there was no equivalent parcel of land which would provide, his client, the opportunity to lease a billboard to one of their customers as was being provided to Adams.

The Mayor asked where Adams was in 2009 & 2010 when the new zone, for this type of advertising was being discussed. He said that the meetings and proposed Bills were advertised and his client never approached the City, and said that he took affront to the allegation that the City did not do due diligence.

Attorney Monsour said that he could not answer that question as to where his client and other companies were in 2009 and 2010.

Mr. Brown said that Attorney Monsour made mention that this action may violate the Deed for this property from the Hacketts family, in his letter, and ask what he meant.

Attorney Monsour said that the deed has language that says that the tract of land shall be forever used as a public park, known as Hacketts Park, and that should the City, at any time, fail to fulfill the conditions of the gift of the land, the said land shall revert to the owner or his heirs.

Mr. Steckman said that when this piece of property was proposed he reviewed it and decided at that point that any monies that were raised or were received from any lease executed on this property would be solely dedicated to Hacketts Park. He said that the revenue would not be going into the City's general fund but would be earmarked to provide additional service in the park. He said that in the last three to five years the park has been brought up to the level of a maintenance standard that the City found acceptable. He said that he did not see anything in the deed which prevented the City from leasing or franchising or doing anything else. He said

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

that the City has had a soda stand at the park and the revenues realized from that stand have been returned to the Baseball fields.

Attorney Monsour said that if his letter led the City to believe that he was taking a position that was contrary to the due diligence that the City has engaged in, it was not his intent. He said that his intent was two fold, the first was to bring up some issues with the proposed lease, and second was to alert the City to what he felt was the right of his client, and any other person, to do business with the City for billboards, and having read the pleadings in the underlying case it was the position that prior, that there was no billboard business allowed within the City.

Mayor Panto said that this process had been ongoing for quite sometime. He said that all members of Council received a memorandum from the Assistant City Solicitor, have all been involved in countless meetings, the Director of Planning and Codes authored the Zoning Ordinance changes and provided for an area where the City was under a possibility of a curative amendment because the City did not provide for a billboard zone, so the City established one, and all of those things had to take at least 1 1/2 years and now Attorney Monsour was coming, at this time, asking for a delay for an agreement that the City worked well within the law, was leasing space, and said that it was up to the lessee to get all of the approvals. He said that he was not sure that the City would not have done the same thing if Mr. Monsour's client had been here one year ago. He said that this was brought to the City's attention; they looked at it, and thought that it might be a way to help the park.

Attorney Monsour said that initially Adams Outdoor did not come to the City. He said that Adams wanted to place a billboard at another junction in the City and that led to the current lawsuit, and have now come to the City with the Hacketts Park property as a settlement offer.

Mayor Panto said that he did not know of any settlement agreement offer, and there was no quick pro quo. He said that it was up to the members of City Council if they wanted to honor Attorney Monsour's request to not take action on the proposed Bill for thirty days. He said that he was ready to vote on this Bill.

Attorney Victor Cavacini, 33 S. 7th Street, Allentown, Pa. said that he represented Adams Outdoor. He said that he would echo what the Mayor had indicated. He said that the City had enacted an Ordinance, in April of 2012, to permit outdoor advertising signs. He said that Lamar Advertising had plenty of time to contact the City to solicit an opportunity to construct a sign, within the terms of the Ordinance, which they did not do so. He said that over the last 1 ½ years, Adams has participated in discussions with the City's Planning staff, the Solicitor's office, and thought at this point is was sour grapes. He said that the City Solicitor could tell Council that there was no competitive bidding requirements, with respect to a lease, and there would be substantial benefit to the Park, if the lease was approved. He said the City and the Solicitor's office have dealt with any deed restrictions if they are applicable. He said that he

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

found it inconsistent for Attorney Monsour to question a potential violation of a deed restriction and then said Lamar Outdoor wanted to bid on this too.

Mr. Brown asked Mr. Murphy to address Council regarding the matter of any possible deed restrictions.

Mr. Murphy said that the deed language said that the tract should be forever used as a public park, but said that the City was leasing and not conveying, so the fundamental use of the tract remained the same.

Dr. Warner asked if the City's Park Ordinance allowed for this type of advertising in a park.

Mr. Murphy said that there was a section in the Ordinance, Chapter 404-4, Acts Prohibited, which did state that "Announce, advertise or call the public attention in any way to any article or service for sale or hire. He said that the Ordinance was adopted, probably in the 1950's, and there was qualifying language before that section which said "in conservation, recreation or park areas no person shall". He said that if someone looked at the topography of the land that was being used, the current use is not a park area.

Dr. Warner said that the land was a parcel of the land within the park, and that before the proposed bill would be enacted, the Park Ordinance would have to be amended to allow for advertising in the park.

Dr. Ruggles said that there was a Park Trail that ran right through that parcel of land, and could not understand why that was not park area.

Mr. Fleck said that he recalled approximately 8 to 9 years ago there was a discussion to lease some of the lower park property for a so called community center, and it was ruled that it was a violation of the park agreement.

Mayor Panto said that he believed that the difference was the City would be leasing part of the park, and said that he did not consider this parcel of land to be part of the park. He said that he realized that it was part of the park parcel.

Dr. Warner said that it was legally part of the park.

Mayor Panto said that he realized that, but felt that the parcel could not be used for park purposes because of the slope.

Dr. Ruggles said that it was right near the pedestrian bridge across Rt. 22 and had walked though the parcel.

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

Dr. Warner said that Council could either amend the Park Ordinance to allow for advertising in the park, or cut the parcel off from the rest of the deed and make it not part of the park.

Mayor Panto said that he did not believe that legally could be done.

Mr. Steckman asked what the difference was between this sign, when the revenue would be dedicated to the Park, and the signs that were currently hanging on the fences surrounding the baseball fields, and the refreshment stand in the park, in which the revenues derived from them were put back into the Park.

Dr. Warner said that Adams Outdoor was not looking at sponsoring the Park, and the billboard would not be an advertisement for Adams Outdoor.

Mr. Warren said that this was being done because of the Billboard Zone that Council implemented last April.

Mr. Steckman said that it was with the intent that when Council announced that it needed to amend the Ordinance for limited space, in the City, so that they would not be throughout the City, and that the revenues would be directed into a positive lighting for the Park Ball fields.

Drs. Ruggles and Warner said that they did not remember that and did not hear anything regarding an electronic bill board.

Mayor Panto said that he would agree to the extent that all Council had voted for a part of Hackett Park to be designated for a billboard zone, and that was primarily done to keep them out of the downtown City neighborhoods. He said that the State Law says that they must be allowed somewhere in the City.

Dr. Ruggles said that he remembered that being said at the time, but said that Council still had the option of either approving or disapproving the request.

Mayor Panto said that he would defer to the Solicitor, but Council was not voting on the Zoning approval, but was voting on the lease agreement. He said that if Council did not approve the placement of the billboard, were they not being disingenuous about creating that zone.

Mr. Fleck said that Council should open it up to other companies and see if they could get more money for this.

Dr. Warner said, that not because of any letters received by any Attorneys who represent any billboard companies, she would like, before a vote is taken, to straighten out the issue with the advertising section in the Parks Ordinance, and if there was no issue, she would like to receive a memorandum, from the Solicitor's office, stating such, but in absence of that and

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

straightening out the Parks Ordinance, she would rather Council wait on voting on the proposed lease.

Mayor Panto asked Council if there was support for this matter, if the Parks Ordinance was amended.

Mr. Brown said that he liked going back and maybe looking at the Ordinances and amending the ordinance(s) if need be.

Dr. Warner said as long as it meant that there will not be billboards in every City Park, but if she was made to vote, later in the meeting, she would be voting no.

Mayor Panto said that none of the other City Parks properties were zone for this use.

Mr. Warren said that he believed that he was the only Council member who voted against the billboard zones, created last April, and he would be voting against this lease agreement.

Mayor Panto said that he would also like to vote against this, however he did not want to see one of the three billboard companies, who were in attendance, decide that they wanted to erect a sign on top of a Centre Square business.

Mr. Fleck said that he was for this but would like to see if the City could get a better deal with one of the other two companies.

Dr. Ruggles said that by his estimation the City would lose approximately one acre of trees and vegetation, for the erection of the billboard, for a 500' of line of sight in both directions on Route 22. He said that he did an analysis which showed this. He said that he would have to see exactly where the sign would be erected and it would have to be proven to him that was not the case.

Mr. Steckman said that where they were looking at erecting the sign the parcel of land and the amount of trees that would have to be removed was already bulldozed, by the State, as Penn DOT plant removals. He said that one of the requirements was that Adams was suppose to landscape it as Penn DOT did not do. He said that he and Attorney Scheer went into this because they thought that they had the support of Council and that any monies that were raised would be returned into Hackett Park, and that was the understanding with Adams Outdoor Advertising. He said that the other issue was to mitigate the amount of land disturbance that was going to be necessary and where the location that they had chosen had already been substantially disturbed by the Penn DOT repairs.

Dr. Warner said that her suggestion would be to table this proposed Bill.

Minutes of the Council of the City of Easton, Pa.

May 22, 2013

Abraham Atiyeh, 1177 6th Street, Whitehall Pa., said that the City was being blackmailed into doing a deal with Adams, and explained why he made that statement. He said that he recommended that Council review their existing Ordinance, find a better location for the billboard, and send out Request for Proposals. He spoke regarding the current law suit between Adams and the City, and said that he would sue the City if this agreement was approved and his company was not given a chance to present a proposal.

Mr. Warren said that the issue with billboard in the public was that they were a mess for communities.

Mr. Brown said that anytime the City had an opportunity to generate revenue for the City it should be looked at. He said that Hackett Park may not be the right place for the billboard and it should be looked at again and move forward, and said that he would not vote for the agreement at this time.

Mayor Panto asked Council if they were in support of the erection of a billboard, in Hacketts Park, if the Parks Ordinance was changed.

Mr. Fleck said that he would vote for the billboard if Council had to pick an area and if it was the right area and the right business decision.

Dr. Warner said that she was on the fence. She said that if she was forced to vote at this meeting she would vote no. She said that if the Park Ordinance was amended then she might vote for the lease agreement.

Mrs. Vulcano said that she believed that billboards in the City are a mess and would vote no.

Dr. Ruggles said that additional signs that would impact individuals on their property, and said that he felt that this proposed sign would do that. He said that he was out today on the 1600 and 1700 blocks of Spring Garden Street, where right in front of the properties, on that block, will be the billboard. He said that he had Three D images of that location and right where the billboard is proposed, all of the homes on the north side of the 1600 and 1700 blocks of Spring Garden Street would look right at the billboard. He said that they were not in the City of Easton proper, but were in the Borough of Wilson.

Mayor Panto said that those homes were not very close to the proposed site. He said that they would see the billboard but that it would not impact on them

Dr. Ruggles said that where those homes were situated was one block and the width of Rt. 22 away from the proposed site of the billboard, and there was no question, in his mind that these people would be impacted.

Mr. Atiyeh spoke regarding the income that would be realized by Adams Outdoor and how much more he would pay, to the City, if he was allowed to propose a lease.

Minutes of the Council of the City of Easton, Pa.

May 22, 2013

Attorney Malkames, 509 Linden Street, Attorney for Pennsylvania Media, spoke regarding the due diligence of the City in this matter. Spoke about the Mayor supposedly saying, which was reported in the newspaper, that if this billboard was not approved for Hacketts Park it would be erected at Frank and Dots Beer Distributor in downtown. He said that Pennsylvania Media had that property under lease, and then spoke regarding law suits that had been brought by Adams Outdoor, and if they did not have a current lease with Frank and Dots, which Pennsylvania Media has, there would not be a threat to the City.

Mayor Panto said that what he said was a sound bite and said that he did not attempt to link the two. He said that what was said was that the City could be under a curative amendment if the City did not have a zone.

Attorney Malkames said that it was his understanding that the location for the proposed billboard was not on City property.

Mayor Panto and Council members said that it was in the City limits, and explained how.

Attorney Malkames said that there was no reason not to competitively bid this matter if this matter was about revenue for the Park.

Attorney Cavacini said that Adams Outdoor has a lease with the downtown property owners, and if Mr. Atiyeh and his company have entered into another lease with those owners, that somehow invalidates the Adams lease, and spoke further on the matter of the park property lease and on a bidding process.

Attorney Monsour said that the City should attempt to get as much revenue that they could get for whatever billboard they wish to be allowed to be installed.

There were no further comments or questions from the audience.

CONSENT AGENDA

On motion of Mr. Fleck and Dr. Warner the following items on the Consent Agenda were adopted by the following vote:

1. Bill No. 21, (Ordinance 5406), Amending 560 Attachment 1-City of Easton, Table 1: Meter-Zones of Chapter 560, Vehicles and Traffic, of the Codes of the City of Easton, Pa. This Ordinance adds Meter Zones on the 400 block of Ferry Street, between S. 4th Street and S. 5th Street, and in the North 4th Street Parking Lot.
2. Bill No. 22, (Ordinance 5407), Amending Article III Traffic Control Map of Chapter 560, Vehicles and Traffic of the Code of the City of Easton. This Ordinance creates a Scooter Parking Zone in the Joseph's Parking Lot and on the 300 block of Church Street.

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

3. Bill No. 24, (Ordinance 5408), Amending Chapter 350, Markets, Public, of the Code of the City of Easton Pa. This Ordinance amends numerous sections in Chapter 350, Markets of the Code of the City.
4. Resolutions 85-2013 through 97-2013, which approve Certificates of Appropriateness for different properties located in the Historic District.

Yeas: Brown, Fleck, Ruggles, Vulcano, Warner, Warren, Panto (7)

Nays: None (0)

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 approving a Lease Agreement and an Addendum to the Agreement with Adams Outdoor Advertising Limited Partnership, which he intended to table until the June 26, 2013 Council meeting, regarding Amending the Fee Schedule, and regarding amending Chapter 369, Municipal Claims and Liens.

Mrs. Vulcano, Chairman of the Economic Development Committee had no report.

Dr. Ruggles, Chairman of the Planning Committee, said that he intended to have a public discussion along with Nature Nurture regarding Chickens in the City sometime after the first week of June.

Mr. Warren, Chairman of the Public Safety Committee reported that a Public Safety Committee meeting would be held on June 25, 2013 and explained what would be discussed.

Dr. Warner, Chairman of the Public Works Committee spoke regarding legislation that she would have for later in the meeting for Amending Sections 500-1, 500-2, and 500-3, of Chapter 500, Solid Waste; recycling, of the Code of the City.

Dr. Ruggles said that a Section of this Chapter required the owner, landlord or agent of the landlord of any single-family or multifamily residential housing properties to annually provide written documentation to the municipality's recycling coordinator of the total number of tons recycled. He asked that that part be repealed from the Code and explained why.

There was a discussion on this matter between Council members and Mr. Steckman. It was decided that proposed Bill 25 be kept as it was and if it needed amending it would be amended at a later date.

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

Mr. Fleck, Chairman of the Administration Committee reported that he and his family would be moving from Easton to Allentown in July and said that he last meeting would be June 26, 2013.

Mr. Murphy, City Solicitor had no report.

Mayor Panto informed everyone that a Memorial Day ceremony would be held at McKeen Park on Sunday, May 26, 2013 at 1:00 p.m., and that the Memorial Day Parade would be held in downtown on Monday, May 27, 2013, beginning at 6th and Walnut Streets and then proceed to the Free Bridge and to Scotts' Park for ceremonies, thanked the Police Department for their efforts in the latest Drug Raid, and Congratulated Antonia Grifo for her win in the District Magisterial Justice race.

Mr. Steckman reported that the City Pools would open this weekend, managed by the YMCA.

UNFINISHED BUSINESS

Bill No. 25, (Ordinance 5409), Amending Sections 500-1, 500-2, and 500-3, of Chapter 500, Solid Waste; recycling, of the Code of the City of Easton, Pa., was adopted on motion of Dr. Warner and Mr. Fleck by the following vote:

Yeas: Warner, Warren, Panto, Brown, Fleck, Ruggles, Vulcano (7)

Nays: None (0)

Ordinance 5409, amends wording in Sections 500-1, 500-2 and 500-3 of Chapter 500, Solid Waste; recycling, of the Code of the City of Easton to meet Department of Environmental Protection requirements.

Bill No. 26, Approving a Lease Agreement and an Addendum to the Agreement between the City of Easton and Adams Outdoor Advertising Limited Partnership was tabled, until the June 26, 2013 Council meeting, on motion of Mr. Brown and Mr. Fleck by the following vote:

Yeas: Warren, Panto, Brown, Fleck, Ruggles, Vulcano, Warner (7)

Nays: None (0)

This Bill would approve a Lease Agreement and an Addendum to the Agreement between the City of Easton and Adams Outdoor Advertising Limited Partnership for leasing of Tax Parcel #L9 21 1 0837E located on Bushkill Drive.

CORRESPONDENCE

There was no correspondence received by Council.

NEW BUSINESS

Minutes of the Council of the City of Easton, Pa.
May 22, 2013

Bill No. 28, Amending Chapter 285, Fees of the Code of the City of Easton, Pa., was introduced by Mr. Brown and ordered processed for adoption.

This Bill would amend the Fee Schedule by including Legal Fees for Abandoned Real Property and Blighted Real Property.

Bill No. 29, Amending Section 369.2 A of Chapter 369, Municipal Claims and Liens of the Code of the City of Easton, Pa., was introduced by Mr. Brown and ordered processed for adoption.

This Bill would amend Section 369.2 A by including the words “and removal of nuisances”.

Bill No. 30, Amending the Code of the City of Easton by creating a Chapter to be entitled “Abandoned Real Property and Blighted Real Property”, was introduced by Dr. Ruggles and ordered processed for adoption.

This Bill would create a Chapter to the Code for Abandoned Real Property and Blighted Real Property.

CITIZENS RIGHT TO BE HEARD

Amy Boccadoro, 1008 Ferry Street asked what the process was for appointing a person to serve out the rest of Mr. Fleck’s term when he leaves.

Mayor Panto explained the process.

ADJOURNMENT

With no further business, the meeting was adjourned at 7:05 p. m. on the motion of Mr. Fleck and Mr. Warren by the following vote:

Yeas: Panto, Warren, Warner, Vulcano, Ruggles, Fleck, Brown (7)

Nays: None (0)


Thomas A. Hess, City Clerk

CITY COUNCIL
AGENDA

Stated Session
Wednesday
May 22, 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 – May 8, 2013 Council meeting minutes
7. PUBLIC COMMENT – (Agenda Items Only)
8. CONSENT AGENDA
 1. Bill 21, Amending 560, Attachment 1-City of Easton, Table 1: Meter-Zones of Chapter 560, Vehicles and Traffic, of the Code of the City of Easton, Pa.
 2. Bill 22, Amending Article III, Traffic Control Map of Chapter 560, Vehicles and Traffic of the Code of the City of Easton, Pa.
 3. Bill 24, Amending Chapter 350, Public Markets, of the Code of the City of Easton, Pa.
 4. Bill 25, Amending Sections 500-1, 500-2 and 500-3, of Chapter 500, Solid Waste; recycling, of the Code of the City of Easton, Pa.
 5. Bill 26, Approving a Lease Agreement and an Addendum to the Agreement between the City of Easton and Adams Outdoor Advertising Limited Partnership.
 6. Certificates of Appropriateness (s) for 54 S. 2nd Street, 27 S. 3rd Street (2) , 22 N. 4th Street, 22 N. 6th Street, 39 S. 6th Street, 24 Center Square, 237 Ferry Street, 345 Ferry Street, 249 Northampton Street, 437 Northampton Street, 526 Northampton Street, 325 Pine Street
9. REPORTS RECEIVED BY COUNCIL
10. 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.)
11. CORRESPONDENCE

12. UNFINISHED BUSINESS

13. NEW BUSINESS

(a) Introduction of Legislative Bills.

1. Bill 27 – Repealing Chapter 131 – Real Estate Registry
2. Bill 28 – Amending Fee Schedule
3. Bill 29 – Amending Municipal Claims & Liens Ordinance
4. Bill 30 – Creating Ordinance for Blighted Properties

14. PUBLIC COMMENT – (Any Matter)

15. ADJOURNMENT