

September 9, 2014

ERIE COUNTY COUNCIL – Regular Meeting

Dr. Foust, Chairman, called to order a Regular Meeting of the Erie County Council at 7:00 p.m. at the Tom Ridge Environmental Center, 301 Peninsula Drive, #1, Erie, PA. Following the Pledge of Allegiance, Mrs. Loll recited the following prayer:

“Let us pray. This great nation is a melting pot of all nationalities and religions. It was founded on the belief in God and the right of all people to practice their religion. We need to continue that through our lives and how we live them. We are experiencing an upturn in violence. Families are getting dysfunctional and fractured. Children are losing their morals and understanding of right and wrong. We pray that we do our part to change that within the authority that we have been granted. We ask for the guidance and direction to make this happen. Amen.”.

ROLL CALL

Members Present: Dr. Foust, Chairman
Mr. Leone, Vice Chairman
Mr. Breneman
Mr. DiMattio
Mr. Fatica
Mr. Horton
Mrs. Loll

Members Absent: None.

Also Present: Douglas R. Smith, County Clerk
Joseph Maloney, CPA
Sue Ellen Pasquale, General Accounting Manager
James Sparber, Finance Director

Mr. Fatica felt it was appropriate that Council was ending the road show at the Tom Ridge Environmental Center, stating they were saving the best for last. He stated that this center is really a gem in Erie's crown. He stated that Mr. Maloney has had a large part in this center and the maintenance of it. Mr. Fatica then turned the floor to Mr. Maloney. Mr. Maloney commented on behalf of Mr. Harry Leslie, Park Operations Manager, and thanked Council for coming out and he really appreciates Council's support.

**HEARING OF
THE PUBLIC**

Jim Wise, city of Erie; Mr. Wise stated he has read most of the prayers that are recorded in the County Council minutes several times over. He is convinced that these prayers were given for Council's benefit and are intended to motivate Council to continue to provide good leadership in governing the County. Mr. Wise, as a secular humanist, joined Mrs. Loll in wishing Council well. He felt that Council does do what is best for the citizens most of the time and he thanked them. Mr. Wise pointed out that it appeared that religion is now on the table, and has been for years, and wished this were not true. He has asked that Council be inclusive in this practice and consider

September 9, 2014

taking an active stance in encouraging all Erie County citizens to give invocations to Council as motivated by their particular religious beliefs.

Steve Sullivan, city of Erie; Mr. Sullivan gave a handout to Council outlining his remarks on the opening prayer issue. He stated that when he first heard about Mrs. Loll beginning the meetings with a prayer, he was shocked and felt it was a blatant instance of favoritism in religion and a clear violation of the Non-Establishment Clause of the First Amendment. He also felt that it showed treatment of non-Christians, such as he, as second class citizens. He stated there is no reference to God in the Constitution and quoted Article 11 of the 1797 Treaty of Tripoli "the Government of the United States is not, in any sense, founded on the Christian religion". He stated that after a ruling in Greece, NY, a nondiscrimination requirement was placed in order to avoid religious favoritism and Council may not refuse to permit members of other religions or none at all from giving opening prayers or invocations, and if that occurred, Council would be violating their oath to uphold the Constitution of this country. He thanked Council for the opportunity to speak.

Bruce Baldwin, Fairview, Pennsylvania; Mr. Baldwin thanked all members of Council for their public service and personal sacrifices made in carrying out the essential work and leadership of Erie County. Mr. Baldwin stated he was speaking tonight in defense of the Constitutional principle of the separation of church and state and in defense of the principles of common sense. He felt that Erie County Council meetings are in many ways like the celebration of a mixed religious marriage. People of different religious beliefs and traditions come together for an important purpose that should unite them to work together, get along, and do the business of the people. Mr. Baldwin stated that every citizen has the right to the freedom of religion so a devout Christian elected to County Council has the right to assert that she and Council are doing their work under the guidance of her God and in the name of her personal savior, but is this a wise practice. When a legislative body, whether it has the right to do so or not, acts, whether it has the right to do what it wants or not, is not the only issue. It must also conduct itself wisely and responsibly, especially when its actions have the potential to damage the trust and confidence its citizens have that they will represent the interests of all without regard to any one individual's religious belief. He ended with a quote from Thomas Jefferson, "I contemplate with sovereign reverence the act of the whole American people which declared that their legislature should make no law respecting establishment of religion or prohibiting the free exercise thereof, thus building a wall and separation between church and state".

Michael Long, city of Erie; Mr. Long thanked Council for their service. He felt that when Council members give Christian prayers, they are effectively planting a flag of Christianity in county government. Not only does that exclude non-Christians, it entails a moral commitment to Christianity. Mr. Long asked that Council appreciate why some people might find that objectionable. Mr. Long went on to discuss the New Testament where it shows sexism, bigotry, and homosexuality. He felt that Council's endorsement of Christianity is sexist, bigoted, and malicious. Mr. Long felt that this is not the place to argue about religion. He commented that when one offers Christian prayer, they are acting as if the discussion has already been had, and they've won. In doing this, non-Christians are in a position where they accept the status as second-class citizens and let these immoral positions just pass by, and non-Christians are forced to bring this type of debate into this setting, where it doesn't belong. He again thanked Council for their service.

Randy Barnes, Harborcreek Township; Mr. Barnes noted that in 1957, In God We Trust was on the back of paper money. Mr. Barnes stated that \$7 million has been spent on the Inland Port between Albion, Muskrat Minerals Smelting, pellet plants, and the Harborcreek Rail Terminal. He posed the question of how many jobs have been created for this \$7 million to Council. He answered "zero". He explained that he has said this to Council on numerous occasions and will continue to do so. Mr. Barnes stated that unless something changes between now and the next meeting, he will ask the same question to Council. Mr. Barnes commented that the Economic Development Corporation has received \$1.4 million for staff, and in 2010, they had one position that carried a six figure salary. In 2012, there were three positions with six figure salaries. He felt that the Economic Development Corporation has benefitted from the \$7 million spent. Mr.

September 9, 2014

Barnes then posed the question of how many companies came forward and said that there is a need for a rail terminal. He asked Council to research that question for him. He expressed frustration that only one Council member has spoken to him in a year regarding this issue.

Monica O'Reilly, Fairview Township; Ms. O'Reilly wanted to add a comment regarding the issue of starting the meeting with a prayer. She stated she realized that Council now has the permission of the Courts to do this, but asked that Council give some thought to the appropriateness of this practice. Ms. O'Reilly felt that Council's job has nothing to do with religion. Requiring a prayer before any of the public's business can be done makes no more sense than mandatory morning prayer before work begins at GE Transportation, Erie Insurance Company, or the Bon Ton Department store. Just as with County Council, none of those enterprises has anything to do with religion. She commented that the Erie County electorate is made up of diverse religious categories including non-Christians and non-believers. She asked that Council take the enlightened step of quietly retiring this ritual of public prayer.

Richard Heher, Fairview Township; Mr. Heher thanked Council for their efforts for the work they do for the citizens of Erie County. He commented that America likes to think of itself as a pragmatic country based on meritocracy, not on religious preference or belief.

Gary Sykes, Fairview Township; Mr. Sykes stated he is a retired professor of political science. He wanted to remind Council that one of the characteristics of many of the demographic shifts in American society is the growing diversity. Included in the public square are women, African Americans, and lately LGBT groups, as part of our public experience. The Democratic responsibility of this Council is to recognize this diversity, reflect this diversity, and ultimately represent this diversity. Mr. Sykes then quoted a Pugh Survey of religious attitudes and practices, "In America, there is a growing diversity in the matters of religion. One of the most significant findings was that 20% did not identify with any religion at all". Mr. Sykes felt that this public body should not give preference to any religious point of view. He felt that religion should be regarded as a private matter, and cherish our freedom to believe or not believe, and to project religion in whatever form into the public square discriminates against other religions and those who do not choose to believe. Mr. Sykes commented that opening this public forum with a religious prayer or invocation violates the spirit of Democratic participation and can be offensive to those who do not share the religious point of view of the person leading the prayer. He suggested that Council dispense with injecting personal religious views into the public forum.

Tom Richey, Erie; Mr. Richey stated that as a secular humanist, he can relate with the audience grievances and as an Irish descendant from Catholic-Irish, he knows what pushing religion into a government can do to kill a few million people. Mr. Richey stated he loves everybody and what is the cornerstone of most religious beliefs is that love is something one should do regardless of any bureaucratic or miscellaneous set of rules.

Ed Kissell, city of Erie; Mr. Kissell wanted to keep Council advised of what is happening on the Bayfront and the GAF property. The public walkway that was just recently opened is very nice and beautiful; however, it violated the City zoning ordinance in the construction and materials used. Mr. Kissell has filed a complaint with the City on this issue and he stated that since Council more or less guarantees funding if something should happen to that project overall, he felt Council should be aware that if something has to be redone, it would entail additional money. He asked that Council keep an eye on that project as a lot of things are going to be happening at that site. He commented that the City has a fault in their waterfront zoning in that none of this has been reviewed by City Council. If a vertical building is not put on the land in the waterfront zone, you do not have to go through the design review, the Planning Commission, to get approval to do that. Mr. Kissell stated he is working on correcting that problem.

Dr. Foust spoke to the audience regarding the issue of separation of church and state and the prayer before the meetings. His stated his own personal point of view was one where he disagreed with little of what was said tonight. Dr. Foust stated that there is no policy regarding

September 9, 2014

prayer. It is part of the agenda because in the past, chairmen have wished to invite a Rabbi, Protestant ministers, and Catholic priests, to give some sort of invocation at various times. There has never been a time where Council has discriminated against anybody wishing to give an invocation. Dr. Foust further stated that he has not invited religious sources to come and provide a prayer. Mrs. Loll has asked, as it is her right to do so, to offer a prayer at the beginning. Dr. Foust clarified that it is not a Council sanctioned prayer, it is from her perspective and her point of view. If she was a Jew or a Buddhist or a Hindu, Dr. Foust would assume it would come from that perspective as well. He stated it is not something that is endorsed by Council, it isn't something that is Council's point of view as a whole, it is Mrs. Loll's point of view. Dr. Foust stated that if the audience read all the minutes, most would agree that oftentimes Mrs. Loll has prayed for enlightenment to allow Council to do their business better, to pray for peace, love, understanding, wisdom, and so forth. Dr. Foust stated that all those things cross not only religious lines, but into the secular and humanistic lines. There is no preference for one particular religion at all, it is a time where Council allows for a prayer and Mrs. Loll has requested that she give one. She does not have to if she doesn't want to and if she does so, she gives it from her perspective and she has kept it relatively innocuous. Dr. Foust understood that it might offend some, but he did not think that it was Mrs. Loll's intent, not wanting to speak for her. This has come out of a practice of past chairmen and Dr. Foust commented that Mrs. Loll does not drop her rights at the door as a citizen just because she is an elected member of Council.

**APPROVAL OF
MINUTES**

Mr. Leone moved to approve the minutes from the August 26, 2014, regular meeting. This was seconded by Mr. Horton and carried in a unanimous roll call vote.

**COUNTY EXECUTIVE
AND/OR HER
DESIGNEE**

Mr. Sparber stated there was no report this evening.

**FINANCE
COMMITTEE
REPORT**

Mr. Fatica reported that the Finance Committee met on September 4, 2014, and agreed to move the following items onto the agenda: under Old Business, a second reading of Ordinances 96, 2014; under New Business: Ordinances 103, 104, 105, and 106, Resolution 55, 2014, a board appointment to the Human Relations Commission Advisory Board, as well as sale of parcels from the repository.

**PERSONNEL
COMMITTEE
REPORT**

Mr. DiMattio reported on the Personnel Committee meeting that immediately followed the Finance Meeting on September 4, 2014. He stated that the Personnel Committee agreed to add the following item to the agenda: under Old Business, a second reading of Ordinance 102, 2014.

**REPORTS BY
COUNCIL**

OLD BUSINESS

**Ord. 96, 2014 –
Gen. Fund Supp.
Appr. For County
Coroner Add'l
Fees**

Mr. Smith gave a second reading of Ordinance Number 96, 2014, "Twenty-Fourth 2014 General Fund Budget Supplemental Appropriation of \$25,000 for the County Coroner Additional Fees and Services Expenditures". This was moved by Mr. Leone, seconded by Mr. Horton, and carried in a unanimous roll call vote.

September 9, 2014

**Ord. 102, 2014 –
Gen. Fund Supp.
Appr. For Court
Administration**

Mr. Smith gave a second reading of Ordinance Number 102, 2014, “Twenty-Eighth 2014 General Fund Budget Supplemental Appropriation of \$20,769 for Court Administration, the Elimination of a Part Time Court Reporter Position, and the Change of Another to Full Time”. This was moved by Mr. Leone, seconded by Mrs. Loll, and carried in a unanimous roll call vote.

NEW BUSINESS

**Motion to
Amend Agenda**

Mr. Leone moved to amend the agenda and move Ordinances 103, 104, 105, and 106 to second readings. This was seconded by Mr. Fatica and carried in a unanimous roll call vote.

Dr. Foust explained to the audience that when ordinances deal with a grant where Council can utilize the services of whatever ordinance it is, it will be moved to a second reading to take advantage of whatever advantages may be there. That is what is occurring with the four ordinances under New Business. Otherwise, they are normally read into the record twice. Everything else is read into the record once and then voted on.

**Ord. 103, 2014 –
Public Health Supp.
Appr. For TB Grant
Bureau**

Mr. Smith gave a second reading of Ordinance Number 103, 2014, “Ninth 2014 Public Health Fund Budget Supplemental Appropriation of \$10,349 for Tuberculosis Grant Bureau”. This was moved by Mr. Fatica, seconded by Mr. DiMattio, and carried in a unanimous roll call vote.

**Ord. 104, 2014 –
Public Health Supp.
Appr. For Nurse
Family Ptshp Bur.**

Mr. Smith gave a second reading of Ordinance Number 104, 2014, “Tenth 2014 Public Health Fund Budget Supplemental Appropriation and Release of Restricted \$12,600 for Nurse Family Partnership Bureau”. This was moved by Mr. Fatica, seconded by Mr. Leone, and carried in a unanimous roll call vote.

**Ord. 105, 2014 –
Gen. Fund Supp.
Appr. For Donation
By Erie Ins. To
DA Office/Detectives**

Mr. Smith gave a second reading of Ordinance Number 105, 2014, “Twenty-Ninth 2014 General Fund Budget Supplemental Appropriation for Donation of \$23,524 by Erie Insurance for Purchase of New Detective Vehicle in DA Office”. This was moved by Mr. DiMattio, seconded by Mr. Breneman, and carried in a unanimous roll call vote.

**Ord. 106, 2014 –
Gen. Fund Rev. Exp.
& Waiver of Purch.
Code for Stone Garden
Grant**

Mr. Smith gave a second reading of Ordinance Number 106, 2014, “2014 General Fund Budget Revised Expenditures of \$22,603 and Waiver of Purchasing Code for Stone Garden Grant from Department of Homeland Security”. This was moved by Mrs. Loll, seconded by Mr. Leone, and carried in a unanimous roll call vote.

September 9, 2014

RESOLUTIONS

Res. 55, 2014 –
Support of Cont'd
Op. of USPS Facility
In Erie County

Mr. Smith gave a reading of Resolution 55, 2014, "Supporting the Continued Operation of the USPS Processing Facility in Erie County, PA". This was moved by Mr. Breneman and seconded by Mr. Leone.

Mr. Breneman commented that there is no fault on the workers at the Erie facility or the US Postal Service. It is a manufactured crisis that those in Washington created in 2006. Despite stating in 2011-2012 that they were going to do something about it and ask that a moratorium be placed on the closure and consolidation, here we are again. Thankfully, those who represent us in Washington have asked again for an extension. Mr. Breneman stated that it is unfortunate that as an elected body representing Erie County that the most that can be done is a non-binding resolution. It really is up to all of Erie County to put the pressure on our leaders in Washington and let them know it's not just about 120 jobs being lost at some point, it is the service that so many senior citizens, small businesses, and those economically disadvantaged need. When we talk about economic development, growth, and having the mechanisms in place for a functional society and region, closing this mail sorting facility and pushing it to a larger one in Pittsburgh or Rochester just does not make sense.

Dr. Foust commented that at the crux of this issue is the pre-funding of pensions light years out, and if they could solve that problem, they could solve most of the problems with the postal service.

Resolution 55, 2014, then passed in a unanimous roll call vote.

**BOARD/
AUTHORITY
APPOINTMENTS**

Mr. Breneman moved to approve the appointment of Kristy Gnibus to the Human Relations Commission Advisory Board. This was seconded by Mr. Horton and carried in a unanimous roll call vote.

Mr. Breneman did note that Ms. Gnibus is a great asset to the community and to his district, and he felt that she will do well in serving the County on this board.

**SALE OF
PARCELS**

Mrs. Loll moved to approve the Sale of Parcels from Repository for Unsold Property at Index Number: #24-004-007.0-012.99.

This was seconded by Mr. Fatica and carried in a unanimous roll call vote.

There being no further business, the meeting adjourned at 7:49 p.m.

Deneé M. Breter, Council Secretary
