



Allentown

435 Hamilton Street
Allentown, Pa. 18101

Minutes - Final

City Council

Monday, December 4, 2017

6:00 PM

Council Chambers

Budget Session

Call to Order: Council President O'Connell

Present: 7 - Ray O'Connell, Daryl Hendricks, Candida Affa, Roger MacLean, David McGuire, Julio Guridy, and Cynthia Mota

Budget Amendment Review and Adoption

Mr. Ray O'Connell stated that when the Mayor presented his budget and the Councilmembers made proposed amendments from that time on Mayor Pawlowski and Councilmembers have discussed the amendments and came to an agreement to the amendments.

[15-2023](#)

Budget Amendment Proposals

Attachments: [Final Budget Amendments](#)

Mr. Michael Hanlon read the Budget Amendments:

The Adoption of Budget Memos 1 - 5

- Mayors Budget: Delete the position of the Chief of Staff in the budget but add the position of Managing Director, Pay Grade 22 at \$110,000.

- Paramedic Funding: Funding for the two paramedics @ a step D at the salary of \$52,785 and delete \$100,000 from the overtime account.

- Part Timer in Parks and Recreation must be budgeted under 30 hours. EMS Budget, Account 72, Equipment; add \$64,000 for 4 Automatic CPR devices, take money from unassigned funds.

- Chamber of Commerce funds – add \$20,000 for the Chamber of Commerce line item for a new total of \$50,000 then create an account in the Director of CD Account 09-09-01-001-40 Civic Expenses it would be for Community Cultural Impact Fund in the CED – for \$150,000.

- Council Budget: Add \$150,000 for legal and other consulting services for contingencies in Account 46 (\$10,000 in proposed budget for cultural event

was in wrong account).

- New Position: Part Time Position at \$25,000; contingent upon legal opinion and possible charter question in the temporary wage account.

- \$10,000 in Account 40; Heritage Events. That was an initial mistake in Council's budget.

Mayor Ed Pawlowski talked about the amendments they agreed upon except for the last two. The only problem is that we don't have the revenue that corresponds with the expenditure. If we do that, we have to take it out of the unassigned funds which is dipping into our reserves. We presented a balanced budget and I am concerned. If we go with all these changes, that is a concern to me. The further we dip into our reserves. We were just on a call with Moody's and they were very concerned about the reserves. If we are going to do that, we have to find a way to come up with the revenue.

Mr. Ray O'Connell stated unless he is missing something, this was agreed upon by you.

Mayor Ed Pawlowski stated that he agreed upon it in concept. No one ever told me where the revenue is coming from. I am pointing it out to Council. If we are doing this, we are taking it out of the unassigned funds.

Mr. Ray O'Connell stated that is fair. He asked if there were any comments from his colleagues.

Mayor Ed Pawlowski stated that he did not agree to the last two. It is a total redundancy to have a Solicitor by City Council. He stated that he doesn't think it is healthy and a waste of taxpayer dollars.

Mr. Ray O'Connell asked if there were any comments from his colleagues or the public on the eight Amendments.

Mr. Lou Hershman, 405 N. Gilmore Street, asked about unassigned funds. Ever since Mr. Hartzell came in and they put two heads together they are calling things differently. He asked if the Mayor can show it is \$ 8 million. There is no money in assigned funds.

Mayor Ed Pawlowski stated that it is taken out of reserves. We have \$ 8 million of unassigned funds. He stated that if you look at Page 1 in the budget. It is in the very first line item.

Mr. Joe Hillard, 2819 Rhonda Lane, stated that you need your own Solicitor. Solicitors work for only one entity. They don't work for the people.

They don't work for Council. They work for the person that hires them. He stated that he would ask for all the bank statements for the end of November and a list of all encumbrances. He stated that he does not trust the numbers out of the administration.

Mr. Tom Hahn, 2016 E. Highland Street, asked about the proposal he had about the 10 percent reduction from the departments. It never went anywhere. If he was on Council he would stand fast for transparency and honest in the budget. He asked about the lockbox and how many times it was changed. For the last few years we have been raising the budget \$5 million and we can't finish the street and ever department gets snipped of money that they don't have. Why we can't have a 10 percent reduction?

Mr. Ray O'Connell stated that no one proposed it as an amendment.

Mr. Roger MacLean stated that he gave Mr. Hahn an example of the police department's budget. If you cut it by 10 percent, you are cutting into personnel. The majority of the police department's budget is personnel cost and wages.

A motion was made by Ray O'Connell that this Discussion be approved. The motion carried by the following vote:

Yes: 7 - Ray O'Connell, Daryl Hendricks, Candida Affa, Roger MacLean, David McGuire, Julio Guridy, and Cynthia Mota

[15-1979](#) 2018 Budget Memos

Attachments: [1 - Personnel](#)
[2 - Equipment Stormwater](#)
[3 - Equip, Debt, General Fund](#)
[4 - CD](#)
[5 - CAPITAL](#)
[BUDGET MEMO 6 - GF GOLF RISK](#)

15-2031 Discussion of the Stormwater Fee
Mr. Ray O'Connell stated that there are two meetings being held tonight. The first meeting was held at 5:00 PM at the Allentown Public Library. There is one at 7:30 PM at the Eastside Youth Center. Tomorrow at 1:00 PM there is a meeting in Council Chambers and 5:00 PM at the Church of the Mediator and at 7:30 PM at Mack Fire Station.

Mr. Craig Messinger stated that we have been working on all year long and budgeted for last year for a consultant to go over our needs and requirements under our new permit for EPA. We worked with our entire department. After the program was developed we had to set a fee to take of what was programmed. We came up with \$20 for every 500 square feet of impervious.

Mayor Ed Pawlowski stated that this program started a year and a half ago. It was a lot of thought and consideration put into it. It started with a complete Ariel photo overview and Ariel updates that we budgeted two years ago. It will give us the most up to date GPS information on every single property within the city of Allentown. If we don't this we will be out of compliance with our EPA order. We may face additional fines up to \$1 million and we will have to take money out of the General Fund and looking at a tax increase of up to 18 percent to compensate the loss of revenue. Easton hired our consultant to do exactly what we are proposing. This is the fairest way because it will assess the fee on everyone including nonprofits and colleges. It's been debated and looked at extensively.

Mr. Ray O'Connell stated that it is Bill 82 - Stormwater Fee. There have been proposal made and one will be to reduce the stormwater fee to \$5 per 500 square feet, \$10 per 500 square feet and to eliminate that fund and fee all together. He asked if it's \$20 per 500 square feet, how many years out will that take us?

Mr. Craig Messinger stated four years.

Mayor Ed Pawlowski stated that it will give us money to pay to provide debt that will then basically repair and expand and enlarge our stormwater system. The flood that we had on the west end all came back to the stormwater management system.

Mr. Craig Messinger stated that project was in total, \$200,000 for that one spot.

Mayor Ed Pawlowski stated that we are an older city, over 250 years old and we have issues with our Stormwater management system throughout our footprint. We need to address that. We need to address over the course of four years and pay for the debt service. If we are not able to fix the system, we will be out of compliance with our order from the EPA. That money can be reduced if people put in things that would reduce the amount of not impervious surfaces that they have.

Mr. Craig Messinger stated that it could be a 50 percent reduction.

Mr. Ray O'Connell stated that we voted on the amendments tonight. Council will not be voting on the stormwater fee this evening. We will adopt or not adopt on Wednesday night.

Mr. Daryl Hendricks stated that if we don't implement this and don't fulfill this requirement, have we been told what the penalty is?

Mr. Craig Messinger stated it is a list of penalties and it is a 26 page document. The current inspection that was done we are trying to negotiate a lower number. They are being lenient with us. I can guarantee you that EPA and DEP Region 3 is listening right now to see if we are going to continue on with the improvements. They can see that the city is on the right path forward. We are trying to do everything on our end to meet and comply with it.

Mr. Daryl Hendricks stated that as unappetizing as it is, facing a possible 18 percent hike in property taxes are not appetizing at all. He is in favor that the nonprofits will share equally in this tax or fee.

Ms. Candida Affa stated that she agrees with Mr. Hendricks that this is a necessary evil. If we go to zero, it is going to raise 18 percent for everyone that owns property. If we go with the fee instead of the tax, this allows other people to pay. People that are exempt with this fee, they would have to pay. She asked about \$4.6 million and you want \$5.6 million. This is a buffer. There is going to be a time because our infrastructure needs a lot of work. This way all these institutions will be helping. Everybody has to pay.

Mr. Craig Messinger stated that right now on the books we have \$70 million worth of projects. This is something not only for the water quality but to put our money back into our infrastructure.

Mayor Ed Pawlowski stated that there are cities across the country that haven't taken any actions. Akron, Ohio just got hit with a bill of \$1.4 billion that the EPA is requiring them to spend to upgrade their stormwater system. This is something that we don't want so we want to proactive in this respect.

Mr. Jeff Glazier stated that the millage rate right now is 5.8059. That is the combined millage rate. If you raise it by 18 percent you go to 6.85521. It is over a mill to do that on the same properties that we relied on in the past.

Mr. Ray O'Connell asked what does a mill generate, \$5.5 million. Mr. Brent Hartzell stated \$5.3 million which is \$1.5 million of what I estimated.

Mr. Roger MacLean stated that he stated that he really has a problem with the federal government constantly telling us what to do and our taxpayers that have to do it. We have sanctuary cities throughout the country and Philadelphia was just denied money and a federal judge said that they could not be denied money for disregarding federal law, but we have to do it here.

Mayor Ed Pawlowski stated that we are not talking about a grant. We are talking about a corrective order. It is a unfunded mandate.

Mr. Julio Guridy thanked Mr. Messinger for talking to him today. He stated that the Public Works budget went down \$1.8 million from this year for proposed next year. He asked if we would not do this what will happen to the 24 workers that are in the stormwater and funded by this fee. He stated that what we are doing and monitoring this. We are not doing what they did in Pittsburgh. We are putting some kind of filters.

Mr. Craig Messinger stated that if the fee will not go through at this point in time, they will be out of a job. He stated that Pittsburgh is a combined sewer system. Everything goes to a treatment plant. We are like Philadelphia, the water that goes into the drain right now eventually goes into an outfall and then into a stream. The first year will be testing and studying to see where we are. Permits only last five years and we have to renew. If we don't start right away we will have more problems.

Mayor Ed Pawlowski read an article from September 11, 2015 about Akron ignoring the Consent Orders and Administrative Orders by the EPA until they were forced. This is happening across the country. When I go to the US Conference of Mayors and I sit in the environmental committee, there are Mayor's in every single area in this country that is getting the same orders from the EPA. Whether it is California, New Mexico, Florida, Pennsylvania, New York, and North Carolina. They are having to spend lots of money. This is a way to get ahead of this and try to work with the EPA to address the issue without them slamming us with a \$1.4 billion hit where we have to replace the entire system simultaneously.

Mr. Julio Guridy stated that we had several meetings that were scheduled. One of the concerns that I had when I speak to people is that I have not found one person that knows about this fee yet. I think we should do a better job letting people know that this is coming.

Mayor Ed Pawlowski asked him how do you suggest we do that. We had five different meetings, we posted it on social media at nauseum. It was in the paper and things done on 69 News. The meetings have been publicized. He stated that Mr. Messinger had a whole committee.

Mr. Craig Messinger stated of community residents. The top 12 we put out to have a private meeting and only six responded to it. We had a session at Bucky Boyle Park where we invited and we had 35 institutions. The larger realm of it and the amount of participation that came out of it was very small. It is something that our consultant said was normal. This was in the newspaper, The Morning Call, on Social Media and other avenues.

Mr. Ray O'Connell stated that these meetings should have been held a month ago or about six weeks ago. It is unfair to the general populous out there.

Ms. Cynthia Mota stated that she is concerned. She asked about the 24 people losing their jobs.

Mr. Craig Messinger stated that the way it is proposed in the budget. Those jobs are no longer in the General Fund. They are in the Stormwater Fund under this fee.

Mayor Ed Pawlowski stated that it has been that way since we put it forth.

Mr. Ray O'Connell stated that we can probably use those reserve funds if we had to.

Mayor Ed Pawlowski stated that we could. If you are not fixing the problem you are going to be slammed by the EPA with other fines and fees.

Ms. Cynthia Mota asked what are the other municipalities paying at this point. She asked about Philadelphia.

Mayor Ed Pawlowski stated that we can find that out.

Mr. Craig Messinger stated that the numbers will not be apples to apples. We are a Phase I permit. The other municipalities are in Phase II. Lancaster has quarterly fees. We are in line with Lancaster, but with more requirements.

Mr. Ray O'Connell stated that they looked at a fee versus taxes. A fee is equally distributed. He asked if there an appeal process. Let's just appeal.

Mayor Ed Pawlowski stated that we appealed, we are in Class Action suits.

Mr. Craig Messinger stated that we keep looking at it as a cost and something that we have to do. As a municipality and a government entity we should be looking at the right thing to do in the first place. The program has to be \$20 per 500 square feet.

Mayor Ed Pawlowski stated that we broke it out as a Enterprise Fund. If we reduce the fee, we reduce our capacity to borrow. We are not really fixing the problem and don't know if EPA will agree to that.

Mr. Ray O'Connell stated that he is hearing \$20 per 500 square feet or bust.

Mr. Craig Messinger stated that the program was built to meet our requirements. We created a program to keep us in compliance and in order for what we need to do, then a fee structure was made.

Mr. Julio Guridy stated you created a program and it fell on \$20. It could have been \$19.99 or \$15.49. It was \$20, exactly.

Ms. Elizabeth Treadway, Principal Program Manager for Foster Wheeler, stated that it is unusual that it came up to an even dollar amount. In this case it did. It is not magic, it is math.

Mr. Daryl Hendricks asked about the Enterprise Fund. His understanding is that this money will be kept in a separate fund that is not available to be arbitrary used for anything but those requirements that are required to would be filled. What is the average property fee going to be as a result of this?

Ms. Elizabeth Treadway stated that it is not a straight forward answer to that. It depends on the number of billing units by the class of property. She stated that 50 percent of your residential properties will pay \$60 or less, 75 percent of all your residential properties will pay \$100 or less. She stated to take it to year 4 and then do your rate study.

Mr. Roger MacLean stated that they are trying to answers. What happens after that four years. Do we have a runaway train?

Ms. Elizabeth Treadway stated that no. Even assuming a certain progression of bond issuance for major capital, the growth rate is fairly moderate and so far out to claim an amount would be appropriate. There is not a way to answer that as a generalization.

Dr. David McGuire stated that to try to address some of the things. We are doing this because we the people said we want clean water. We moved to clean air, clean water, clean medicine and clean foods. We try to build efforts to achieve the goal of clean water. Our city has the unique resources of four natural streams which feed into the Lehigh River. These streams in whole or in part are trout breeding or other fish streams. We implement these laws step by step and create an agency to ensure that they are done. We the people through our governmental agencies and public employees have to get it done. The EPA has made an effort through hard earned experience to have a way to enact this. One size does not fit all. He stated that he is attracted to and strongly supports this program

because it applies to everyone in terms of administration and by way of nature. This process is step by step of how the process will work. This is one of the soundest programs in his career dealing with related topics. As a citizen he welcomes it.

Ms. Candida Affa stated well said. This is just not about money, it is about the environment and something has to be done. She stated that with people in the lower income brackets, if we don't do this at \$20 per 500 square foot we have the chance of losing this and to be taxes. That's where the people in a lower income would be taxed and will have problems.

Mr. Lou Hershman, 405 N. Gilmore Street, asked Ms. Affa if we don't charge the residents of Allentown \$20 there is a fine. Why can't we charge them \$0? Right now, we have a Stormwater Bureau and if we can keep it in the General Fund. He wants to delay it for a year. Allentown has a Program Budget. The law states that you have to have an Ordinance in place to reduce the fee. Before you implement it you have a 10 year program for a financial forecast. You don't have that. You have nothing in place and asked for the fee to be delayed for one more year.

Ms. Candida Affa stated that you want it to be delayed for one year. What are we going to do next year?

Mr. Lou Hershman stated that we can fund it without charging \$20. There are so many places and nonprofits and we have some people that can't afford it. Right now, we exempt people that are disabled and military veterans that are disabled. The churches will have to pay. There are many people that are exempted, but you are going to start charging stormwater fees.

Ms. Candida Affa stated that she heard everything Mr. Hershman said and understands what is he trying to say. You are not understanding. There are no penalties for the people that are underprivileged or in a higher bracket. If we don't implement it, we go to a tax. Once we go to a tax we cannot use the schools and the hospitals. It would take the burden off the people that are with lower income.

Mr. Lou Hershman asked Ms. Affa to vote on delaying it for one year.

Mr. Glenn Hunsicker, 844 S. 11th Street, stated that Mr. Hershman is right. You are going to have to do something. You have to put a plan in place. The consultant came up with the plan with the city. In his opinion, it balancing out the \$5 million that they need. We were short \$10 million. He stated to come up with another plan. He stated that he doesn't know

technically how you do this. He asked Council to take it under consideration. It is a big deal. He stated that the EPA administrative order started in 2004. What was he doing for 13 years. It is dereliction of duty in a way.

Mayor Ed Pawlowski stated that it is ridiculous.

Mr. Tom Hahn asked how many of Council got a copy of this and was able to ask questions on this proposal. It has been a practice. No one says what it cost when you collect all the chemicals where you dump it and what is the cost to dump it and who pays for that. Let's annex off part of the city and don't be the fourth largest city in Pennsylvania. Let's think outside of the box. Lower the mileage and the amount. Why didn't Council read and analysis this?

Mr. Ray O'Connell stated that Council had a meeting on this. He stated that Council did?

Ms. Tinku Khanwalkar, 208 N. Marshall Street - Chair of the Environmental Advisory Council, stated that she has spoken in the past in support of the stormwater fee. She reiterated the EAC's support for this fee. The stormwater issue is an important issue with the city of Allentown. She thanked Dr. McGuire for his support and comments. She stated that the streams of the city are impaired and need to be addressed. The approach first taking by the city to first study the problem and identified the right approach to address the problem and came out with an appropriate plan. The fee is not broad-based. You can get credit for appropriate actions.

Mr. Dennis Pearson, president of the Eastside Rittersville Association - 942 E. Tilghman Street, asked if we would have the borough of Penn's Manor soon. He stated that he heard about three points. The Lehigh river was much dirties than Jordan. He asked if someone heard of the Block Grants that are paid by the federal government. This is the history of this government. This is a problem with the lockbox and they are doing it again. The environmental is important, but something should have been done in the past.

Mr. Courtney Robinson, 1507 W. Turner Street, stated that there is a discussion on an appeals process or credit process. He asked if the administration knows what that is going to look like. What type of educational program that will be put in place.

Ms. Elizabeth Treadway stated that there is a significant public education component. Not only to the permit, but to the program for outreach. We written a manual on how to obtain credits and actual strategies that are in

your draft ordinance that authorizes the use of credits that will be posted on your website. It can be mailed out. It will give instructions on documentation on how to submit background information for the credit program. We encourage and believe the beginning of education is not something you do one time.

Mr. Don Ringer, 1801 Liberty Street, stated that he is much for the environment as anybody and respects the environment and wants the environment to be better. He is asking Council to table until we have a new administration here in the city. He stated that he doesn't know how we can trust this administration to make a decision like this with all the charges that are against him now. If you implement it to the schools, the schools will tax us. That is a tax.

Attorney Tom Troud, Roman Catholic Diocese of Allentown, stated that they are not here debating the wisdom of stormwater infrastructure or the timeliness. We are here to argue about semantics. Like every clever magician, the trick is when the rabbit goes into the hat. The rabbit that goes into this hat is called a fee rather than a tax. There is a great body of laws in Pennsylvania for the past 200 years embedded in the Constitution that charities are exempt from taxes that is continued by the statutes of Pennsylvania. We are not a car dealer on Lehigh Street. We are feeding the homeless, visiting the imprisoned and providing housing and all these essential services. He suggested to continue the exemptions for charities.

Mr. Ray O'Connell asked if there is a dollar amount that the Diocese of Allentown would pay. He asked if the administration can get that to Mr. Troud.

Mr. Craig Messinger stated that they have that. They came to one of our Informational Sessions at Bucky Boyle Park.

Attorney Tom Troud stated that they first learned of this in later October.

Dr. David McGuire stated that your point is something that everybody is aware of. He asked his definition of charitable.

Attorney Tom Troud stated that is the definition that the courts have to decide every single time. They came up with something called the HUP Test which is a five prong test.

Dr. David McGuire stated that he agrees for the purpose of discussion and asked if an entity such as Lehigh Valley Health Network is a charitable agency.

Attorney Tom Troud stated yes. They are definitely a charitable institution so is the Jewish Community Center, and various Protestant denominations.

Mayor Ed Pawlowski stated that according to the HUP Test all the colleges and universities will be exempt. All the hospitals will be exempt. The HUP Test is incredible broad.

Attorney Tom Troud stated that the HUP Test is the Gold Standard in Pennsylvania.

Mayor Ed Pawlowski stated that the state Supreme Court disagrees with you on that.

Mr. Eric Salomon, 2334 W. Livingston Street, stated that it is ironic during this time of the year when everyone is involved and getting ready for Christmas that this is brought to the taxpayers and we have to make an immediate decision. He stated that he was at the library meeting and it was brought up the school district's buildings will be taxed and the parking lots and sidewalks. As a fee payer and a funding sources for the city of Allentown, I will be hit with the extra tax. It is a bad idea now.

Mr. Ray O'Connell asked Ms. Wild if it could be litigation coming our way.

Ms. Susan Wild stated that there could always be litigation from anybody over anything. She won't rule that out. The test will be in litigation if it was a well-reasoned program supported by the evidence and she is not going to draw the conclusions of whether it was or not. That would be the test that the courts would employ.

Mr. Eric Salomon stated that he attends a small church in Allentown and it is a very small congregation and they do a lot of good work. They feed the homeless and give them a good breakfast. It is a shame that little churches will close their doors because they can't afford to pay an extra fee. Where do you draw the line?

Mr. Ray O'Connell asked if there were any other comments from the public.

Mayor Ed Pawlowski stated that he agrees with Dr. McGuire that the rain does not distinguish. It falls on for profits versus nonprofits. All these institutions don't build into its facilities any remediation for what's going on with our stormwater. Because of that they are the biggest contributor to the problem. We have to address the issue some way and some how. This is the most logical and most cost effective way to do it. He asked that Council look at the body of evidence that has been presented here. It is a well-reasoned plan and good for our environment and addresses the issues that affects the EPA.

Mr. Ray O'Connell stated that this is Bill 82 - Stormwater Fee and part of the 2018 Budget. The budget will be voted on Wednesday evening.

ADJOURNED: 7:45 PM