

ALLEGHENY COUNTY COUNCIL

REGULAR MEETING

- - -

BEFORE:

John P. DeFazio - President, Council At-Large
Eileen Wagner - Vice President, District 4
David B. Fawcett, III - Council At-Large
Ronald Francis, Jr. - District 1
Jan Rea - District 2
Thomas A. Shumaker - District 3
Vincent J. Gastgeb - District 5
Michael Crossey - District 6
Richard Schwartz - District 7
Charles Martoni - District 8
C. L. Jabbour - District 9
James E. Simms - District 10
Richard Fitzgerald - District 11
Wayne Fontana - District 12
Brenda L. Frazier - District 13

Allegheny County Courthouse
Fourth Floor, Gold Room
436 Grant Street
Pittsburgh, Pennsylvania 15219

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IN ATTENDANCE:

Guy A. Tumolo, Chief of Staff
John Mascio, Clerk of Council
George M. Janocsko, Esq., Assistant County Solicitor
John F. Cambest, Esq., Counsel
for County Council

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PRESIDENT DE FAZIO: The meeting will come to order.
You will all rise for the Pledge of Allegiance to the
flag.

(Pledge of Allegiance.)

PRESIDENT DE FAZIO: At this point we'd like to have

the roll call.

MR. MASCIO: Mr. Crossey?
MR. CROSSEY: Here.
MR. MASCIO: Mr. Fawcett?
MR. FAWCETT: Present.
MR. MASCIO: Mr. Fitzgerald?
MR. FITZGERALD: Here.
MR. MASCIO: Mr. Fontana?
MR. FONTANA: Present.
MR. MASCIO: Mr. Francis?
MR. FRANCIS: Here.
MR. MASCIO: Ms. Frazier?
MS. FRAZIER: Here.
MR. MASCIO: Mr. Gastgeb?
MR. GASTGEB: Here.
MR. MASCIO: Mr. Jabbour?
MR. JABBOUR: Here.
MR. MASCIO: Dr. Martoni?
DR. MARTONI: Here.
MR. MASCIO: Ms. Rea?
MS. REA: Here.
MR. MASCIO: Mr. Schwartz?
MR. SCHWARTZ: Here.
MR. MASCIO: Mr. Shumaker?
MR. SHUMAKER: Here.
MR. MASCIO: Dr. Simms?
DR. SIMMS: Here.
MR. MASCIO: Ms. Wagner?
MS. WAGNER: Here.
MR. MASCIO: Mr. DeFazio, President?
PRESIDENT DE FAZIO: Here.
MR. MASCIO: 15 members present.

PRESIDENT DE FAZIO: Under proclamations, recognizing and commending Mr. Douglas Garretson, the Allegheny County EMS Council and DMAT, Disaster Medical Assistance Team, for providing medical services for recovery workers at Ground Zero of the World Trade Center in New York City.

Co-sponsored by Chief Executive Jim Roddey and Council Member Jan Rea.

MS. REA: I'm going to have President DeFazio also come up and I would like to ask Mr. Garretson to come up, please, also Mr. Johnson, Mr. Fitzhenry and Mr. Girimonti.

This evening it's really an honor for me to stand here with these gentlemen who went up to New York and supported our fellow citizens in rescue efforts.

I was in New York this past weekend and, I don't know, I feel somewhat removed because in Allegheny County I don't see the devastation but in New York City there truly is a sadness and a change in the city and every minute that you are there, you have a sense of it. So I really commend people from our Emergency Management Services Department for going there and supporting our fellow Americans there, and I just can't thank them enough. So it's an honor to read the proclamation.

Whereas, the member of Emergency Management Services Teams devote their lives to saving the lives of others and helping people in time of need.

Whereas, Allegheny County is blessed with exceptional

emergency service personnel. These physicians, nurses, medical technicians, paramedics, firefighters, educators and administrators providing quality life saving and emergency care and offering support in times of distress.

Whereas, PA-1 DMAT, Disaster Medical Assistance Team, a vital component of the Allegheny County Emergency Medical Services Council recently volunteered its highly trained and skilled members to assist at Ground Zero, the World Trade Center site in New York City, where team members, including Daniel Fitzhenry, David Johnson, and Guido Girimonti provided medical services for recovery workers and;

Whereas, in recognition of their patriotic volunteer efforts, the members of PA-1 DMAT were honored when the Allegheny County flag was flown from a crane high above the recovery efforts on the night of Wednesday, November 14th;.

Whereas, the historic flag reflecting the dedication and resolve of the citizens of Allegheny County in supporting our nation is being presented to the government and citizens of Allegheny County by the proud members of the team.

Now, therefore be it resolved that the office of the Chief Executive and County Council, on behalf of the citizens of Allegheny County, do hereby humbly accept this historic flag and we commend the members of the Allegheny County Emergency Medical Services Council and the Disaster Medical Assistance Team who unselfishly and courageously give their time and resources to provide for the safety and health of our grateful citizens and others thought the nation.

I also would like to let you know that we are going to have the flag displayed in the Court House hopefully in January permanently.

So thank you very much, gentlemen. I can't thank you enough.

(Applause.)

MS. REA: I think we would like to hear from anyone who would like to speak to us, also.

MR. GARRETSON: Thank you, Councilwoman Rea and President DeFazio. My name is Doug Garretson. Currently I serve as the chairman of the Allegheny County EMS Council and am the Deputy Chief of Pittsburgh's Emergency Medical Services.

Allegheny County EMS Council has a rich quarter century history of providing assistance to ambulance services throughout Allegheny County, coordinating the provision of care, being an information resource and an advocate for emergency medical services both for the communities that they provide care in and the services themselves and the care that they provide.

We represent some 70 plus ambulance services in Allegheny County and in addition to that, we have members on our Board of Directors from hospitals, hospital emergency departments, physicians and nurses, all dedicated to the provision of emergency health services throughout the communities of Allegheny County.

In addition to providing those kinds of things, in the late 1980s we enjoined with the federal government to sponsor a Disaster Medical Assistance Team or DMAT team, and the purpose of a DMAT team is to take care of and augment services in other communities that may be under disaster. We could send our DMAT team to Los Angeles for an earthquake, to Florida for a hurricane, to the Midwest for a flood, or as we saw in New York City, to send members

to Ground Zero to provide medical care for the recovery workers there.

By providing that service to Allegheny County EMS, we also put ourselves in a position to reap those benefits of other teams coming to our community if ever we would need assistance.

When they went to New York City, the members of our DMAT team, as Councilwoman Rea said, had a flag that they were able to fly overtop of Ground Zero; and I'd like to bring forth Mr. Dan Fitzhenry from the team to make that presentation to Councilwoman Rea and Council President DeFazio.

Dan.

MR. FITZHENRY: Thank you, Doug.

The events of September 11th are well known to everyone in this room; and when that tragic event occurred, the emergency services of this city, this county, and Southwestern Pennsylvania put forth an immediate offer to render assistance to New York, Washington, and Somerset. Those offers were quickly received and acknowledged. We were ready ourselves for possible use and service.

John Milton, the poet, said, and this phrase was used in World War II, "They also serve who only stand and wait." Five weeks after the attack the Disaster Medical Assistance Team, federal designation PA-1, as sponsored by the Allegheny County EMS Councils, activated by the United States Public Health Service to provide medical care to the recovery disaster workers at the World Trade Tower site. It was a call to duty which was answered. It was a needed and fulfilling and somber service which was provided.

Just outside of the treatment areas of the World Trade Center where the disaster teams worked is a simple plywood protective wall. It is on that wall in which the medical teams before us, some as far away as Alaska and California, wrote parting messages to the people in New York. Our message was also added to the wall and it is as follows: We came to be by your side. You, our colleagues in public safety, our neighbors to the northeast, our countrymen, called by the bonds of brotherhood, patriotism and humanity, hoping in some small way to help share your heavy burden, to lighten your load, to mourn with you in this time of sorrow, to join with you in picking up the horrendous gauntlet hurled at you and to demonstrate our resolve in showing our adversaries that they will not succeed and that we will not be defeated. By sharing this experience, we now leave a part of us here and take with us in our hearts part of you. We have been privileged and humbled to serve as we could and remain honored to have had the opportunity to stand by your side if but for a while.

On November 15th we left that message for the City of New York and today we bring back a message to the citizens of the county, but this message is not one of words but, rather, in the form of a county flag and helmet. As evidenced by the picture, the flag, this very flag we have here with us today, flew above the World Trade Center site during our service. Also a helmet worn by many on the site is provided as a symbol of the pride in America that was left by the many who came together to work for a common good in a time of tragedy. It is appropriate that this flag and helmet not only serve to primarily remind us of the 3,000 people who lost their lives, hundreds of which were police and fire who died in the line of duty, but also a testimony of the past, present and future spirit of the people of this county to answer a call when our

fellow countrymen are in need.

Chairman DeFazio, Councilwoman Rea, and other members of Council, if you would please accept the helmet and spirit of the flag it's given. We trust and hope that the display is an appropriate location to serve and remind all of us of the events of September 11th, 2001.

Chairman, it is the plaque that goes along with the flag and the photo evidencing that flag being flown over there.

Thank you very much, appreciate that.

MR. GARRETSON: When the team went to New York City, they did not take a flag with them. They thought of the solemnness of their job and didn't think much about ceremony and the like. You don't get a flag in New York City overnight without some connections and we are very fortunate that Chief Bob Full, Chief of Emergency Services for Allegheny County, a long time friend of mine and we went to junior high school in high school together and worked in Pittsburgh EMS for well over 20 years, is a great ally and asset for Allegheny County EMS Council was able to get us that flag very quickly and we appreciate that, Chief.

Last week, because I know you have other things to do, there are a few people I'd just like to quickly recognize as I go around the room. Behind me Guido Girimonti, a fire fighter with Pittsburgh International Airport, who went to New York City, lives out in Imperial; Dr. Tom Stein, professor of emergency over at Allegheny General Hospital and a member of our Executive Board of the Allegheny County EMS Council; Bill Plunkett, Chief of Baldwin EMS, also the Treasurer of the Allegheny County EMS Council; Tony Cuda, Director of Seneca EMS covering areas of Sharpsburg and Etna, also a member of the Executive Board of our Council; fire chief Lamonte Wilson from the Pittsburgh International Airport who allowed Guido Girimonti to go to New York and also serves on the Disaster Planning Committee of our organization; Dan Fitzhenry, the former EMS coordinator and the person who got us into DMAT in the 1980s, paramedic for a number of different years and currently in a personal law practice; Knox Walk, who serves as the EMS coordinator for Allegheny County and is kind of the administrative organizational officer for our group and also serves at the Community College of Allegheny County as a director of the Public Safety Institute; and Dave Johnson, the Assistant Director at the Public Safety Institute and the Chief Operating Officer of Woodland Hills EMS who also went along to New York.

Thank you very much for your support and we look forward to working with Councilwoman Rea and the Public Safety Committee in the future. Thank you.

PRESIDENT DE FAZIO: I will read the next two. They are both from Council Member Gastgeb.

Recognizing and commending the Thomas Jefferson Boys Soccer Team upon capturing the WPIAL Section 3 Championship and earning the Class AA PIAA State Soccer Championship.

Sponsored by Council Member Gastgeb.

The second one he has is recognizing and commending the Thomas Jefferson Girls Volleyball Team upon capturing the WPIAL Section 5 Championship and earning the Class AA PIAA State Championship.

Sponsored by Council Member Gastgeb.

This must be a record to have two teams win like this.

MR. GASTGEB: Thank you, Mr. President.

It's my distinct honor and privilege to recognize and commend two outstanding varsity teams from the Thomas Jefferson School District, which is Thomas Jefferson High School, West Jefferson Hills School District.

As President DeFazio mentioned, I do think this is a record to have the two varsity teams from the same school district; and for those of you who aren't familiar with the Thomas Jefferson High School and West Jefferson Hills School District, to say it's a tight knit community would be an understatement. When they have their football games, there are bed sheets out on Route 51 already touting the Jaguars, and it's just a real tight knit community and you get that way because you have outstanding students who are committed and dedicated to their sport and their school. You have outstanding administrators. You have outstanding teachers and, of course, the parents, the parents who have to foster the relationship and the love and all the positives that we need to endorse something that very few high schools can do and that's garnered not only on WPIAL championship, but the Pennsylvania State Championship.

I'd like to commend first the Boys Soccer Team under the direction of Dr. Michael Kulish. If you would come up, please, sir.

DR. KULISH: They are finalists in the state, not state champions.

MR. GASTGEB: Well, you're champions to me, so that's all that matters.

I think what it is is how the community rallies around, and what's important is the dedication that you as youngsters have and how many times we read in the paper or watch on the news where we look at the youth of our society and there's a negative story or a negative comment, and I think we have to continue to bring out the good and the positives we have in within our youth and certainly you're role models for that.

If the soccer team will come stand behind me as I read the proclamation, too. Dr. Kulish, I will give you yours and, as well, I have one for each member of the team.

The certificate reads: In recognition of your beneficial guidance and influence upon the young men and women, urging them to prevail in academics as well as athletics, leading them through another excellent season, earning the 2001 WPIAL Section 3 Soccer Championship; a proud accomplishment worthy of our County of Champions; and in recognition of distinguished endeavor and accomplishment which have earned the esteem of the citizens of Allegheny County, this achievement has conferred honor upon the County of Allegheny. Sponsored by me, Vince Gastgeb, to the coaching staff.

Dr. Kulish, I will give you yours, as well I have one for each member of the team. If you would like to say a few words.

DR. KULISH: Vince, thank you so much. It's an honor to come down to the County Building and be recognized here locally by our county government. It really was not expected and it's surely a real surprise and a real benefit to all these young people standing behind me.

We are fortunate to have the girls volleyball team win the WPIAL Championship as well as ourselves. We made it to the championship game but, no, we did not win, but next year we will be back there to give it another try.

Mr. President and fellow Council members, thank you for your generosity and kindness.

MR. GASTGEB: We will take some pictures of the team and, again, congratulations to all of you.

Besides having the record for having one high school here in one night, you broke the record for flashes going off at one time. We are not quite used to that.

If I can also mention another outstanding team, a team which also persevered, showed incredible fortitude, integrity, is the Girls Volleyball Team from Thomas Jefferson.

Now, I'm a hockey coach back in Bethel Park and I know some of the more emerging sports, hockey, lacrosse and volleyball, sometimes you don't get the notoriety because it's not an established sport maybe like soccer or football, but certainly everything within the volleyball and the commitment you have made deserve the recognition and I'd like to bring up the coach, Lori Mason. If I can have the girls assemble behind us, please. This is a certificate that will be given to Lori.

In recognition of your beneficial guidance and influence upon the young women, urging them to prevail in academics as well as athletics and leading them through another excellent season, earning the 2001 WPIAL Section 5 Volleyball Championship; a proud accomplishment worthy of our County of Champions; and in recognition of distinguished endeavor and accomplishment which have earned the esteem of the citizens of Allegheny County; this achievement has conferred honor upon Allegheny County. Sponsored by me, Councilman Vince Gastgeb.

I'd like to bring Lori Mason here to say a few words about her team and, just in closing, to see all the kids come up. Sometimes we recognize the youth and sometimes we get half the team or maybe a quarter of the team. I really appreciate the showing that we have. They all came down together and all the parents are here. It really means a lot to see that enthusiasm and attitude.

Thank you.

MS. MASON: We were quite concerned because we only have six girls today but we actually do have 13 on the squad but basketball season is in tow, so we have most of our girls here and the others are on the basketball team. They have a game tonight at North Allegheny.

It's quite humbling to be here. Coaches usually get all the credit but the credit stands behind me. These girls have done a fabulous job all throughout the year and far too often negative behavior gets recognized. I think it's just really great to be recognized for such a great, great season and thank you so much for having us and thank you to the girls. They have done a wonderful job.

MR. GASTGEB: Mr. President, that concludes my proclamations for this evening.

PRESIDENT DE FAZIO: John, could we have the appointments by the Chief Executive.

MR. MASCIO: We have communication from Chief Executive Jim Roddey introducing his recommendations of Jesse Fife, Alyson Getty, Daniel Horgan and Joann Cyganovich for appointment to the Drug and Alcohol Planning Council.

Also we have a communication from Chief Executive Jim Roddey introducing his recommendations of Doris Carson Williams and Paul A. Quarantillo for appointment to the Board of Redevelopment

Authority of Allegheny County.

Also a communication from Chief Executive Jim Roddey introducing, his recommendation of Glen Flickinger and Barney C. Guttman for appointment to the Allegheny Finance and Development Commission.

Also a communication from Chief Executive Jim Roddey introducing his recommendation of Marlene Robinson, Christine Mayernik, Georgia Hernandez, Reverend Dana Gold, Edward Barksdale and Marian Allen for appointment to the Allegheny County Children, Youth and Families Advisory Council.

PRESIDENT DE FAZIO: They will be referred to the proper Committee.

Public comment on agenda items.

We have Myron Arnowitt.

MR. ARNOWITT: Good evening. My name is Myron Arnowitt. I'm with Clean Water Action and I just want to speak very briefly to the Air Pollution Ordinance, the Environmental Fairness and Prevention Act, and I certainly hope that members of Council will continue to take a look at this and support it.

The Bill has been before the Human Services Committee for a number of months. There have been quite a few discussions there, and I wanted to address a couple of issues that have come up to kind of fill Council in on where some of the debates have been and what we see as some of the ongoing issues.

Number one I think is notable that only one company in the county has criticized the legislation, that being Shenango. Not too surprisingly as their company, which unfortunately has had such a long history of air pollution permit violations. That is not surprising that they might take issue with the Bill, but notably that's the only one.

Secondly, I know there have been some questions that have been raised on the cumulative impact section of the Bill and I just wanted to address a few issues there because I think it is a very critical part of the legislation. It's something that is important to do in Allegheny County.

It's been raised that cumulative impact would mean that when a company is looking to get a permit to emit more pollution in an area, the Health Department would have to look at nearby companies that are also emitting air pollution so that neighbors near the plant, what's the impact on that neighborhood; and it's been raised that this might not be fair to companies that maybe have a good environmental record that are searching to expand, they just happen to be in an area where there are a lot of other air pollution sources. So it's been raised, is this fair to punish those companies?

Right now it's the residents who live near those concentrations of air pollution who are being punished, and this Bill takes a step at addressing how to manage that problem. It's not necessarily saying we are not going to allow any more expansions in areas where there is a lot of air pollution, but we want to make sure the Health Department assesses what the impact is on neighbors; and without doing that, which is the current situation, we feel that it's communities that are being punished for, through no choice of their own, happening to be in areas where there are more air pollution.

In fact, generally throughout this country it is those neighborhoods where there are more low income residents and more

African Americans and other people of color who tend to live in those areas where there are high pollution. We see this as an important environmental justice issue as well.

Frankly, something does need to be done about this. If you look at the situation on Neville Island, you have a concentration of companies in one square mile there that, for example, are emitting as many ozone producing chemicals from those plants on Neville Island as all the companies in Beaver County.

Finally, I just want to quickly address the issue around pollution prevention.

PRESIDENT DE FAZIO: Make it real quick.

MR. ARNOWITT: There's been an issue raised about the Health Department's ability to implement. I just want to read a quick quote from the Health Department's ECO Current's newsletter. This is from Dr. Bruce Dixon, who states that -- this is addressed to businesses in Allegheny County. "We can help with pollution prevention specialists who are available free of charge for consultation and assistance."

I think that speaks to the fact there is an ongoing program that's available to work with companies and that this is not going to be an issue in the future.

Thank you.

PRESIDENT DE FAZIO: Thank you.

Aims Coney, Jr..

MR. CONEY: Mr. President --

PRESIDENT DE FAZIO: One second before you start.

John, set it at two and a half minutes, then you have 30 seconds. So when that second buzzer goes off, the hook comes out and grabs you.

MR. CONEY: I would like to yield to somebody who talks faster than I do and I will yield to Beth Monteverde with your leave, Mr. President, and the leave of Council.

PRESIDENT DE FAZIO: All right. According to the Rules, if you want to do it right, and I know you're an attorney, you understand rules, so what we are going to do is if it's okay with the body, if I get approval --

Does anybody have a problem with that.

(Chorus of nays from County Council members.)

PRESIDENT DE FAZIO: All right.

MS. MONTEVERDE: Thank you, Council members. I would just like to make a few brief comments on the proposal that's coming up on the neutrality clause that is before you.

Once again, I'm Beth Monteverde. I am Executive Director of the Residential Care Services. It's a county funded program in Allegheny County where we serve adults with mental illness.

My concern with this proposal would be that we are taking away authority from our Board of Directors who on the day-the-day have the fiduciary responsibility to our organizations for oversight. In terms of the possibility of any type of unionization or not coming in, I, for one, would not know how to deal with any of that and I would have to go back to my Board for direction and guidance. I think the language in this doesn't allow any of that. Although I feel my Board is very professional, I'm not sure that they would be the ones, without having some type of consultations, so that we could meet labor laws that we are required to meet; therefore, I would respectfully ask at this point that you

do not support this policy at all.

Thank you.

PRESIDENT DE FAZIO: Thank you.

Mark Knouse.

MR. KNOUSE: I relinquish my time, Mr. President.

PRESIDENT DE FAZIO: Thank you.

Colleen Willison.

MS. WILLISON: My name is Colleen Willison. I'm a resident of Kennedy Township, which is located directly across the river from Neville Island.

There is an Ordinance presently pending before this Council on air pollution that I would like to address very quickly.

As a resident and mother of the Neville Island area, I'm very concerned about the effects that emissions from Neville Island industry have on the health of my family and my neighbors. I am even more concerned when an industry, who is in chronic violation of its current permit, wants to expand its operations and the Allegheny County Health Department actually takes the permit application under consideration and indicates it will grant the permit. This is no fairy tale, ladies and gentlemen. It's the true story of Shenango.

I find it absolutely incredible that a plant that has never demonstrated a compliance history for the past several years would even be permitted to apply for a permit to expand its operations.

The Ordinance presently pending before Council would prevent this sort of illogical, irrational process from ever happening again. The Clean Air Ordinance would prohibit bad actors from applying for a permit when they are in violation of the current permit. This provision would not only punish those companies that do not comply with the law, but reward those that do because only companies that comply with the law would be permitted to apply for permits.

Secondly, the Clean Air Bill would require the Health Department to take into account the cumulative impact of nearby pollution sources when deciding whether or not to issue a permit. The purpose of the cumulative impact is not to take into account the emission of violators, rather, it is to take into account the amount of legally permitted discharge pollutants from all industry in the area.

For example, and I'm using these numbers strictly as a hypothetical, assume that one industry is allowed to discharge 40 pounds of sulfur a day. Let's further assume that it's not healthy for people in the surrounding community to breathe more than 100 pounds of sulfur a day. Well, that one industry is okay; but let's say you have two more industries that are emitting 40 pounds of sulfur a day. That's 120 pounds of sulfur a day, 20 percent more than was considered healthy.

The way that the Health Department now issues permits, they would never total up, add up the total emissions of all of the nearby industries, and that's what we think that the Allegheny County Health Department should do. Simply put, the Clean Air Bill just makes sense. It's reasonable, logical and would allow for economic development and prosperity while safeguarding the health of area residents.

Finally, the residents of Neville Island not only have the dubious distinction of living in an area where certain cancer

rates, particularly childhood cancers, are two to three times that of the rest of the state, but we also live in a community where industry has produced 25 percent of the toxic chemicals released in Allegheny County annually. That's according to the U.S. Environmental Protection Toxic Release Inventory.

I not only think it's your duty as Council members to be protective of the health of the residents of Allegheny County, but it is your moral obligation to do whatever is necessary to protect the communities from excessive pollution. You can do that by supporting the Ordinance.

Thank you.

PRESIDENT DE FAZIO: Colleen, one quick question. You know, we hear what you are saying but, you know, there's no real experts up here to know how to measure particulates and so a lot of what we have to do, which makes sense, you have to look to the Health Department and experts to tell us is this right or is that right. You can get up and make a nice speech and you might be right, you might not be right, you might have 20 other people, but if the Health Department tells us one thing, these are the experts that a lot of us look at to really say wait a minute, who is the expert, who do we listen to, you know.

MS. WILLISON: I understand we have been round and round with the Health Department about that and they say they cannot take into account cumulative impact. They don't deny that it should be -- I take that back. They do not deny that that's something that maybe could be considered. They say that they don't consider it, and that's what we'd like them to do.

Thank you.

PRESIDENT DE FAZIO: Thank you.

Cynthia Tuite.

MS. TUIITE: Good evening. My name is Cynthia Tuite. I am a resident of the Borough of Bellevue and I am also a member of the Neville Island Good Neighbor Committee, so I'm here this evening to encourage all of you Council members to really take a look at and ask more questions if you don't understand it about this upcoming pollution Bill that is now before you; and I realize this may not be voted on this evening, but it will be back again next year.

Being a member of the Neville Island Good Neighbor Committee, I'm in the fortunate position that I hear from people from Kennedy Township, Stowe Township, McKees Rocks, Neville Island, Sewickley, Ben Avon Heights, Ben Avon, Avalon and, of course, Bellevue, too, Ben Avon Heights, Emsworth, Kilbuck. There are certainly a lot of communities that really are affected by the pollution that is happening at Neville Island. Because of that, that has really made me aware of what is going on here in the community and the restraints that the Allegheny County Health Department has on their decision making and, Mr. Chairman, as you had mentioned before in the questions you asked, unfortunately the Allegheny County, really, they almost cannot deny anyone a permit, which their hands are tied. It's not that they want to allow people to have these permits. I have gone to many, many meetings and it's very frustrating for them when the whole community is sitting there and questioning what they are doing and they say to us, well, unfortunately there are no laws, there is nothing to stop us, you know, to say to these companies, we can deny you a permit because there are five other companies that also emit some certain substance that would take it over the legal amount.

So that's certainly a very big concern for us in the community, and I would certainly urge you to pass this when you have it next year.

Thank you.

PRESIDENT DE FAZIO: Let me ask you another question.

MS. TUIITE: Sure.

PRESIDENT DE FAZIO: You said there is nothing they can do. I don't know about the permit part, but if something is unsafe, they are doing something wrong, there is the federal, state and county EPA involved in it; right?

MR. ONORATO: Correct, but it's a very difficult process from what we were told. There are only three county people who can go out and investigate, so for the whole County of Allegheny there's only three people who go and investigate. That's 24 hours a day, seven days a week.

So just to make sure that companies are complying, there aren't even enough people to do that. By issuing permits to someone that they know has already demonstrated in the last 12 months, you know, which we're asking, that has been asked in this Ordinance, you know, for only the prior 12 months that, you know, that be denied because with only three inspectors for all of Allegheny County, that's extremely difficult.

PRESIDENT DE FAZIO: I know a little bit about it because I know Allegheny County is as tough on pollution as any county in the country. I know that for a fact. Like I said, Dr. Dixon, no one is here so we can question. I'm not arguing with you, but there's two sides and we have to know whoever makes these decisions, you can say the right thing and it sounds good, but what really is -- no one wants to see anyone's health in jeopardy, especially the people that work right next to us.

MS. TUIITE: But you could ask them, which you should, how many permits have you denied? That would be a great question because realistically everyone who has asked for a permit, you know, some shouldn't be denied? It's just out of the general statistics you would think some should be denied just for whatever reason, but they don't.

PRESIDENT DE FAZIO: All right. Douglas W. Muetzel.

MR. MUETZEL: Mr. President, Council, thank you for the privilege to come before you tonight.

Some of you may remember, my name is Doug Muetzel. I'm the CEO of the Wesley Institute.

As a reminder, our Boards and our staff are committed to create an environment for children and youth to build lifelong skills so they can be out in the community like you and me. Last year we served 730 children and youth. The majority of those kids have mental health issues but without going into details, look at the recommendations, the commendations for tonight. Those people, those kids that were in the World Trade Center disaster could be facing traumatic events that creates mental health issues. Those kids that play soccer for TJ and play volleyball for the girls volleyball team, we would like to see a point when kids can overcome the mental health obstacles to be involved in the community like that.

So to get to my point tonight in terms of union neutrality is that when my Board was aware that was coming before you, there was a concern and asked me to come before you and ask has the Council stepped back and answered what we believe to be some

pretty critical questions.

The first one we have for you tonight is what needs to be fixed? We are a little bit concerned, so we don't know what the Ordinance addresses. What is the problem? When you look at the social service industry, the next question we have is, is it about money?

I share with you, last time I had to testify, our residential programs have not been fully funded for 10 years. We have contributed in excess of hundreds of thousands of dollars. If there's a concern about money being misappropriated or spent, we don't even have it to fund the programs as they stand today.

The next question we have is what about care and quality? Is there a concern from the Council that this Ordinance will help the care and quality of children and youth? Quite frankly, that's a concern to us. Right now, through the Allegheny County, through Mark Cherna, he has the ability to not refer children and youth to Wesley. He has the ability to not renew a contract. The contracts have performance clauses in them.

So my Board respectfully asked me to come before you and say where are the answers to those questions? More importantly, just so you know what prompts me to come down, is when I talk to our Board members, they ask me, Doug, what's in it for the kids? Sadly on this issue, I return the answer, which is, nothing.

Social service agencies don't see anything that's going to help kids if this Ordinance were to be passed. More importantly, but maybe not a huge deal, but there would be additional administrative issues that we have to resolve. Right now we would have to categorize those dollars to make sure if somebody came to us and said how are those dollars spent, it would take on additional administrative responsibility.

So on behalf of our Board, we are asking you to probably the most logical vote would be to exempt nonprofits from the Ordinance and, more importantly, I think, we'd like some very basic questions answered, what's fixed, is there a problem with our performance? If there is, we think there are currently guidelines in place that can address the problems that we have. There are state and federal law that would insure the relationship between employer and organization efforts would be done on a level playing field.

Thank you very much.

PRESIDENT DE FAZIO: One question, report back to your people, number one, there is nothing in there that hurts any kids. It has nothing to do with kids. It is not going to cost the kids or you or anyone else any money. It's not going to hurt anybody. It really doesn't have much effect down there. You have a Living Wage union neutrality. Living Wage, we are not even talking about that.

MR. MUETZEL: I think the union neutrality clause was in the Living Wage.

PRESIDENT DE FAZIO: One is gone and we are talking about something different. There is nothing in here, union neutrality, that language, that has anything to do with hurting the kids. You say, how does it help? It doesn't help, it doesn't hurt. It has nothing to do with them.

MR. MUETZEL: Thank you.

PRESIDENT DE FAZIO: I guess that's it.

Unfinished business, report of the Committee on Human Services.

MR. CROSSEY: Thank you, Mr. President.

On Bill 0439, the Ordinance to improve the permitting of air pollution sources in Allegheny County, Mr. President, I'd like to let any of the sponsors make a comment if they'd like, but it's my sense that we are going to pull that tonight and not vote on it. It certainly has a tremendous amount of merit. We have worked on it a lot in Committee, as Myron mentioned, but it seems that it's the sense of the Committee members that it's just not quite ready to be voted on yet,. So we will be pulling that from the agenda, but I certainly would like to have any of the sponsors that want to make a comment about it have the opportunity to do that.

PRESIDENT DE FAZIO: Dave.

MR. FAWCETT: Just quickly, I think it is important legislation. I think it's somewhat complicated and you will get opinions going both ways on this legislation, a standing offer to talk to anyone to provide you with information about it, if anyone is interested. We did talk to City Council and did get a sense of Council from them and support from them and we have had a lot of Committee discussions. What I'd like is to have this thing brought out early next year, all of us commit to understanding it and be able to vote on it early next year.

PRESIDENT DE FAZIO: All right.

Tom.

MR. SHUMAKER: I may not be able to attend the Human Services Committee meeting, so I want to make sure the sponsors understand my concerns.

I think it's essential that the Health Department speak on this topic. I don't think that we should be asked to make up our mind on something that's this scientifically complex without someone from the Health Department coming into the County Council meeting to be able to address whatever questions we have.

In addition, there's also been a lot of testimony with respect to Shenango but, you know, we all have individual districts and we are all worried about the county as a whole but we are also worried first and foremost about our Districts, and so I want to understand the full scope of -- there are specific companies today as we sit here, that this would deny them, say, either a pending permit or a permit that it is reasonably foreseeable that they are going to be requesting a permit and as it stands right now, they wouldn't qualify for it.

Hopefully those questions can be addressed and I'm glad that Mr. Crossey's as well as the sponsors of this Bill are taking their time and allowing each of us to learn about this.

Thanks.

PRESIDENT DE FAZIO: Rick.

MR. SCHWARTZ: I just have a question. Does not the Bill have to be introduced?

MR. CROSSEY: Yes.

PRESIDENT DE FAZIO: Rich.

MR. FITZGERALD: That's an important point and as a cosponsor of this legislation, I plan on, hopefully with my two cosponsors, reintroducing this Bill after the first of the year in a new session.

MS. WAGNER: Mr. President, I want to thank you, John.

I do believe, though, Tom, that Dr. Dixon did speak in front of the Human Services some time ago on this Bill; am I

correct?

MR. CROSSEY: Dr. Dixon has been at several of our Committee meetings and spoken to this issue several times. Before it would come to a vote, we will make sure that the minutes from the Human Services Committee meeting with Dr. Dixon's comments are given to every member.

PRESIDENT DE FAZIO: Ron.

MR. FRANCIS: I would just add I had both those discussions with Dr. Dixon at the Committee meetings and with Roger Westman, who runs the air quality program, and I think that if we have some more time here, we will be able to draft a Bill that the Health Department is happy with and can push through the Board of Health so we don't have to have the kind of situation we are probably going to have over the tobacco Ordinance. That's why I think one of the reasons we need some more time. I think we will work through all that.

PRESIDENT DE FAZIO: All right. John.

MR. MASCIO: Bill 0534, 0535, 0536, 0539 are communications from Chief Executive Jim Roddey introducing his recommendations of Tamara Dudukovich, Dr. Rebecca Carpenter, Craig Stevens, and Victoria Curran for appointment to the Board of the Community Service Advisory Council.

MR. CROSSEY: Mr. President, I would like to move that we appoint these four members to the Community Service Advisory Council. We met with each of them in Committee and they are extremely well qualified.

Ms. Curran wasn't able to attend the Committee meeting but I did speak with her by phone. The other two that we are not appointing tonight, it's only because we have been unable to schedule a time to talk with them about the Community Service Advisory Council. We did get through to them late this afternoon and we will work with them to have them on the agenda for the January 15th meeting, but I would move that we appoint the other four. They are all highly qualified individuals.

MR. SHUMAKER: Second.

PRESIDENT DE FAZIO: Any remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, we will take a voice vote.

All those in favor signify by saying aye.

(Chorus of ayes.)

PRESIDENT DE FAZIO: Any opposed?

(No response.)

PRESIDENT DE FAZIO: The ayes have it.

MR. FRANCIS: I noticed that the Chief Executive has joined us. I don't know if he is here just to see our pretty faces or to maybe say something.

MR. RODDEY: No.

MR. MASCIO: Bill No. Certify 0540, 0541, 0542 are communications from Chief Executive Jim Roddey introducing his recommendations of Susan Lovejoy, Robert Randolph, and Reverend Eileen O. Smith for appointment to the Board of the Mental Health/Mental Retardation Advisory Board.

MR. CROSSEY: Thank you, Mr. President.

Once again, these individuals came before the Human Services Committee meeting. All are extremely well qualified and, once again, Mr. Haller, who is also up for appointment, was not able

to attend the meeting nor were we able to get into contact with him, so we were going to hold that one until the next meeting, but I would move that these three individuals that we appoint to the MH/MR Advisory Board.

PRESIDENT DE FAZIO: Second?

MR. SHUMAKER: Second.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, we will take the voice vote again.

All those in favor signify by saying aye.

(Chorus of ayes.)

PRESIDENT DE FAZIO: Opposed?

(No response.)

PRESIDENT DE FAZIO: The ayes have it.

MR. MASCIO: Bill No. 0544, communication from Chief Executive Jim Roddey introducing his recommendation of Dr. Mona N. Generett for appointment to the Board of Community College of Allegheny County.

MR. CROSSEY: Thank you.

Dr. Generett attended our Human Services Committee meeting. She is extremely qualified and will do a wonderful job and I move to have her appointed to the Community College of Allegheny County.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, we will try a voice vote again.

All those in favor signify by saying aye.

(Chorus of ayes.)

PRESIDENT DE FAZIO: Opposed?

(No response.)

PRESIDENT DE FAZIO: The ayes have it.

Report of the Committee on Economic Development.

John.

MR. MASCIO: He needs to make a motion to pull these Bills out of Committee.

MR. FONTANA: Mr. President, in accordance with Article 1 Section (f)(12) of the Rules of Council, I move to bring out of the Committee on Economic Development Council Bills 0422, 0482, 0517, 0527, 0545, and 0546 for consideration by the full Council tonight.

MR. FITZGERALD: Second.

PRESIDENT DE FAZIO: Under remarks?

MR. SHUMAKER: Mr. President, it was my understanding that provision was essentially -- the purpose of the provision that Mr. Fontana just cited was to be used by someone other than the Committee chair and it seems awfully cumbersome if in the future every time a Committee chair wants to bring something out -- is this really a necessary vote?

MR. TUMOLO: Yes.

MR. SHUMAKER: All right.

PRESIDENT DE FAZIO: Is there any comment?

Read that motion.

MR. FONTANA: In accordance with Article 1 Section (f)(12) of the Rules of Council, I move to bring out of the

Committee on Economic Development Council Bills 0422, 0482, 0517, 0527, 0545, and 0546 for consideration by the full Council tonight.

I had a Committee meeting on Thursday of last week to address all these Bills and we are just trying to clean that all up before the end of the year. All these Bills were voted on in Committee and I'm going to express those votes through each Bill here as we go forward.

PRESIDENT DE FAZIO: Start with --

MR. MASCIO: Bill No. 0422, an Ordinance adopting Assessment Standards and Practices.

Second reading. Submitted by County Manager.

MR. FONTANA: I assume we don't have to vote on that motion.

MR. TUMOLO: You have to vote on that motion.

MR. FITZGERALD: I seconded it.

MR. TUMOLO: Vote on the motion.

PRESIDENT DE FAZIO: Under remarks, anybody have any remarks?

MR. FRANCIS: I am happy to vote yes on the motion, but I do think, I think maybe Tom's point was under that same section, under items eight and nine, that the Committee actually votes on something, I think it then comes to the motion with an affirmative or negative recommendation, depending which way the Committee votes, so I'm not sure that that's necessary.

MR. MASCIO: It is necessary because the Committee didn't make its recommendation in time for placement of the Bills on the agenda.

MR. FRANCIS: That's the reason?

MR. MASCIO: That's the reason.

PRESIDENT DE FAZIO: Is there any other comment on 0422?

MR. CROSSEY: Just a procedural question. I understood the motion to bring all six of these out of Committee. Don't we have to vote on that motion?

MR. MASCIO: You do.

MR. CROSSEY: Before we consider any Bill individually?

PRESIDENT DE FAZIO: Right.

MR. TUMOLO: That's what you are voting on now.

MR. MASCIO: The motion was made. There was a second.

PRESIDENT DE FAZIO: All those in favor signify by saying aye.

(Chorus of ayes.)

PRESIDENT DE FAZIO: Anyone opposed?

(No response.)

PRESIDENT DE FAZIO: It passes.

Let's start with 0422.

MR. MASCIO: Bill No. 0422, an Ordinance adopting Assessment Standards and Practices.

Second reading. Submitted by County Manager.

MR. FONTANA: Mr. President, I would like to address Bill 0422 and also 0517 in my comments here. Both of these Bills were sort of considered at the same time in the last couple months.

Bill 0422 is the Standards and Practices Ordinance for the annual evaluation of property in Allegheny County. This Bill defines and establishes a computer assisted mass appraisal system.

Bill 0517 is amending Sections 205, 207, and 209 of the Administrative Code. 205 deals with the Oversight Committee. 207 deals with the Appeals Board, and the 209 addresses the Office of Property Assessment.

We are mostly clarifying language here, some procedures and eliminating some redundant language. I met many times concerning these Bills in Committee and with the Director of the Department of Assessments in an attempt to maintain our initial philosophy of making the property assessment system fair and equitable and to instill safeguards to keep politics out of the system.

This Council, I believe, should be proud of what we did two years ago by separating the assessment function and the appeals function. I know I am. What I have tried to do the last two years is maintain the plan of having qualified people hear appeals and determine assessment procedures. It's not always been easy, especially concerning the duties of the chief assessment officers. We have made some compromises in this area in Bill 0517.

What I would request is that next month a special Committee for property assessments again be created, especially in light of the continuous changes taking place in the office of Property Assessment, the possible appointments of new Appeal Board members in the next couple years, and the many property appeals that will be, I believe, will be submitted in 2002 and also because of the special contingency fund that was created for the property assessment department. Therefore, I'm making a motion tonight about Bill 422, to accept it, and it was voted on in Committee and unanimously recommended to this Council.

PRESIDENT DE FAZIO: Did someone second the motion?

MR. SCHWARTZ: I will second.

PRESIDENT DE FAZIO: Are there any remarks?

MR. SHUMAKER: Is there anybody here from the Administration who could speak on this or somebody here from the Assessment Board?

MR. FONTANA: The amendment of the Bill 0422 is what we are voting on.

MR. SHUMAKER: Do you support this? Is this something we need to be doing at this meeting?

MR. WEBB: Yes. The Administration does support all of the legislation that's been brought forth from the Committee. We have, as the chairperson has indicated, worked extensively with him and members of Committee. We have, indeed, gone through a lengthy process of examining the language with the exception of 422, which is a new piece of legislation required under the Administrative Code. The remainder is largely clarifying language and ensuring that it is consistent with other pieces of the Administrative Code.

PRESIDENT DE FAZIO: Mike.

MR. CROSSEY: Not a comment for Bob but just a comment on the Bill.

I'm going to be voting against this and I would urge my fellow Council members to vote against this. To me, this is another plan to create another plan. What the Administrative Code required was that within six months we will have the plan as to how properties will be assessed in this county. What this says is that we will set fourth a methodology, we will set standards, but it doesn't say what that methodology will be or what those standards will be.

For example, in 2102 on page five, it says that the method of evaluation will be to consider the price at which a property may have sold but that selling price won't be a controlling factor. Instead, the selling price, estimated or actual, shall be subject to revision by increase or decrease to accomplish equalization for similar properties.

I, for the life of me, can't figure out what that means, and I know that everybody that I have talked to that has appealed their property has been told, will your house sell for that or what will your house sell for? So selling price seems to have been the determiner in most of the appeals process. So I have got a problem with that.

My next question -- let me get them all out and you can respond. My concern is in Section 401. It says that once the property assessments are completed, the chief assessment officer shall submit an official request for certification to the Oversight Board, and then down below that it says the Oversight Board shall meet and vote to approve the certification, but three sentences down it says, the Oversight Board shall not certify the accuracy in any individual assessment.

My question is, I guess, what are we certifying, if we are certifying, and do these numbers really mean anything?

MR. WEBB: The issue of certification has been one that has been discussed in full and has even been part of legal proceedings; but to answer your question as briefly as I can, the Oversight Board, of course, is a creation in the Administrative Code and it's responsibility is the historic certification that had previously been done by the Board of Property Assessment Board, Appeals and Review.

The chairperson had indicated in our discussions that he wants to make it clear that the Oversight Board does not verify the individual accuracy of single assessments, and so the language that you are referring to at the end of that section is precisely that. It was to ensure that the chairperson's wishes were met and that was clearly stated. The certification is required under Pennsylvania law. The entity for doing that is set forth in the Administrative Code. It is, indeed, the Oversight Board.

With reference to the first question that you posed, the procedures for assessing are those that are established consistent with the requirements of Pennsylvania law and the Administrative Code and a computerized assisted mass assessment is that which is being described for you there. The individual property, which is often discussed in assessment appeal environments, is not, under the law, the single focal point for purposes of setting value. The fair market value is that which includes a reference point of market sales with the subject property being considered but does not leave the option of simply assigning the market price on the basis of one sale even if it is that single property.

So what you are seeing there is the codification of the information that has already existed under Pennsylvania law and the Administrative Code set forth in a precise Standards and Practices Ordinance as was required in that Administrative Code.

PRESIDENT DE FAZIO: Any other questions?

(No response.)

PRESIDENT DE FAZIO: Seeing no other questions, we will vote on it.

MR. MASCIO: Bill No. 0422 as amended in Committee,
Mr. Crossey?

MR. CROSSEY: No.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana.

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Jabbour?

MR. JABBOUR: Yes.

MR. MASCIO: Dr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.

MR. MASCIO: Dr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?

MS. WAGNER: Yes.

MR. MASCIO: Mr. DeFazio, President?

PRESIDENT DE FAZIO: Yes.

MR. MASCIO: Ayes, 14; no's, one. The Bill passes.

MR. FONTANA: Mr. President, if I can take it out of
order a little bit, Bill 0517.

MR. MASCIO: You want me to read the Bill?

MR. FONTANA: Please.

MR. MASCIO: Bill No. 0517, Ordinance amending
Chapters 205, 207 and 209 of the County's Administrative Code.
This is the second reading. Submitted by County
Manager.

MR. FONTANA: Again, we took a lot of time over the
past months in going over this particular Ordinance also. It was
presented in Committee last Thursday and was unanimously recommended
to this Council for approval. So I make a motion to accept 0517.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks? Mike and Dave.

MR. CROSSEY: Once again, I would be voting against
this. I'm working from two different papers here but I have quite a
bit of concern about this, and if I can just lay some of them out,
some of the members of Council may see why I'm concerned.

In Section 205.04, this new Bill takes away the
Board's ability to have their own solicitor and it says the County
Law Department will do the legal work. I believe that's significant
because the Oversight Board is going to lose their independence but
not having their own solicitor. I see that as a serious concern.

In Section 205.05, what we had written originally was
that the Controller will audit the operation of the department.

This new language changes it, the Controller may audit. I think we lose an awful lot of oversight ability there, so that certainly is a concern of mine.

Once again, I have the question on 207.01 about are we certifying these numbers, are we not certifying these numbers? I'm looking at two different forms here. Under 207.03, why do we find it necessary that the Board members no longer be bonded, which is a concern I have? 207.06, again, it seems to me and probably one of my biggest concerns in this Bill is that we have taken out County Council oversight ability here. What was originally written here in 207.06 was that the Chief Executive shall, after considering the recommendations of the Board, present to County Council a proposed Ordinance for adoption that shall set forth these rules.

Under the new legislation it says, the Appeals Board shall adopt rules and regulations for hearing and disposition of the following appeals.

What we are doing in this legislation is we are giving up our oversight ability for the rules and regulations. To me this takes County Council out of the procedure altogether. I find that terribly threatening here. So that is probably my biggest fear in this process.

The other thing that is here that is different is we required and I believe that we all worked very hard with this word merit hiring, and one of the things that we put into the legislation was that all persons dealing with, setting the values on properties would be certified as a Pennsylvania evaluator. This new Bill says that only those appraisers and evaluators will be certified individuals. So we are losing the person, they are changing, very slight change, but it says instead of any person, it's any appraisers used in here.

So, again, I have tremendous problems with this piece of legislation. I will be voting against it and my recommendation would be that we send this back to Committee and bring it back in the new year.

MR. FONTANA: I can address a little bit of that, especially the point about 207.06. The language from the old section was actually taken out from the top and we added to the bottom, because that was Bill 440 that this Council rejected and the reason we rejected it in the past was because of the Council not having some oversight authority, so we went back and I talked with Mr. McKeegan from the Appeals Board and obviously representatives from the Law Department and we came up with the language at the bottom there of page seven which says, the Appeals Board may modify or amend its rules. Notification of any changes must be made to the President of County Council and the Chief Executive. County Council will have 30 days from receipt to resolve that the changes will not go into effect. If Council does not pass such a resolution within the 30 days, the changes will take effect.

I can tell you also that we have received those rules and regulations today and they will be presented to the President of County Council and I assume that the President will refer it to Committee to review those rules and regulations from the Appeals Board. From that moment we will have 30 days to act if we so desire on those particular rules and regulations.

PRESIDENT DE FAZIO: Any other comment?

MR. FAWCETT: As I understand it, the Bill has been a product of a lot of discussion and a whole heck of a lot of work on

behalf of the Committee. I'm going to vote for it because I think a lot is procedural and it just needs to get passed.

I have one objection and concern with the Bill that I need to express and that's found in new Section 209.09 on page 16, and it's the determination of market value. In this section of the Bill it talks about how you arrive at market value for assessment purposes. In that section it says the price at which any property may have actually been sold shall be considered but shall not be controlling in arriving at market value. All three methods must be considered. The methods listed are cost, method of assessing or evaluation, comparable sales, and income approaches.

As I have said before, I think really one of the best things we could do is take much of the subjectivity out of the assessment process and make it more objective. I think the way to do that is to make sales in large part controlling, that is, actual sales due end up determining for the most part what the assessed value is.

What I have suggested before and will continue to suggest in the future and I hope we will all consider it at some point in time is a system in which we use sales price and adjust it for two things only, one is inflation or deflation, the cost of money over time and, secondly, basically the trends in various areas of the county. So if you have an upward trend or downward trend on assessments as determined by looking at all the sales in the area, those are the two factors to be considered.

I had the privilege or the challenge of sitting in many, many adjudications of assessments and the subjectivity just throws it totally out of whack. Everybody comes in with a story as to why their house is improperly assessed. We have seen here everybody comes and complains and the reason they complain is because the overall assessments don't jive with actual sales price. For the long term credibility of the system, we need to tie closer into actual sales price.

Anyway, having said all that, I am going to vote for the Bill because I know it's important. We need to get most all of it passed, but I do have that objection and I do finally understand that there is a move, Mr. Webb and others have told me that sales price is becoming more important in the methodology and more of a consideration, and I'm not certain of that but I'm being told that and I hope that is true.

PRESIDENT DE FAZIO: Wayne.

MR. FONTANA: I certainly can relate to Mr. Fawcett's point and I think that's exactly one of the reasons why I recommend for next year that the Property Assessment Committee be recreated for this very reason, to explore these types of issues, and I think there is going to be a lot more that we need to address for the coming year, so I certainly do concur with Mr. Fawcett, that's something we should be looking into.

MR. SHUMAKER: Mr. Fawcett read a section. I don't have it in front of me but the words -- you have to excuse me, I have a sore throat, so I'm not going to speak up. It said, to paraphrase Mr. Fawcett, it said something like that they must consider all three methods. My question is why does it say "must"?

MR. CAMBEST: That's the law.

MR. SHUMAKER: I understand why sales price is not the only factor but why does it say "must consider all"? Why isn't it "may consider all" three?

PRESIDENT DE FAZIO: I think he said it's the law.
Is that correct?

MR. CAMBEST: It's the law.

MR. SHUMAKER: What law? It's not the Second Class
County Assessment law because that doesn't apply.

MR. CAMBEST: General county assessment law. You have
to take into consideration all three factors but you can actually
give weight to the sales price greater than the others.

MR. SHUMAKER: Thanks very much.

PRESIDENT DE FAZIO: All right. Seeing no other
comments --

MR. MASCIO: Bill No. 0517 as amended in Committee,
Mr. Crossey?

MR. CROSSEY: No.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Jabbour?

MR. JABBOUR: Yes.

MR. MASCIO: Dr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.

MR. MASCIO: Dr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?

MS. WAGNER: Yes.

MR. MASCIO: Mr. DeFazio, President?

PRESIDENT DE FAZIO: Yes.

MR. MASCIO: Ayes, 14; no's, one. The Bill passes.
Bill No. 0482, a motion expressing the Sense of
Allegheny County Council by urging the Pennsylvania General Assembly
to vote against House Bill 1321.

Sponsored by Council Members Schwartz and Simms.

MR. FONTANA: Mr. President, we addressed this in our
Council meeting on Thursday also. Mr. Schwartz will address this at
this point.

Thank you.

MR. SCHWARTZ: Yes. At the meeting I asked this Bill
to be put on the agenda without a vote of Committee because on
Monday I had a meeting in Harrisburg with the sponsor of 1321,
Representative Stevenson, and too bad the Post-Gazette editorial
board hadn't called and learned some of the facts, but speaking with
Representative Stevenson, he had no problem with putting this motion

on the floor and just speaking out against that particular version of 1321. He told me on January 11th there is going to be a meeting and the Bill will either be substantially altered to address what it was designed for, which was for struggling towns, or it will die in Committee.

I'm going to take Representative Stevenson at what he said and I'm going to request the Bill be pulled right now. There are a lot of problems -- the motion be pulled right now. There are a lot of problems with 1321. There is no sense of going into them. Municipalities, the League of Municipalities, COGs, everyone has come out against 1321 in its present form.

What I did ask Representative Stevenson was that the main participant in whichever version of this Bill may pass would be County Council. County Council would basically become the administrator of a borough that disincorporated. So what I did was I asked that if someone or a few people from County Council could be involved in the discussions on January 11th since we are going to be the ones that this will fall back on. Right now I'm withdrawing this motion and reserving the right to reintroduce one if the Bill stays the same way.

MR. MASCIO: Bill No. 0527, Ordinance repealing County Ordinance No. 58-01 and providing in lieu thereof for the payment of an additional two percent on any refund of 2001 county taxes due and owing to any owners of real property whose tax assessment appeals for the 2001 tax year have not been decided by the Allegheny County Board of Property Assessment and reviewed by the end of calendar year 2001.

Second reading. Submitted by County Manager.

MR. FONTANA: Again, Mr. President, we talked about this in Committee on Thursday. This is pretty self-explanatory. I think that anybody, that their appeal hasn't been heard in 2001 and it gets carried over and they get a refund, they will get an additional two percent. So we certainly concur with that and certainly would recommend it to this body. So I make a motion to accept Bill 0527.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, take the vote.

MR. MASCIO: On Bill No. 0527, Mr. Crossey?

MR. CROSSEY: Yes.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Jabbour?

MR. JABBOUR: Yes.

MR. MASCIO: Dr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.

MR. MASCIO: Dr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?

MS. WAGNER: Yes.

MR. MASCIO: Mr. DeFazio, President?

PRESIDENT DE FAZIO: Yes.

MR. MASCIO: Ayes, 15; no's, zero. That Bill passes.

Bill 0545, a communication from Chief Executive Jim Roddey introducing his recommendation of Dr. Donald F. Smith for reappointment to the Board of the Redevelopment Authority of Allegheny County.

MR. FONTANA: Thank you. Dr. Smith was at our Committee meeting on Thursday. He is extremely qualified and this is a reappointment to the Board. We questioned Dr. Smith. He seemed to understand what the Board is all about and certainly is enthusiastic about serving on it in the reappointment that he is asking for tonight.

We are recommending that Dr. Smith be reappointed to this Board and I'd like to make a motion to accept 0545.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, we will take a voice vote on this.

All those in favor signify by saying aye.

(Chorus of ayes.)

PRESIDENT DE FAZIO: Opposed?

(No response.)

PRESIDENT DE FAZIO: Hearing none, it passes.

MR. MASCIO: Bill No. 0546, Ordinance adopting a policy of union neutrality for Allegheny County.

Second reading. Sponsored by Council Member Schwartz.

MR. FONTANA: Mr. President, we discussed this Ordinance in Committee. However, at that point there was some discussion about some additional amendments that would be put forth by Council Member Schwartz and Council Member Fawcett, if I recall, and I'm sure they would like to address those amendments at this point.

MR. SCHWARTZ: Yes. Procedure, I guess, I will introduce the amendments and we would vote on those first before we consider the Bill?

MR. MASCIO: That's correct.

MR. SCHWARTZ: I introduce them and need to get a second before discussing the amendments. You each have a copy of the long version.

PRESIDENT DE FAZIO: 0546?

MR. SCHWARTZ: There was an earlier one. I move to amend Council Bill 0546 and shall we read the amendments?

MR. MASCIO: You want to offer the amendments?

MR. SCHWARTZ: Yes.

MR. MASCIO: Councilman Schwartz will submit Council

Bill 0546 by changing the words "county funds" in the first line to "county tax dollars" in order to clarify the sentence. Also adding a new paragraph in Section 1 to read as follows: Nothing herein shall prohibit a beneficiary from utilizing noncounty tax dollars for the purpose of fully exercising its rights under state or federal labor laws.

Also adding the following phrase at the end of Section 2: who shall develop rules and regulations to govern such enforcement.

PRESIDENT DE FAZIO: All right.

MR. SCHWARTZ: I make a motion we accept the amendments.

PRESIDENT DE FAZIO: Is there a second?

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

MR. SHUMAKER: Mr. President, first, I want to thank Mr. Schwartz for making those clarifications. I think it's a lot clearer that his intent is limited but, nevertheless, I'm not going to support it and it's simply because I support the National Labor Relations Act. The National Labor Relations Act says it is the law with respect to unions. It says what employers can do and can't do. I don't at all nor, should this Council, condone unfair labor practices. However, it's essentially a matter of free speech. If you are an employer and your employees attempt to unionize, you have the National Labor Relations Act; and if anybody has any questions, I'm sure one of the two attorneys that are here could answer them in depth, but the National Labor Relations Act has significant limitations on what employers can do to resist the unionizing effort. It not only has restrictions, but it mandates a certain level of cooperation that employers have to give to the group that's attempting to organize the union.

So I don't think it's particularly fair to call this a union neutrality. I don't want to get into an semantic argument but it's not neutral. It's advocating a position and it's saying that we will not do business with companies that choose to lawfully exercise their rights under federal law. I think perhaps, in my opinion, the more responsible alternative would be similar to what the Air Pollution Statute was, and says we are not going to do business with companies that engage in a pattern and practice of unfair labor practices. I think that's certainly something that I would support because, again, I don't condone this Council and this government shouldn't condone with granting business to companies that do engage in unfair labor practices; but if they are within their rights under the law, I just don't think that we should be, in essence, discriminating against them. So with that explanation, I will be voting against the amendments.

PRESIDENT DE FAZIO: Let me say one thing, Tom, because I deal with it every day. Let me tell you something. Number one, we can't supersede the law. We can't go against the National Labor Relations Act because that supersedes everything we do. That same identical language is in all basic steel, US Steel, a lot of the agreements. This language, there is nothing wrong with it. You can vote no if you want, but before any attorney speaks, there's hundreds of attorneys went over this language. There is absolutely nothing wrong with it. If you don't like it, you can vote no; but the legality, take it to the bank. I'm telling you there is nothing wrong with that language. You can vote no if you

want, but there is nothing wrong with the language. The identical language, the identical heading is in a lot of the contracts.

Chuck.

MR. SHUMAKER: May I respond, Mr. President. I see that we have a motion on the agenda to extend Mr. Mr. Cambest's services; and if I was Mr. Cambest, I would be pretty nervous right about now because it seems as if you have superceded his authority.

PRESIDENT DE FAZIO: At this point, I'm just telling you my opinion, and I'm telling you or anyone else that if someone says I'm wrong, I will bet them a million dollars I don't have.

Go ahead.

MR. CAMBEST: If you want me to reply to that.

PRESIDENT DE FAZIO: Yes, go ahead.

MR. CAMBEST: I don't want to tie my agreement to any one opinion but what John is saying is true. Union neutrality clauses are basically in a lot of labor agreements, and I think I look at this as two separate issues and I agree with you, Tom, the language in here I believe patterns the National Labor Relations Board Act in that basically it says you can't do anything that would be against union organizing, and there are specific rules for elections that an employer must participate in, as you have indicated. You have to go through the steps.

I see this Ordinance as this County Council's ability to say that if we are going to give you a grant or money, county assistance, that we feel you ought to abide by the National Labor Relations Act. You should not use that money to either support or oppose unionization. As I read it, and just that very limited instance in the beginning, if we gave, and let's make it simple, an employer had no other funds other than county assistance grants and they decided to go out and hire George Janocsko to represent them to oppose the union election, this County Council is saying, I don't think you ought to use that money for that purpose. That's all it's saying. It's not saying whether the act is correct or incorrect or saying the use of the funds for those purposes as set forth in the Act, as set forth in the union neutrality clause would not be proper. That's all it says.

PRESIDENT DE FAZIO: Ron.

MR. CAMBEST: I think the amendment, as Guy pointed it out, is to say that in my example, if they had \$50,000 worth of other funds and they felt there was a proper challenge to the election, they could use that money to do so but not to violate the Act, but to do a proper procedure.

MR. FRANCIS: I'm going to vote in favor of the amendment because I do think it makes the Bill better, although I'm going to vote against the Bill at the end. I guess, Mr. Cambest, I do have a question about what you just said there because if these words essentially just say you must comply with the National Labor Relations Act, I don't see why we need it because all these companies are already required to comply with the National Labor Relations Act as is every business in the country, so it must mean something more than that.

I think, too, to pick up on what Mr. Shumaker mentioned about the First Amendment issue, I think there's a distinction between a private company and a union agreeing in a contract that a company will adopt neutral positions with respect to organizing campaigns at other facilities of that company and a governmental entity, which is presumably prohibited by the First

Amendment of the Constitution, from telling companies what they can and cannot say if what they are planning to say is otherwise in accordance with the law, meaning the National Labor Relations Act. So I think there is a distinction there between those private contracts.

MR. CAMBEST: I agree with you. I think the language, as John indicated, is similar. You are correct.

PRESIDENT DE FAZIO: He is correct in what he is saying.

MR. CAMBEST: If the Ordinance is adopted, will there be language in a grant to accompany an employer that says -- that puts this language in? I assume that's what they are going to do, so an employer knows that if they are going to accept money from Allegheny County, they can't use that money to further any of the items indicated in the language. So to that extent, it would be like a union organization bargaining with an employer to include this language in their contract. If we adopt this Ordinance and this language is put in the contracts between the county and the employer and that language is contained in there, that employer is, in a sense, agreeing to that condition being put on the grant of the money given to them.

PRESIDENT DE FAZIO: Real quick, because some people may not understand this, what it boils down to, what Ron said is right. If you don't put the language in, what's possible, if someone is going to unionize in the county or something, you are trying to get them to unionize, the county could go hire consultants, they could spend thousands of dollars fighting the union. Under this language the county would stay neutral. If the majority of the people want a union, they get it. If the majority don't want, they don't get it. They stay neutral. You don't take a position. You don't go out and hire consultants to rap the union, to beat them down and spend the money. That's what it's coming down.

MR. CAMBEST: We don't want to bridge anybody's First Amendment rights. We don't want to do that.

PRESIDENT DE FAZIO: No.

MR. CAMBEST: The things is, all we are saying is you can't use county monies to do it.

MR. FRANCIS: May I respond and ask you a question. If a company did decide to fight a unionizing campaign, in the process of fighting that, they would still need to comply with the National Labor Relations Act, so I think that's the point.

PRESIDENT DE FAZIO: Absolutely.

MR. FRANCIS: Why do you need this?

PRESIDENT DE FAZIO: Here's why you need it, if you want it. The only reason what we are doing, the only thing you're doing here if you go with this is the company, in this case it's the county, will not go and take a position for or against and they will not go and hire attorneys and spend a lot of money against the union going in. They will leave it to the people, do you want it or don't you. That's the difference.

MR. CAMBEST: They will not use county grant monies to assist those legal activities.

PRESIDENT DE FAZIO: Or any other money from the county.

Chuck.

DR. MARTONI: This is along on the same page of

everybody else. We are talking about an amendment, not the First Amendment or the Bill of Rights. We are talking about an amendment to a Bill that Mr. Schwartz has proposed. The amendment is simply changing words from "county funds" to "county tax dollars," for example, and we are, if I understood what we are doing over the last couple of years, we are really in charge of the county tax dollars. Everybody has their First Amendment rights in Allegheny County but on the other side of the coin, we are designated by the people of Allegheny County to be the guardians of their tax dollars and what we are saying, if I understand Mr. Schwartz correctly, what we are saying is that the county cannot use county tax dollars to inhibit workers from organizing a union. That's all this amendment is saying to me.

Am I correct?

MR. SCHWARTZ: Absolutely. Let me just give a little bit of history of this Bill and how these amendments came about.

I'd say in the past three or four weeks every person sitting up here was intensely lobbied either for or against the proposed piece of legislation up here.

DR. MARTONI: I didn't notice that.

MR. SCHWARTZ: To a person that lobbied myself, every single person said to me, this isn't the right way to go, we agree that there are other mechanisms for people to possibly raise their standing of living, and another thing that was brought up many times was that this particular Ordinance or this particular language did not belong in the past Bill, so I decided, okay, you have a point. I pulled it out and actually had it pulled out before the vote was on the other piece of legislation that was there; but Dr. Martoni is exactly right, there was quite a bit of negotiating on this Bill and trying to make it so it's something that everyone can live with and I believe that's happened.

All the questions that have been brought up, it strictly has to do with county tax dollars and there is a clause that is in these amendments that says nothing herein shall prohibit a beneficiary from utilizing noncounty tax dollars for the purpose of fully exercising its rights under state or federal labor laws. It covers it all. It's a good sense, and I thank Mr. Fawcett for the way it was written.

I propose these amendments. I believe it does clarify the Bill. I believe we are doing exactly what Dr. Martoni said, we are a steward of the county's tax dollars; and I did listen to the people that said to me, we believe that people should be making more money than they make, especially the people that take care of our families and our children.

So this is just one other tool. We already have a commitment from the Chief Executive to lobby Harrisburg and to lobby Washington for more money. This is a tool. There are more than enough rules governing how an organizing drive is conducted. All we are saying in this is you can't use county tax dollars. Really, it's real simple.

I would ask you to vote yes for the amendments and a vote yes for the amended Bill.

PRESIDENT DE FAZIO: Dave.

MR. FAWCETT: I'm going to vote for the amendment and I'm going to vote for the Bill, and I just want to give my understanding of the history, too, a little bit and that's this. When a union comes in and wants to unionize, create a union, they

obviously often have funding and resources to do that and the employers often seek to put in their own funding and resources to do things like what Mr. Schwartz is saying.

I think this is a comment on how the county wants to use its money and I don't have an objection to us, as Council, saying as these are county tax dollars, we're not going to put that money into hiring lawyers or consultants to fight unionization efforts.

My concern, when the Bill came up, was that we are sort of talking about an extreme, the hiring of lawyers and that sort in these big union drives, but also any time a union comes in, an employer wants the ability to speak to the issue and under the National Labor Relations Act, an employer is prohibited from doing certain basic things, like threatening. An employer can't say if you form a union, I'm going to have to lay off; or if you form a union, your wages are going to go down; but the employer can give information and often clearly that information is an attempt to dissuade employees from forming a union.

My specific concern was relative to certain nonprofits. If they are fully funded by the county, how could they, forget hiring lawyers and consultants, how can they even communicate with their employees as to the ramifications of forming a union; but I feel that the amendments that have been suggested make sense. I think they put some control around that. They don't deprive or take away or they are not a complete gag to the nonprofits in these situations. So that's why I'm in favor of it and I think Mr. Schwartz is right, it is essentially a way that people can work together and try to raise their wages.

PRESIDENT DE FAZIO: Seeing no other comments, we will take the vote on the amendment.

MR. MASCIO: On Council Member Schwartz's proposed amendments to Bill No. 0546, Mr. Crossey?

MR. CROSSEY: Yes.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Jabbour?

MR. JABBOUR: Yes.

MR. MASCIO: Dr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.

MR. MASCIO: Dr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?
MS. WAGNER: Yes.
MR. MASCIO: Mr. DeFazio, President?
PRESIDENT DE FAZIO: Yes.
MR. MASCIO: Ayes, 15; no's, zero. The amendment

passes.

On the Bill as amended, Mr. Crossey?
MR. CROSSEY: Yes.
MR. MASCIO: Mr. Fawcett?
MR. FAWCETT: Yes.
MR. MASCIO: Mr. Fitzgerald?
MR. FITZGERALD: Yes.
MR. MASCIO: Mr. Fontana?
MR. FONTANA: Yes.
MR. MASCIO: Mr. Francis?
MR. FRANCIS: No.
MR. MASCIO: Ms. Frazier?
MS. FRAZIER: Yes.
MR. MASCIO: Mr. Gastgeb?
MR. GASTGEB: No.
MR. MASCIO: Mr. Jabbour?
MR. JABBOUR: Yes.
MR. MASCIO: Dr. Martoni?
DR. MARTONI: Yes.
MR. MASCIO: Ms. Rea?
MS. REA: No.
MR. MASCIO: Mr. Schwartz?
MR. SCHWARTZ: Yes.
MR. MASCIO: Mr. Shumaker?
MR. SHUMAKER: No.
MR. MASCIO: Dr. Simms?
DR. SIMMS: Yes.
MR. MASCIO: Ms. Wagner?
MS. WAGNER: Yes.
MR. MASCIO: Mr. DeFazio, President?
PRESIDENT DE FAZIO: Yes.
MR. MASCIO: Ayes, 11; no's, four. The Bill as

amended passes.

MR. FONTANA: Mr. President, one last item under Economic Development.

We just passed a Bill 0517 and under Section 207.06 of that Bill we have talked briefly about, a little earlier, the rules and regulations governing the appeals must be submitted to the President of County Council and Chief Executive.

I received those rules and regulations today and I'd like to have them officially submitted to you and I'm sure Mr. Mascio will submit a copy to the Chief Executive and the 30 days that we have to look this over will begin to run, so I would recommend that these rules and regulations be asked to be put into Committee and evaluated and decided whether or not we are going to make any amendments or just let them go into effect.

PRESIDENT DE FAZIO: I guess we have to put them into the Economic Development Committee?

MR. FONTANA: Put it back into the Economic Development Committee, that's fine, but I just want to officially put on the record we're submitting these tonight.

PRESIDENT DE FAZIO: All right.

PRESIDENT DE FAZIO: Report on the Committee on Public Works..

MR. FITZGERALD: Mr. President, in accordance with our new Rules, with Article 1 Section (f)(12) of the rules of Council, I move to bring out of the Committee on Public Works Council Bills 0525, 0526, 0528, and 0532 for consideration by the full Council.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, will take a voice vote.

All those in favor signify by saying aye.

(Chorus of ayes.)

PRESIDENT DE FAZIO: Opposed?

(No response.)

PRESIDENT DE FAZIO: The ayes have it.

MR. MASCIO: Bill No. 0525, an Ordinance authorizing the Department of Public Works to take certain actions on behalf of County Council with respect to the issuance of highway occupancy permits, the grant of certain licenses, rights of entry and easements, and the amicable acquisition of certain real estate affecting county Public Works projects.

Second reading. Sponsored by Council Member Fitzgerald.

MR. FITZGERALD: Yes. 0525 is basically a continuation of a Bill that we passed in Committee and by this full Council last year. It really has to do with right-of-ways and easements that are noncontroversial, that are just kind of the way the business is done; and in an effort to untie the hands of the Public Works Department and its director, Mr. Donatelli, who is here tonight, what we have done last year in Council was we gave them the ability to grant right-of-ways without bringing them before this full Council.

Mr. Donatelli has certainly acted accordingly and in an aboveboard manner and he has not snuck anything in on us that some people may have had that concern when we passed this.

I'm recommending as chair of Public Works that we extend this agreement basically for two years. It will sunset again on December 31st, 2003. We had a vote on the Committee and the vote was four to nothing in favor of it. I move that we pass 0525.

DR. MARTONI: I will second that.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, we will take the vote.

MR. MASCIO: On Bill No. 0525, Mr. Crossey?

Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.
MR. MASCIO: Mr. Jabbour?
MR. JABBOUR: Yes.
MR. MASCIO: Dr. Martoni?
DR. MARTONI: Yes.
MR. MASCIO: Ms. Rea?
MS. REA: Yes.
MR. MASCIO: Mr. Schwartz?
MR. SCHWARTZ: Yes.
MR. MASCIO: Mr. Shumaker?
MR. SHUMAKER: Yes.
MR. MASCIO: Dr. Simms?
DR. SIMMS: Yes.
MR. MASCIO: Ms. Wagner?
MS. WAGNER: Yes.
MR. MASCIO: Mr. DeFazio, President?
PRESIDENT DE FAZIO: Yes.
MR. MASCIO: Ayes, 14; no's, zero. The Bill passes.

Bill No. 0526, an Ordinance amending Section 703.04 of the Administrative Code to facilitate the vacation of certain county bridges and roads.

Second reading. Sponsored by Council Member Fitzgerald.

MR. FITZGERALD: Yes. 0526 was also considered in Committee. What this Bill does is it gives the County Council along with the Chief Executive the ability to vacate land, to sell land that we own, that the county owns, to a business, an individual, another community or municipality without vacating that land to the municipality.

Presently, and we saw this problem in the land out by Settlers Cabin that we vacated to Bayer Corporation. We tried to sell that land. We came to an agreement with Bayer Corporation, which they, in essence, gave us about \$5 million to build an interchange to make it easier, to make traffic better, flow better in that community.

In the meantime, under the old regulations, we could not directly vacate that land to Bayer Corporation. We had to vacate it to the municipality and then the municipality had to vacate it to the end user.

What that's basically done is tied our hands a little bit, and it's put people in the middle that really have no business being in the middle. It's our land. This body should have the ability with the Chief Executive to make the determination as to what is the best use of our county land; and if we deem it necessary or we deem it in our best interest for economic development, for community development, what have you, to do so, it gives this Council a stronger hand in working with our communities.

The vote on this Bill, however, was three to two. It was a three to two vote in Committee, so there are some members who may take the other side, but I strongly recommend that this Council pass this Bill and that we move forward.

DR. MARTONI: I will second.

PRESIDENT DE FAZIO: Under remarks?

MR. SCHWARTZ: I was one of the no votes in Committee and after speaking with Director Donatelli, I got some clarification. I would like to change my vote to an affirmative.

PRESIDENT DE FAZIO: Any other comments?

(No response.)

PRESIDENT DE FAZIO: Seeing none, take the vote.

MR. MASCIO: On Bill No. 0526, Mr. Crossey?

MR. CROSSEY: Yes.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Jabbour?

MR. JABBOUR: Yes.

MR. MASCIO: Dr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.

MR. MASCIO: Dr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?

MS. WAGNER: Yes.

MR. MASCIO: Mr. DeFazio, President?

PRESIDENT DE FAZIO: Yes.

MR. MASCIO: Ayes, 15; no's, zero. The Bill passes.

Bill No. 0528, Ordinance authorizing the Department of Public Works to dispose of miscellaneous items of county personal property which has exceeded its useful life and is of no functional value to the county, by sending these items for public sale for auction by private auctioneers.

Second reading. Submitted by County Manager.

MR. FITZGERALD: Yes. 0528 and Matt is distributing a letter that I wish to attach to this Ordinance, which basically what we are doing here is we are auctioning off surplus county vehicles, county equipment that no longer serves its function, and we are going to sell it to try to recoup some funds. In order to do this, I think in order to do this properly, we want the Controller, of course, to be overseeing this and to establish -- and I will read the letter that we got from Bob Gilner, who is the vehicle operations manager of the county. In regards to the above-mentioned Ordinance, please be advised that all vehicles and equipment offered for sale will have the minimum price established by the Controller's office before it is sold.

This way, we will have a list and a minimum price established by the Controller before these items go for auction.

So with that attached to the Ordinance, I move that we pass 0528.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

Mike.

MR. CROSSEY: Just a question. How will this sale or these sales, since it's a continuing thing, how will they be publicized so that the general public knows that we are doing this, and is there any provision in here that county employees are not going to have the option to purchase these up front? Are we putting any kind of safeguard in that the vehicle is not going to be set aside for auction and it will be gone before the general public ever has a chance to see it?

MR. FITZGERALD: I'd invite Director Donatelli to come up and maybe address that question.

MR. DONATELLI: Every auction we have, the Controller's office establishes minimum prices, that we try to sell the vehicles or equipment above the minimum prices. We do advertise for our auctions. We have them in August every year. We have had several in the past and we do prohibit all county employers and their families from bidding at the auction, from participating in the auction, and that's a requirement that we have. We have the Controller's office at the site to oversee the process and actually witness the transactions and the money that we take in.

MR. CROSSEY: I would also personally suggest that county elected officials be prohibited.

MR. DONATELLI: Yes. It's all county employees and officials.

PRESIDENT DE FAZIO: Question?

MR. GASTGEB: You mentioned that this has been going on and we have been voting on it almost at an ad hoc when it comes up. This will allow you flexibility without coming to us all the time and just being able to make that discretion? Is that your point?

MR. DONATELLI: What we want to do, as soon as the equipment becomes available, we want to send it -- what it does for us is it keeps us from storing the equipment until the auction. We are actually going to send it to the company. They are going to store it for us; and when they have an auction, we will advertise it and it will be done publicly but it eliminates us warehousing this equipment until we have the auction in August. It will go right to the facility.

PRESIDENT DE FAZIO: Mike.

MR. CROSSEY: I guess I just have one follow-up question. The company that does the auction, do we bid that work out or is that just kind of an annual renewal or do we every once in a while make sure we are using the lowest possible bidder?

MR. DONATELLI: We haven't. In the past we used Hofstetter's Auction and he gave us a lump sum price. Usually most auctioneers take a percentage of the auction. His lump sum price, was lower, the percentage. We have since reverted back to having people bid on this and going to a percentage, only to make it fair as far as the competitive process is concerned. So this process will allow us to do that.

PRESIDENT DE FAZIO: Any other questions?

MR. FITZGERALD: Just one last one. I neglected to say this passed in Committee by a four nothing vote.

MR. SHUMAKER: Could I ask a question? I want to make sure while we are on the topic that we know whether or not -- I get a lot of requests, as I'm sure other Council members do, from municipalities wanting to buy or essentially to receive at no cost

equipment. They want us to have the county donate them used equipment. I know that's something that may have been done in the past and I'm not criticizing that; but, you know, I think we enter dangerous territory when we start giving trucks and vans and so forth to Boy Scouts and this and that and the other thing. Are we now saying that all used county property is going to go up for auction?

MR. DONATELLI: I don't think we are saying that. First, personally, I would discourage Council for giving any equipment away to a municipality. It's not something that I like to see. We established at one time a limit of \$500 as a threshold for vehicles to be given away to municipalities. In order for us to give a vehicle to a municipality, it would take Council approval and I think Joe Natoli, Councilman Natoli had set aside a vehicle at one time to be given to a local municipality. That's your call. That's not our call. We would discourage that.

This Ordinance you are passing tonight does not prohibit that, Council giving vehicles to municipalities.

MR. SHUMAKER: Mr. Donatelli, I would request that at your convenience if you would help me draft such an Ordinance because I agree with you. I don't think we want to be engaging in that and so if maybe we can discuss that at a later time.

Thank you.

PRESIDENT DE FAZIO: One second.

MR. GASTGEB: I think for the record that in the one case that did happen, it wasn't to a municipality. It was to a group. That was a charitable group that Mr. Natoli convinced this Council, so I think the ultimate authority rests within this Council, whether it's an Ordinance or not. I guess a no vote would be appropriate at that time.

MR. MASCIO: Bill No. 0528, Mr. Crossey,.

MR. CROSSEY: Yes.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Jabbour?

MR. JABBOUR: Yes.

MR. MASCIO: Dr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.

MR. MASCIO: Dr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?

MS. WAGNER: Yes.

MR. MASCIO: Mr. DeFazio, President?

PRESIDENT DE FAZIO: Yes.

MR. MASCIO: Ayes, 15; no's, zero. The Bill passes.

Bill No. 0532, Ordinance authorizing the Department of Public Works to accept a reimbursement in the amount of \$25,000 from the Pennsylvania Department of Community and Economic Development to reimburse a portion of the costs associated with the installation of guide rails along Corrigan Drive in South Park.

Second reading, submitted by County Manager.

MR. FITZGERALD: Mr. Chair, this Ordinance basically, if you recall earlier this year, Council authorized the approval of funds to build the guard rail along Corrigan Drive and that was done at the time with county funds; and what this is is the county applied for a grant from the Pennsylvania Department of Community and Economic Development for this and all this Ordinance does is it says to the county that we are accepting \$25,000 toward the cost of the guard rails that have already been put forth. This passed in Committee by a four nothing vote and the chair recommends that this be approved and I move this 0532 pass.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, we will take the vote.

MR. MASCIO: On Bill No. 0532, Mr. Crossey?

MR. CROSSEY: Yes.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Jabbour?

MR. JABBOUR: Yes.

MR. MASCIO: Dr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.

MR. MASCIO: Dr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?

MS. WAGNER: Yes.

MR. MASCIO: Mr. DeFazio, President?

PRESIDENT DE FAZIO: Yes.

MR. MASCIO: Ayes, 15; no's, zero. That Bill passes.

DR. MARTONI: I just have a technical question. When

we get a grant, do we need an Ordinance to accept a grant? I don't understand that.

MR. TUMOLO: It's because it's already been spent.

DR. MARTONI: The money has already been spent. If they would have just got a grant -- because it's a no brainer to me. I would never vote against accepting a grant.

MR. TUMOLO: They can receive the grant but can't spend it.

DR. MARTONI: All right.

MR. GASTGEB: Just a question for Mr. Donatelli. The disbursement came in about six months after we put our outlay out but I'm just wondering, is there any other news from DCED with regard to any other grant applications?

MR. DONATELLI: No news.

MR. GASTGEB: Thank you.

MR. FRANCIS: Just to answer Councilman Martoni's question, Article 4 Section 2(j) of the Home Rule Charter requires us to accept, by Ordinance, grants, gifts or donations of real or personal property on behalf of the county.

DR. MARTONI: Thank you.

PRESIDENT DE FAZIO: All right. We are finished with that.

MR. MASCIIO: That's all for that Committee.

PRESIDENT DE FAZIO: Report of the Committee on Budget and Finance. Jim.

DR. SIMMS: Thank you, Mr. President.

I would also like to act in accordance with Article 1 Section (f)(12) of the Rules of Council, I move to bring out of the Committee on Budget and Finance, Council Bills 0529, 0530 and 0531 for consideration by the full Council. I'd like a second on that, please.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, all those in favor signify by saying aye.

(Chorus of ayes.)

PRESIDENT DE FAZIO: Opposed?

(No response.)

PRESIDENT DE FAZIO: The ayes have it.

DR. SIMMS: Thank you, Mr. President.

MR. MASCIIO: Bill No. 0529, Resolution amending the grants budget for 2001, Amendment No. 7.

Second reading. Submitted by County Manager.

DR. SIMMS: Mr. President, I'd like to take 0529 and 0530 together if we may here. They are all kind of the same.

MR. MASCIIO: Companion Bill 0530, Resolution amending the grants budget for 2001, Amendment No. 7-A.

Second reading. Submitted by County Manager.

DR. SIMMS: Thank you.

PRESIDENT DE FAZIO: Is there a second?

DR. MARTONI: I will second it.

PRESIDENT DE FAZIO: Any remarks?

(No response.)

PRESIDENT DE FAZIO: Take the vote.

MR. MASCIIO: Bill No. 0529 and 0530, Mr. Crossey?

MR. CROSSEY: Yes.

MR. MASCIO: Mr. Fawcett?
MR. FAWCETT: Yes.
MR. MASCIO: Mr. Fitzgerald?
MR. FITZGERALD: Yes.
MR. MASCIO: Mr. Fontana?
MR. FONTANA: Yes.
MR. MASCIO: Mr. Francis?
MR. FRANCIS: Yes.
MR. MASCIO: Ms. Frazier?
MS. FRAZIER: Yes.
MR. MASCIO: Mr. Gastgeb?
MR. GASTGEB: Yes.
MR. MASCIO: Mr. Jabbour?
MR. JABBOUR: Yes.
MR. MASCIO: Dr. Martoni?
DR. MARTONI: Yes.
MR. MASCIO: Ms. Rea?
Mr. Schwartz?
MR. SCHWARTZ: Yes.
MR. MASCIO: Mr. Shumaker?
MR. SHUMAKER: Yes.
MR. MASCIO: Dr. Simms?
DR. SIMMS: Yes.
MR. MASCIO: Ms. Wagner?
MS. WAGNER: Yes.
MR. MASCIO: Mr. DeFazio, President?
PRESIDENT DE FAZIO: Yes.
MR. MASCIO: Ayes, 14; no's, zero. Those Bills pass.
Bill No. 0531, a Resolution authorizing

interdepartmental budget transfer No. 100.

Second reading. Submitted by County Manager.

DR. SIMMS: Thank you, Mr. President.

This is a budget transfer from the general contingency fund. It is intended to address the Treasurer's ability to reach his three percent management raise for 2001. In the process over time the Treasurer was \$16,400 short and we are transferring the funds into the Treasurer's office so he can take care of that shortfall.

Thank you.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: Under remarks?

(No response.)

PRESIDENT DE FAZIO: Seeing none, we will have the vote.

MR. MASCIO: On Bill No. 0531, Mr. Crossey?

MR. CROSSEY: Yes.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Yes.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Yes.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.
MR. MASCIO: Mr. Jabbour?
MR. JABBOUR: Yes.
MR. MASCIO: Dr. Martoni?
DR. MARTONI: Yes.
MR. MASCIO: Ms. Rea?
MS. REA: Yes.
MR. MASCIO: Mr. Schwartz?
MR. SCHWARTZ: Yes.
MR. MASCIO: Mr. Shumaker?
MR. SHUMAKER: Yes.
MR. MASCIO: Dr. Simms?
DR. SIMMS: Yes.
MR. MASCIO: Ms. Wagner?
MS. WAGNER: Yes.
MR. MASCIO: Mr. DeFazio, President?
PRESIDENT DE FAZIO: Yes.
MR. MASCIO: Ayes, 15; no's, zero. That Bill passes.
PRESIDENT DE FAZIO: Under New Business.
MR. MASCIO: Bill No. 0547, motion to extend the
services of Attorney John Cambest to provide legal advice,
representation and consultation to County Council.
Sponsored by Council Member DeFazio.
PRESIDENT DE FAZIO: Anyone want to second that?
MR. FITZGERALD: Second.
PRESIDENT DE FAZIO: Under remarks? Tom.
MR. SHUMAKER: Mr. President, I have a question for

Mr. Cambest.

Would you please explain why, since you have been our solicitor, I have not received a copy of a single bill or any written memorandum?

MR. CAMBEST: I don't supply bills to Council. I think our memorandum of understanding on the initial hiring was for a monthly retainer, so we do not bill that. The other section of the memo dealt with representation of federal court cases. As you know, with the redistricting case, we have just started that. So there will be bills coming in the future on that, but we haven't prepared any yet. Legal memorandums, I usually give to Mr. Mascio, to Mr. Tumolo when they are requested. I don't send them to individual Council people.

MR. SHUMAKER: My reason for asking about bills is that we still haven't come up with what we believe is a fair retainer, a retainer that adequately and fairly pays you for your time. We have been in existence now for two years and yet we have not received any monthly statements, so we don't know if your retainer is too big or too small.

I guess my question is: do you submit or does your firm submit itemized time statements for any municipal clients in which you primarily bill on a retainer basis.

MR. CAMBEST: The firm routinely submits computerized bills for work other than retainer. Most communities have a retainer and they have an hourly rate for services rendered above that. As you will see when we submit a bill for representation in federal court litigation or other court litigation, they are itemized as to the date, time and the service performed.

In regard to time spent with Allegheny County, we do keep some records of that time. If we come in with Committee

meetings, if we come in -- items that would be part of the retainer, we do do that. I can pull up records for you for the past couple months of time spent other than in litigation.

MR. SHUMAKER: Well, I raise the questions because they are policy questions for this Council. If the Council, as a whole -- I'm not going to ask you to do the work just for me. I think it's a good idea. You know, we can discuss that problem.

MR. CAMBEST: I can honestly say I have never received a request from a Councilperson other than through Mr. Mascio or from Mr. Catonese. The question is usually referred to them or Mr. Tumolo. They usually send me a memorandum outlining the issue and I usually reply to that. I don't believe I have ever, I may be mistaken if I have talked to somebody in the hallway or meeting and they have asked me to do something but usually those recommendations come through the staff.

MR. SHUMAKER: If we were to retain you, what process specifically, let's say I have a legal question, what process should I follow? This question may be directed to you, to Mr. Tumolo and any member of Council.

MR. TUMOLO: The process in the past has been all questions have been directed towards me, and we direct it toward the counsel. When the response comes back, it's given to the person who requested the response, and that person is usually asked if they want to have this distributed to the entire Council.

MR. SHUMAKER: Thank you.

PRESIDENT DE FAZIO: Ron.

MR. FRANCIS: My concern is that I presume this is on the agenda because the current representation, current agreement with Mr. Cambest expired at the end of this year.

MR. CAMBEST: As I recall the initial interview is that they are going to have a trial basis through December and then take a look at it at that time.

MR. FRANCIS: My view of that is we shouldn't right now -- I don't know how long this goes for. I think our practice has been to sort of on a yearly basis, we didn't have a change midway through this year. I don't think we should necessarily -- we will be reorganizing in January as required by the Rules and as part of the that reorganization, I think obviously selection of counsel would be part of that. Maybe we should just extend his services until the end of January and then take the issue up of legal counsel as part of the reorganization of Council in early January. That would be my recommendation.

MR. GASTGEB: I guess my reading 0547, it says extend services without a time parameter, then you probably, correct me if I am wrong, you serve at the will of Council.

MR. CAMBEST: Yes. Mr. Tumolo and I have discussed this. Because the initial request was for a certain period of time, I think if I am retained under the Code or under Home Rule Charter, we would need to enter into an agreement. We have basically taken language we had in the memorandum of understanding, put that into an agreement, and there is a 60 day termination provision in that, and that's the usual time limitation you have for independent consultants hired in the county. So we have adhered to the language you have used for other consultants. I think the one we took was the real estate consultant that was hired by the county, so there was a 60 day termination provision.

MR. TUMOLO: If I might explain, in 2001 the outlay of

funds was less than what is required by a county contract. Since Mr. Cambest, I think, began in May --

MR. CAMBEST: I believe it was May.

MR. TUMOLO: -- in 2002, the rate and with this case coming up, we have to enter into a formal contract that goes through the administrative branch and that's why we are trying to get this out of the way right now.

MR. GASTGEB: As a follow-up, what's the grace period in completing a formal contract?

MR. TUMOLO: I'm sorry?

MR. GASTGEB: The window. If there is a formal contract that needs to be completed, when is the period that it has to be completed by?

MR. TUMOLO: That's up to Council. You mean the period that we would contract for?

MR. GASTGEB: Yes.

MR. TUMOLO: That's up to Council.

MR. FAWCETT: I have a few comments, none of which have anything do with Mr. Cambest and are not meant to be derogatory at all towards my colleague, but it was very clear to me and still is that under the Home Rule Charter we are precluded from retaining counsel except on a case by case basis. I think it was very clear the intent of the drafter was we wouldn't be in a situation where we were paying on a monthly basis a retainer for general services. A case by case basis means that in special situations you hire counsel for that case. If you have any particular issue or you have a lawsuit, you hire somebody.

I think that's in line with the limits generally that were put on counsel or part-time counsel or we know what our pay is and that sort of thing. That was one.

Most boroughs or municipalities have their own counsel, so by this language being in the Charter, it clearly was a limitation to what we could do. Of course, we have our county legal department, so I can't vote for this. I think it's in direct violation. Again, having nothing do this with this particular counsel, I think to hire a lawyer to act as our lawyer for all purposes, and for all practical all intents and purposes that's what this has become. It's not a case by case basis. It's a retainer to have someone for all purposes and is directly in contravention to the Home Rule Charter, so I am going to vote against the motion for that reason.

PRESIDENT DE FAZIO: Let me say one thing. Everybody has a right to vote no or yes on this; but on that question where you said it's clear cut, I disagree with you and I thought we went through this a long time ago when people brought this issue up. I think we have a right to hire someone. I think we have a right but with people who don't want to hire someone, they can vote no or do what you are going to do.

MR. FAWCETT: You want to go around in this circle we went around a couple of years ago, but I had asked you over and over what do you think the language means by case by case basis and I've been waiting --

PRESIDENT DE FAZIO: I thought we cleared it up. I thought we cleared it up that we have every right. A lot of people gave their opinion. Some may differ than the ones we heard, but I think we have a right to do that, but that's neither here nor there.

MR. FAWCETT: I know you thought you cleared it up.

DR. MARTONI: I had a conversation with Mr. Tumolo about this and really having consistent legal counsel doesn't impact us nearly as much as it impacts the staff. He tells me almost on a daily basis, and you can correct me if I am wrong, almost on a daily basis because of some of the actions we take, because of some of the things that come before us, he has to consult at this point in time Mr. Cambest, so it's not so much for us as for the staff.

I think things are so complex today and legislation is complex, as we all know. We all get into things and find ourselves sometimes dug in where we shouldn't be and so forth, I think we absolutely, positively need consistent legal help; and also I agree with you about the county solicitors but we have to understand, we are a separate and independent branch of this government and one way to maintain our independence is to have at least another legal point of view on issues, particularly when they come in conflict with the Administration or with a particular department, whatever it might be. So I think it's absolutely necessary that we have our own legal counsel.

I'm sure many of you are attorneys here and you understand the importance of having good legal counsel in any entity and, in fact, it gets so complex in this country, that pretty soon we won't have family doctors, but family lawyers; and if a family has to have a lawyer, I'm sure a body of 15 strange people at each other like us needs legal advice, so I'm all for hiring permanent legal advice.

PRESIDENT DE FAZIO: You attorneys realize how important you are; right?

MR. TUMOLO: John, if I might just add on to Dr. Martoni's comments.

You are a legislative body, which means you make laws and you react to laws that other people ask you to make, mostly from the Administration. So to rely on the Administration for a legal opinion on their own law that you are responsible for passing, sure, it does affect the objectivity of some of these laws because the Law Department does report to the County Administrator. Opinions are opinions and you can have different opinions.

When we talk about the need of a lawyer, as late as 10 minutes before today's meeting, he and I were discussing the legality of one of the provisions that were being presented tonight as a motion to change a piece of legislation. If you are going to hire people on a case by case basis, how would we have handled that tonight? We would have had potentially an illegal modification to an Ordinance if we didn't have legal counsel tonight.

PRESIDENT DE FAZIO: Rich.

MR. FITZGERALD: Mr. President, I think Chuck Martoni said it very well. We do have a separate role to play in county government, and sometimes we do take a different position than the Administration, and the Law Department does work for the Administration. So I think it's very important we have legal counsel; and as a secondary note, I just want to praise Mr. Cambest. I think he has been an excellent legal counsel. He does not inject policy, opinions into his decisions. He gives us straight answers. Unlike his predecessor, who sometimes sat in here and made policy recommendations among others who make policy recommendations, the 15 people sitting at this board make policy. Mr. Cambest has done an excellent job in advising us what we can and can't do. So I fully support his retention and I think he makes

this body stronger and that's what we should all be aiming for.

Thank you.

PRESIDENT DE FAZIO: Ron.

MR. FRANCIS: Well, just to add in response to what Dr. Martoni said, that whether we like it or not, the words case by case basis, even if, Mr. Tumolo, they are inconvenient, they are in the Charter and we just can't ignore things in the Charter we happen to find inconvenient or we don't like.

DR. MARTONI: I'm not suggesting that we ignore the Charter. I'm suggesting we interpret it, just like the Congress interprets the Constitution and the Supreme Court. What I am saying, instead of case by case, the staff has to think day by day. Maybe we ought to use the words day by day. They will be here tomorrow working all day. We will all be working on our own jobs. They will have questions that they need answers to and they can't ask us to hire somebody tomorrow for an answer that Mr. Tumolo needs immediately. So I would like to use the term day by day rather than case by case. I just made that up, Ron. I'm looking for job security for lawyers like you, too, by the way.

MR. SHUMAKER: Mr. Cambest, when can we amend -- I should know this. What is it, another year we can amend the Home Rule Charter?

MR. CAMBEST: I think it's 2003. Don't hold me to that.

MR. SHUMAKER: 2003 for more substantive changes.

MR. TUMOLO: No.

MR. SHUMAKER: Anyway, if we all believe or if the majority of this Council believes that the services of a separate solicitor are necessary, then let's work at making those changes in the law. That's what we should do. I think that Dr. Martoni and Mr. Fitzgerald and Mr. Tumolo are very well spoken in their explanations as to why they think the services of a solicitor are necessary, but you know, we still have the problem with are we violating the Charter? One of the problems that I have is that, you know, nobody has made a legal case for me. No one has presented me with any evidence that we can do what we can do other than the fact that we have gotten away with it for the last two years.

What does Erie County's Charter say and how is Erie County organized in terms of legal questions? What does the City of Pittsburgh Charter say? It's my understanding that the City of Pittsburgh, City Council, which is often at odds with the mayor, and they are certainly a separate body than the mayor, but they do not have their own solicitor.

I think the case needs to be made. There's pretty clear language in the Charter; and if Mr. Tumolo and/or Mr. Cambest think that that language doesn't apply, could you supply us with something?

MR. TUMOLO: Can you supply us with the language that you are referring to?

MR. SHUMAKER: I will be happy to.

PRESIDENT DE FAZIO: Let me say one thing. If the language was crystal clear, we wouldn't be doing it. It's a matter of opinion how you interpret that. It talks about hiring professionals. It doesn't say we can't hire a solicitor.

MR. SHUMAKER: John, I will tell you what. I will do the Council a favor. I will bring a lawsuit in the Court of Common Pleas of Allegheny County.

PRESIDENT DE FAZIO: Do you what you want to do.

MR. SHUMAKER: And let them interpret it.

PRESIDENT DE FAZIO: Do what you have to do.

MR. SHUMAKER: May I please speak without being interrupted.

PRESIDENT DE FAZIO: Go ahead.

MR. SHUMAKER: Anyways, I will do that. I want to do that. I want to make sure that Mr. Cambest knows. I'm not at all criticizing his work. I think Mr. Fitzgerald was right on the mark. I think you have done a great job, but it's a policy question and it's a legal question and that's why we have courts to interpret those legal questions. Obviously we can't agree on that and we will get some clarification. I say if the courts say that it is, in fact, a violation of the Charter, then I will be happy to work with anybody on Council who wants to work to amend that Charter. If the majority of council thinks we need the services of an attorney, then great, let's go ahead and amend the Charter.

PRESIDENT DE FAZIO: Let me finish because I was interrupted myself. Let me say one thing here. I don't care how good of a job he is doing or anyone else, if it's a clear cut violation, I'd be against it myself. I don't look at it that, but you look at it differently. That's fine. Everyone has a right to interpret language. If that language was crystal clear, I don't care how good a job he was doing, I would not be in favor of hiring him or anyone else. That's my opinion.

Vince.

MR. GASTGEB: I think we have this debate with the interpretation and initially I think the Republicans caucus as a group took the interpretation to the point where we thought it was a case by case basis and didn't need a counsel; but as time went on, I guess I moderated my opinion and I will take the opinion, since it isn't crystal clear to me at least, the sake of convenience is an important sake, not just for the staff, but for us as a Council body; and I think that the real struggle for us is how do we make the contract the way we want it in terms of payment, in terms of what our expectations are. My real problem is what we witnessed here last Tuesday. We have dueling attorneys or dueling solicitors or dueling opinions where one says we are in violation with regard to the tobacco Bill of circumventing the Health Board and the Home Rule Charter state statute and another opinion a little bit more relaxed. Not for matters of staff, which I could see, but matters of us as legislators who have to depend dueling opinions, that's been very frustrating to me because I respect the County Law Department. I have never seen them render a decision that I think was unjust and well thought out, nor with counsel Mr. Cambest. I think our real challenge is making this contract up and understanding what we want as a body versus interpreting case by case.

Thank you.

MR. TUMOLO: I think before we go any further, we should read what the Charter does say.

MR. CAMBEST: Subparagraph (n) says, County Council may employ a County Council Clerk and other personnel to serve County Council in fulfillment of its duties.

Based upon that language, I think you can hire any number of staff, including an attorney, if you so desire to do so. Now, it does say County Council shall be subject to the personnel

system. County Council, on a case by case basis, and I think here is where the rub comes, is this language in contradiction to the initial language or is it in addition to it? I think it's in addition to that. You can on a case by case basis make contractual professional service within the limitations of the annual appropriation as provided in Article 3 Section 7(f).

So I think if something comes up, and I won't use the Living Wage Ordinance, but let's use the assessment Ordinance that we have talked about today. If County Council desires, and I think they did retain on a case by case basis a fellow, an appraiser, and I can't remember his name, and he was paid X number of dollars to give an evaluation of the system; and I think that's the type of professional service that you, as a County Council, can employ a professional for real estate tax assessment appeals, for any other issue that comes before Council that you need to be provided professional services for on a case by case basis. I don't believe it deals with legal opinions, legal consultation, legal representation for you as a body.

MR. TUMOLO: I would also point out, since you used City Council as an example, every Councilman has their own staff over there and many of them have attorneys on their staff, so they have no need for a solicitor for the entire Council.

PRESIDENT DE FAZIO: Ron.

MR. FRANCIS: Mr. Cambest, with respect to that section, would you agree that the first sentence regards an employment relationship, so we can employ, meaning putting on our payroll, a Clerk, such as John, and other personnel, such as Mr. Tumolo and others, to serve the County Council? Then later on, the sentence, which you said was in expansion of that, in addition to that, talks about contracting, which is what we do with you. So the words case by case -- would you agree, the first sentence does not apply to our relationship with you?

MR. CAMBEST: I think it deals in general that they have the right to hire, to track, do whatever they want to do in the fulfillment of their duties.

MR. FRANCIS: They only use the word "employ." They didn't use other words.

MR. TUMOLO: You can employ someone via contract.

PRESIDENT DE FAZIO: Right. That can mean both ways. You're coming lose.

MR. CAMBEST: You can be an employee at will. You can be an employee by contract.

MR. TUMOLO: If you look at the human services system, 90 percent of the employees there are employees by contract. Mental health, drug and alcohol, the people who work in the county office are employees by contract.

MR. FRANCIS: They are employees of another entity, which has a contract with the county.

MR. TUMOLO: Right.

MR. FRANCIS: They don't have a contract with the county.

MR. TUMOLO: As an individual, they don't, but the company that employs them has a contract with the county to provide employees.

MR. FRANCIS: Right.

MR. TUMOLO: Provide employees, not a service.

MR. FRANCIS: There is a difference and this section

is not applicable in that section because this is the legislative branch section of the Charter.

PRESIDENT DE FAZIO: Go ahead.

Mr. Jabbour.

MR. JABBOUR: Let Tom speak.

MR. SHUMAKER: It's clear we have a difference of opinion on this. I respect everybody's opinion.

PRESIDENT DE FAZIO: You have been wrong before, don't worry about it.

MR. SHUMAKER: I respect everybody's opinion on the subject and I think hopefully we can get some clarification.

PRESIDENT DE FAZIO: Mr. Jabbour.

MR. JABBOUR: I haven't heard anybody criticize Mr. Cambest, so he must be doing a good job; but this interpretation of the law gets me to wonder why you even bring it up if it hasn't been thrashed out a long time ago. Mr. Tumolo has explained and other people here on the Board have explained the interpretation of all of this. If you have a criticism, I'd like to hear what it is; but no one has criticized him as an individual, and I personally would like to have an attorney that I can turn to and ask a question.

It's pretty hard to get ahold of the County Law Department because I don't have the know-how or even the phone number yet of calling them, but I'd rather call Mr. Cambest because I know he is going to be here and available.

So, gentlemen, if there's a change here coming about, I think you are going about it in the wrong way, if that's what you're intending to do. Why don't you just come out and say we don't want you as an attorney and say it rather than playing the law interpretation game because I have seen it done before. You are bringing up various items here; but if you don't want Jack, vote no. If you want Jack, vote yes. It's as simple as that.

You found out that there is a responsibility here. Mr. Cambest has gone to bat for many of the Council members here in various ways that maybe you're not aware of, but I personally have witnessed him going to bat for a member of County Council.

So I seen the job he done and it was really against me in a sense but it was an interpretation of the law as well. That's the way I'm sitting here listening to this debate going back and forth. If you got another candidate, why don't you throw it up there and let's not play with the Charter and let's not play with the schematics of all of this because you are just wasting time and it's already 7:30.

PRESIDENT DE FAZIO: Good point.

MR. SHUMAKER: I have no other candidate; and if we are to have a solicitor, I think Mr. Cambest is a fine choice. I only raise this subject, sir, because this is policy question and I have to state my policy in a way that others don't feel that I am criticizing them for their opposite belief, but I believe that we swore to uphold the Home Rule Charter; so, therefore, you know, if you think you're acting in accordance with the Home Rule Charter, great. I think we are not acting in accordance with the Home Rule Charter, and that's why I bring this up.

In addition, I have a secondary reason for doing this, and it is that I believe as an elected official I have a fiduciary responsibility to see that taxpayer money is not being spent when it doesn't have to be. So I can't sit here and in good conscience vote for the hiring of a solicitor, whoever it is, it could be F. Lee

Bailey -- maybe that's not a good example because he just got disbarred.

PRESIDENT DE FAZIO: Tom, I understand that.

MR. SHUMAKER: I was answering Mr. Jabbour's question.

PRESIDENT DE FAZIO: This is the fourth time, the fourth time you have brought up that you don't think it's correct what we are doing. Myself and other people disagree with you, but that's fine, too. You keep bringing it up and bringing it up. If it was clear cut, I told you, I will say it again now, I don't care how good of a job him or anyone else would be doing, I would not be for him or anyone else. I don't believe the language reads as you state and that's all I have to say.

Eileen.

MS. WAGNER: Thank you, Mr. President.

Mr. Jabbour and Ms. Frazier, this is the exact conversation that we have had and most of us are very used to it. I'm sorry, this is your first experience, but this same thing is brought up time and time again. I just wanted to let you know that this isn't our first experience either.

PRESIDENT DE FAZIO: All right. Are we ready to roll now?

MR. MASCIO: On Bill No. 0547, Mr. Crossey?

MR. CROSSEY: Yes.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: No.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Yes.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Yes.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: No.

MR. MASCIO: Ms. Frazier?

MS. FRAZIER: Yes.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Jabbour?

MR. JABBOUR: Yes.

MR. MASCIO: Dr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Ms. Rea?

Mr. Schwartz?

Mr. Shumaker?

MR. SHUMAKER: No.

MR. MASCIO: Dr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?

MS. WAGNER: Yes.

MR. MASCIO: Mr. DeFazio, President?

PRESIDENT DE FAZIO: Yes.

MR. MASCIO: Ayes, 10; no's, three. The Bill passes.

PRESIDENT DE FAZIO: Personnel Action report.

Communication from County Controller Dan Onorato submitting the executed personnel action report for the month of November 2001.

DR. MARTONI: I move we receive and file.

MR. JABBOUR: Second.

PRESIDENT DE FAZIO: All those in favor say aye.

(Chorus of ayes.)

PRESIDENT DE FAZIO: Opposed?

(No response.)

PRESIDENT DE FAZIO: It passes.

Public comment.

MR. MASCIIO: Mr. Liller was scheduled.

MR. FONTANA: President DeFazio, is it okay if I make a statement at this point?

PRESIDENT DE FAZIO: Yes.

MR. FONTANA: I sent a letter to you today in reference to the two Committees in which I'm a member. The letter reads as follows: Dear President DeFazio, I'd like to thank you publicly for the confidence you showed me last year by appointing me to the Professional Service Review Committee and also as your designee on the Property Assessment Oversight Board. However, I am respectfully resigning from these positions as of tomorrow, December 12th, 2001. Again, thank you for the opportunity to serve on the Professional Service Review Committee and the Oversight Board.

Thank you very much.

PRESIDENT DE FAZIO: All right. Dave.

MR. FAWCETT: I just want to thank Councilwoman Wagner for her service and I believe this is your last meeting and our last meeting of the year, but we haven't agreed on everything but I really am appreciative especially of the time and effort you have put into the Council and it's been good working with you and I appreciate your efforts.

MS. WAGNER: Thank you. You just completely ruined a plan, Dave, but thank you for the kind words.

I certainly would like to express my thanks to the members of Council. It has been an experience and a pleasure serving as Vice-President of Council. It has also taught me at my old age a lot of lessons, learning the county, learning about people and, above all, politics, I guess, but I'd like to also thank our staff, Guy, John and Joe and the rest of the staff who have been absolutely great to me, helping me respond to my constituents and serving them on a full-time basis. So I do thank you. I will retire as a grandmother and finally start cooking again.

So thanks very much.

MR. FONTANA: I'd like to make a motion to adjourn.

DR. MARTONI: Second.

PRESIDENT DE FAZIO: All those in favor signify by saying aye..

(Chorus of ayes.)

PRESIDENT DE FAZIO: Opposed?

(No response.)

PRESIDENT DE FAZIO: So adjourned.

(At 7:40 p.m., the meeting was concluded.)

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me at the hearing of the within cause and that this is a true and correct transcript of the same.

URSULA H. PAPPAS
Registered Merit Reporter

