

Council Meeting  
Minutes  
January 8, 2008

- I. A regular scheduled meeting of the Borough Council was called to order at 7:02 p.m. by President Edward Mitchell. The meeting was held in the Upland Municipal Building.
- II. The Pledge of allegiance to the American Flag was lead by President Mitchell. The Pledge was followed by a moment of silence.
- III. President Mitchell asked for a motion to suspend with the normal order of business this evening. President Mitchell stated that first before we get into that, he has looked at different areas in which the Borough can generate additional revenues: President Mitchell stated that he has talked to bond councils and he has talked to a number of financiers and banks in the last six months looking at ways to possibly generate additional income without raising the taxes, or overburdening the community. President Mitchell has asked Mr. Hackett to gather what he could because they had met privately along with the solicitor to make a presentation to see what the Borough can do because it makes sense to offer it.

Mr. Walls made a motion to suspend with the normal order of business for a presentation and Mrs. Peterson seconded the motion.

Mr. Leo Hackett has brought with him, Mr. Michael Hill from the Central Tax Bureau who has a great deal of expertise with reference to tax issues in the Commonwealth of Pennsylvania and more particularly in the area of Delaware County since he is involved with a number of boroughs and townships with their tax structure and the tax they impose and what types of taxes they impose and what kind of revenue they produce. Mr. Hackett stated that what they are proposing this evening is to do an analysis of the tax structure of the Borough of Upland, what taxes you currently have, what revenues they generate, what taxes are available for the Borough in terms of taxes that are not currently imposed or other taxes that maybe available and what they might generate and the impact of implementing any of those taxes upon the tax payers and voters of the Borough in terms of saving taxes, reducing taxes or changing the tax structure that in some way would benefit the municipality and the citizens of.

Mr. Hackett stated that they have taken a look at a number of possibilities and Mr. Hill can address some of the possibilities that they have looked at and they have not come to any definitive conclusion and they have not looked into that much but merely have done so at your request to come and make the presentation to the possibilities. Mr. Hackett stated that they have not done an analysis of the impact of the taxes or the benefit or additional burdens it might be.

Mr. Hackett stated that he certainly would present this to Upland Council before making any recommendations to the Borough the pros and cons of doing each and any one of these proposals or possibilities as well as the potential cost of implementing it versus the benefits of doing it. Mr. Hackett stated they are all the things that have to be taken into consideration before making the final decision.

Mr. McClintock stated that he is sure he is aware that the earned income tax was defeated just recently by the voters by a big majority for the school district.

Mr. Hill stated yes. That was under Act I which would be a direct reduction of real estate taxes on a school district level on requiring them to levy a minimum of one percent earned income tax. Mr. Hill stated that the Borough does not have to put that on a referendum, you can enact an earned income tax anytime you want. Mr. Hill stated that the school district can as well it is under Act 511 not under Act 1 so it does not have to have a direct off set of real estate tax. Mr. McClintock asked if the Borough would have to share that income tax? Mr. Hill stated that no you would not. Mr. Hill stated that the school district does not currently have a tax. Mr. Hill stated that the City of Chester raises all their revenue from there and does not share with the school district at all. Mr. Hill stated that if you did levy it and the school district did enact their half of percent it would kick into the residents and the residents would pay one percent and the school would get half and the Borough would get half. Mr. McClintock asked how that would effect the earned tax that the Borough has? Mr. Hill said the LST? Mr. Hill said it would not affect it at all. Mr. Hill stated that obviously you could always eliminate that tax if you should desire.

Mr. O'Connor stated that you said there was no school district tax but obviously the school district could implement a tax correct? Mr. Hill said yes. Mr. O'Connor asked until they do that if the Borough Council did enact a tax down the road and the school district later does that, the school district would then eat into the portion that the Borough was receiving? Mr. Hill stated for residents money only. Mr. Hill stated that the school district does have that it notified the City of Chester and Chester Township that they plan on putting in a referendum and it will be on the ballot in May for Chester-Upland.

President Mitchell stated that Chester-Upland did have on their last agenda that we are sending out to Upland Borough he does not know if the Borough received it yet the information for putting this question on the ballot. President Mitchell stated that anytime the voters can say no they are going to say no, so that is going to be defeated real quick.

President Mitchell stated that what is simulating this is Crozer Hospital. President Mitchell stated let us cut to the chase here that is the Borough's biggest employer and the biggest revenue source in the community that is really not paying their fair share when you look at the amount of services that Upland contributes to the hospital. President Mitchell asked if the firm has done any preliminary work up on what tax under Act 511 can generate for the Borough of Upland?

Mr. Hackett stated that Mr. Hill today started working on that and he has done analysis of other community that has an earned income tax on a similar type facility and he thinks he can say it would be substantial. Mr. Hackett stated that it is too early to quote a figure but he thinks that it would certainly lead toward an analysis of what other taxes the Borough might want to reduce or not have in light of the revenues that might be produced by that tax.

Mr. Hill stated that one thing you might want to keep in mind when levying an earned income tax is your proximity to New Jersey and Delaware really benefits you because what the Act requires is when someone has 1% withheld if they have a similar tax in their community it would reciprocate back to where they live. Mr. Hill gave an example that if Mr. Hill lived in Aston and worked at Crozer and had 1% withheld, it would go back to Aston. Mr. Hill stated that if Mr. Hill lived in New Jersey, his taxes would stay in Upland Borough. Mr. Hill stated that only half of Delaware County having an earned income tax, obviously there is a greater likelihood that someone in New Jersey, Delaware or not in a community levying an earned income tax, so the taxes would stay in Upland Borough.

Mr. Hill stated that the Borough should see at least fifty percent of the earned income tax from tax withheld from all Borough businesses not just the hospital.

Mr. McClintock asked if Mr. Hill was the company that collects the tax in Aston? Mr. Hill stated yes he is. Mr. McClintock asked on the parking for example Crozer has a contract with Colonial Parking out of Wilmington, would Council consider a tax on the owner or the operator? Mr. Hackett stated that you are taxing the operator and revenues from the operation of the parking lot and he thinks that there are other issues that are going to come into play when you start taxing some portion that is part of the hospital operation but they will have to be taken into consideration when you do analysis.

Mr. McClintock asked another question because Mr. Mitchell mentioned Crozer Hospital. Mr. McClintock stated that there are 3000 approximately right now and the Borough gets \$52.00 a head. Are we going to do better than that?

Mr. Hackett stated he is not certain of the question?

Mr. McClintock questioned if the Borough going to do better by trying to institute some tax? Mr. Hackett stated that if you have \$52.00 per head and you have 3000 employees, I take it you are generating \$156,000.00 and feels that Mr. Hill's preliminary analysis that he said is too early to discuss would include that the amount that you would generate by the alternative tax would be substantially larger. Mr. McClintock stated, "Let's add another \$45,000.00 to that. The Borough would be getting \$200,000.00?"

Mr. Hackett stated it would be substantially more than that.

President Mitchell asked if the area that you are going to survey and he really does not want to pin you down but he really wants to stimulate the growth and some interest in the community itself for Council. President Mitchell asked if the area that you are looking is it the full blown hospital, employment agency?

Mr. Hill said yes, they have over 800 municipal and school district clients out of state and there are some within Bucks County, Delaware County, Chester County and Montgomery County that they represent with similar demographics so they have a really good handle on what to realize over all not just from Crozer from every business and every individual revenue as well.

Mr. McClintock stated that certainly you are in the business and your business is taxes and you collect taxes, so naturally you will promote going after whoever for taxes, his question is when you do you analysis are you going to do better than \$200,000.00 and that is primarily his interest?

Mr. Hill stated that without question, by far he sees that, and this is based on just preliminary numbers.

Mr. Mitchell stated that he is not trying to put Mr. Hill on the spot, but Council would like to know the ball park we are going into.

Mr. Hill stated that primarily there are three parts. Number one is from a residents stand point and an earned income tax. It is a certain percentage of the population that is currently paying 1%, so therefore by having a tax, you are having their revenue coming back to where you live, so it will not stay in another community. Mr. Hill stated that the second part is what would be more revenue that you are currently getting from LST, and thirdly the LST the state mandates that there is a \$12,000.00 minimum attention which you maybe don't know about that?

Mr. McClintock stated that Council knew that.

Mr. Hill stated there is another product redemption with that and the compliance and the over all residents the number should go up dramatically. It should be a 25% hit this year. It is due quarterly, not a dollar a week. So instead of getting the \$52.00 in the first quarter, it will be spread over four quarters, and you will lose a whole quarter of revenue.

Mr. Hackett stated that from the beginning of any discussions that they are having here, it was not for the purpose of promoting that there be some other tax, or there would be an earned income tax, and that they would take a look at the tax structure to see what the alternatives were and what would be in the best interest of the Borough and the taxpayers of the Borough. Mr. Hackett stated that he wants the people to understand they are not here promoting one idea or the other.

Mr. Hill stated that is correct, and in that being to look at the positive and the negative. The one positive is that people that are on fixed incomes are not subject to this, and on the negative side, people who currently work and the resident base would obviously be affected negatively by this.

Mr. McClintock stated that what you are doing is going back to the issue that was the ballot, and you are pitting the senior citizens against the working people.

Mr. Hill stated that a certain segment of the working population has already gotten tax withheld. At what percentage? That is the question.

Mr. McClintock stated that there is no doubt about it, if you adopt an earned income you are going after the working people. Mr. McClintock stated that you are pitting the seniors against the working class and that is what happened when it was on the ballot. Mr. McClintock stated that even the seniors realized that it will split the municipality when you start pitting people against each other.

Mr. Hill stated that Act I was relative to school districts' whose interest is in real estate tax, but Upland cannot dip into real estate tax with only a small portion of your overall budget, so you are faced with escalating costs of Police, and you name it and you do not have the revenue. You cannot just levy your real estate tax and up your millage every year. Mr. Hill stated that he thinks that the negative back flash from the residents across the Commonwealth is more geared toward the school district. Mr. Hill stated that real estate tax is lower based.

Mr. Hackett stated that in light of that, in his presentation Mr. McClintock that is one of the things that they suggest you take a look at would be does it generate enough revenue so that you can on the other hand give a benefit to the tax payers of the community by not taxing in other areas that they are currently taxed. Mr. Hackett stated that you can off set that pitting one against the other by being able to do that and have that benefit. Mr. McClintock stated that you know Mr. Hackett Council have not raised taxes in twenty years in this Borough and we have survived. Mr. McClintock stated that people have asked how do you keep doing it, we did it. Mr. McClintock stated that he cannot see and he would love to know when you come back with your analysis how the Borough would profit from it. Mr. McClintock stated that he would like to see the Borough get something from the operators of the parking authority but Crozer in his estimation in over twenty five years has been a very good neighbor. Mr. McClintock stated that he would like to see where you can present the Council with something that could bring in excess of \$200,000.00 per year without hurting the residents.

Mr. Hackett stated that after they complete the analysis and once they do an analysis of the possible tax on the parking lot operation they could then show the pros and cons are of both and then you can obviously weigh the benefits from there.

President Mitchell stated he would like to go back to Act I, part of the Act I of course it was defeated by all of us and anytime you have a chance to vote it down you will do it, more importantly was that \$500, \$600 or \$700 what ever the number was that the State was going to reimburse us on the real estate too and no one got a dime out of that and they are still looking at ways to siphon off of that already. President Mitchell stated that we are still broke looking at Act I.

Mr. Hackett stated that whole analysis is separate from the Borough and that has nothing to do with what you do in the Borough.

Mr. Hill stated that if you look on line under the Department of Community Property Redevelopment 99.8% of Pennsylvania municipalities have levy earned income tax.

Mr. O'Connor asked Mr. Hill to talk briefly a little more about the definition of earned income just so everyone has an understanding of what is earned income and what is not, do investment savings or investments count all that sort of stuff to give the folks a little more information.

Mr. Hill stated earned income tax is levied on wages for people that are employed, there W-2 earning, their state wages would be a measure of what the tax is on at the rate of generally 1% is what you are looking at. Mr. Hill stated that self employed person's who are sole proprietors who file with the Federal Government a Schedule C their net profits would be taxed. Mr. Hill stated that also partners in a General Partnership would be subject with their K1 from there partnership would be taxable that would be their net income for the partnership. Mr. Hill stated that also Limited Liability Corporations single member or more could be subject to their net profits.

Mr. Hill stated that half Limited Partnerships would not be taxable, stocks, bonds, savings interest would not be taxable or rental income is not taxable unless you are in the business of renting property. Mr. Hill stated that social security is not taxable and any path of income is not taxable so it is truly on net profits and wages.

Mr. O'Connor asked what percentage of the residents of Upland are paying LST elsewhere? Mr. Hill stated no not exact numbers but he could run those number easily. Mr. Hill stated that also keep in mind when the analysis is done there are people that work in Philadelphia that would be exempt as will as the State of Delaware would be exempt. Mr. McClintock asked about people living the City of Chester? Mr. Hill stated that the 1 per cent would reciprocate. Mr. McClintock stated just about everyone that works at Crozer would not pay it because they pay it in Chester. Mr. McClintock stated that if 2500 people that worked at Crozer and lived in Chester the Borough of Upland would not get a buck from them. Mr. Hill stated that was true.

Mr. Hill stated that everyone else on a higher demographic you would realize some taxes and especially the doctors. Mr. McClintock stated that most municipalities have an earned income tax and if they have it, they will not pay the Borough they will pay were they live. Mr. Hill stated that he did not say most of Delaware County has an earned income tax it is 99.8% of the State does.

Mr. McClintock stated that when you do your analysis he would like it to include and to tell the Council the percentage of people that do have to pay the earned income tax. Mr. Hill stated he certainly could do that. Mr. McClintock stated that certainly most of the people that work at Crozer do not live in Upland.

President Mitchell stated that when they originally started out with the first or second meeting one of the things discussed while Council understands that the low end job market hourly employee of Chester that would work at Crozer the income that you would realize from that low lets say \$10, \$12, \$14, \$15 an hour position is no where near in comparison where a doctor would be and that was driving Dick, the numbers that at this point are not available.

Mr. McClintock stated that you know we went through this argument, just so these gentlemen are aware because he is sure Mr. Hackett is, many times with Crozer. Mr. McClintock stated that the doctors have always argued even over a lousy \$10.00, they do not work in the Borough of Upland they just occasionally come to the Borough of Upland so you know you will end up in court with the doctors. Mr. McClintock stated that you know if they do not want to pay \$10.00 they certainly will not pay 1% of their income. Mr. Hill stated that they are employed they have no say. Mr. McClintock stated he knows what you are saying but he also knows that the Borough went through this time after time with Crozer, the doctors it is like trying to pull teeth.

Mr. Hill stated that it clarifies as well that you mentioned the LST regarding the income tax there is no requirement to get rid of the LST to levy an income tax. Mr. Hill stated that most communities do have both taxes most surrounding communities like Tinicum, Lower Chichester, Chester and Chester Township all levy both and for the most part they are the full rate of \$52.00 and 1%.

Mr. McClintock stated and their electors would like to hang them.

President Mitchell stated that one of the things that is up for discussion is this a road we want to go down, does Council want to continue on to look at this, if there are additional revenues out there to grow on without passing any costs on to the residents he feels it is something Council needs to do. President Mitchell stated that he feels in the immediate future Council needs to appoint a committee to work with Mr. Hackett and Mr. Hill to see what the Borough can do. President Mitchell asked if there was an interest on Council to do this?

Mr. McClintock asked if President Mitchell would take the negative because he feels you are throwing good money after bad. President Mitchell stated lets just talk about cost where are we with cost? Mr. McClintock stated that you already went through an election and he thinks the electors spoke real loud they are not interested in an earned income tax and he feels what you are doing is promoting what the elector turned down it is not the same but it is an 1% earned income tax and he feels that the taxpayers are going to say we voted it down once what are you doing? Mr. McClintock stated that is his opinion.

Mr. Hill stated that he will make suggestions on the parking lot tax too so Council will have alternatives obviously one will not be as lucrative as the other alternatives but there will be alternatives.

Mr. McClintock stated that he had no idea but he is sure that these gentlemen are not working for nothing is the Borough paying these gentlemen? President Mitchell stated that at this point no we are non committal and we are non contracted and other than through the mere fact if there is interest to do that and that is what they did. President Mitchell stated that at some point we do see where we are going with the cost. Mr. Hackett stated absolutely. President Mitchell stated that if this is something you are prepared to present to Council tonight we will be more than willing to take a look at that and if not, please get back to us as quickly as you can with the analysis.

Mr. Hill stated that their fees are generally up to 2% percent of the net cost of the total collection. President Mitchell stated that while it is something that you do for nothing Upland is seriously interested and is it still nothing to check into the parking analysis for Crozer.

Mr. Hackett stated that their analysis of the Crozer parking that they will propose is that they would cap what they would charge the Borough to do this analysis. Mr. Hackett stated that certainly he feels from his point of view it would not exceed anywhere near \$5000.00 to complete the analysis both for the parking lot and the earned income tax based upon the time that would have to be put into it and to make a recommendation to you. I think there are more legal issues in the parking lot tax than there are in the earned income tax. I think in the parking lot area because the parking lots are owned by, and I assume that they are owned by the hospital and the hospital is a tax exempt organization, they are going to take the position we own these parking lots and a certain amount of the parking that goes in these parking lots is essential to the operation of the hospital, the same as the airport. The ones that are being taxed right now by the parking lot tax in Tinicum are the private operators like Smart Park that are providing parking, as opposed to the parking that is run by the Philadelphia Parking Authority, which is a public tax exempt organization and the issue of whether to tax those which is an issue which hasn't been addressed by the courts, that I know of, although there may be a settlement or an amicable resolution, but I would anticipate that part of the argument that you would run into would be that the hospital would say is that some portion of this is essential to the hospital's operation as a non-profit organization.

President Mitchell asks Mr. Hackett if this could be determined by the assessment.

Mr. Hackett responds that he doesn't know how the Borough would arrive at the issue because some of the parking are people going to see a doctor, and the medical office is taxable and the doctor's operation is taxable, so the parking board is not exempt either and somehow you might run into the issue of having to separate the two.

Mr. McClintock comments to Mr. Hackett to make him aware the hospital sold the suites to an individual corporation. I said "You owe us, we want the U & O". They went to tax assessment in Media and beat us.

Mr. Hackett asks if it was on the assessment for real estate taxes.

Mr. McClintock responds they beat us on the fact that the corporation bought these suites and they are collecting the money from doctors. That just happened a year or so ago. I went after them to get the U&O's for all the suites and they went to the assessment board sent it to the state and the state said that we couldn't get it because of the hospital.

Mr. Hackett responds that you have to take into consideration when you make your analysis is, I don't know what that is and I will have to look into that.

Vice President Peterson asks Mr. Hackett that the parking lot tax shouldn't exceed \$5000.00. What if it were to exceed \$5000.00, how high could the analysis go?

Mr. Hackett responds that it will not, but obviously if you go to the point where you were going to implement it, after we make an analysis and got back to you, you may run into a situation where you may result in litigation, and in that point in time, we may have to give you a different analysis to say what is the potential cost of litigation as versus what you would collect to do this, but for the purpose of doing the analysis certainly will not exceed \$5000.00.

President Edward Mitchell asks how soon can you ballpark what an earned income tax would look like and would your analysis show that the people that are working here and paying Penn Delco or Aston live here that the dollar would come back to us.

Mr. Hill responds they would know from surrounding communities what percentage of the workforce they realize is not given back to the communities.

Mr. Hunter asks that you wouldn't know how many people that work at Crozer would be exempt.

Mr. Hill responds, we don't have access to the payroll of Crozer.

Mr. Hunter comments that the analysis would show us what you were aware of by public records.

Mr. Hill responds, by our records of similar types of communities with similar types of businesses in similar types of per capita incomes which will be accurate.

Mr. Mitchell responds, just keep in mind that the majority of people who work at Crozer, live in Chester and Crozer is the cash cow for the \$52.00.

President Mitchell responds at the same time it is safe to say that 90% would go back to Chester on the low end. On the top end, they're not living in Chester.

Most hospitals, in current times actually make the doctors W-2 employees. They no longer have their own private corporations in a lot of instances.

Mr. Leo Hackett comments that those types of issues you have to take into consideration when you make your analysis of the pros and cons of whatever you look at.

President Mitchell responds it would be interesting to see what that is when we get council back together and the get the committee to sit down and look and see what direction we need to go in. I think there is enough support here that says we need to look at that before we let it walk away. I think we need a motion if we want to continue on to get a free report, an analysis.

Mrs. Miazza offered a Motion, which was seconded by Mrs. Peterson. Council unanimously voted Aye on the motion.

Motions were made to go back to the regular order of business, at which time the Borough Manager took a roll call.

Mr. Mitchell stated that he did not have a copy of the CDBG Minutes on the table. Mr. McClintock stated that the minutes for the CDBG Meeting was a matter of public record, for the public input. They should be here. Mr. Mitchell said he looked for the minutes ten minutes before the meeting started and no one looked at them yet and they will suspend the approval of those minutes until the next meeting. Mr. McClintock stated that they had the meeting and there was no input and they can be recommended. Mr. Mitchell said that they do not know that as they were not there for that meeting. Mr. McClintock said that he doesn't understand why the minutes are not here, there was a meeting.

Mr. Mitchell made a motion to suspend the vote on the minutes for the CDBG Meeting until the next meeting. Council unanimously voted aye on the motion during the roll call vote.

#### IV. Treasurer/Manager's Report - Mrs. Shirley Purcival

Mrs. Purcival stated that Council has before them the Treasurer's Report for the account balances as of December 31, 2007. They are General Fund \$51,390.88. Auburn Village, \$41,095.36, Consolidated Account \$170,626.28, and Liquid Fuel \$53,349.47. The breakdown of the Consolidated Account balances as of December 31, 2007. They are Auburn Village Sinking Fund \$121,144.60, Equipment Fund \$15,356.37, Streets Fund \$ 11,943.84, Property Fund \$6,825.04, Contingency Fund \$15,356.37 for a total balance of \$170,626.28.

Mr. Mitchell made a motion to accept the Treasurer's Report as presented and Mrs. Peterson seconded the motion. Council unanimously voted aye on the motion during the roll call vote.

Mrs. Purcival stated that this months Manager's Report is lengthy and would like Council, at their leisure to read the Manager's Report for December 2007 and would like to enter into the record two Proofs of Publications. The first one is the Notice of the Meetings that were published in the Delaware County Daily Times on December 16, 2007 in which is a listing of all caucus meetings, regular meetings and special meetings for the year 2008. Proof of publication will be admitted into the public record. The second Proof of Publication was published on December 17, 2007 and December 24, 2007 in which a zoning hearing board notice was published. We will have a continuation and an appeal continuation on January 14, 2008 at 7:00 p.m. concerning Visionary Company.

Mrs. Miazza offered a motion which was seconded by Mrs. Peterson. Council unanimously voted aye.

#### V. Appointment of Committees

Mr. Mitchell apologizes to Dick McClintock that there is nothing on the committees because he took it at face value that he was going to resign and also I must take this time to say that he removed him from most of the committees because he was resigning. I apologize and if it is your intent to stay on, well then, welcome and I look forward to working with you and I guess we will have to go back and revamp with the rest of the council all of the committees. Is everybody in agreement with that?

Mr. McClintock responds to the President as a point of order and with no disrespect to anyone, but when you appointed these committees back years ago, the Solicitor advised us, Linda Cartisano that this particular thing was incompatible. I don't know whether you checked it or not, but there is a letter somewhere in the files, because I was Chairman of the Committee.

President Mitchell responds that he understands and hears his passion and we did check with the Solicitor. The item in dispute here is Item 4 on your committee reports, I apologize and we will have a copy of everything we are looking at next week. We just didn't have the time to copy everything and get it out for everyone. One of the things we want to do is keep you as much as informed as we are in the future. Not to go away from this issue we are looking at the

Pennsylvania's Boroughs Association in putting up a website so that everyone will know on a daily basis what is going on. The item being challenged, is Mr. Walls as Chairman of Auburn Village.

Mr. McClintock responds that he is not challenging it, just bringing it to his attention because back then we were told it was not legal.

President Mitchell responds to Mr. McClintock that he does not know what has transpired and for the audiences sake, what is being questioned is Mr. Dennis Wall's as Chairman of the Auburn Village. I think in what I'm reading in this is the fact that Mr. Wall's lives in Auburn Village, therefore he cannot be the Chairman of where he lives. It was pretty much explained to me and correct me if I'm wrong that as a taxpayer living on Fourth Street I still have a right to vote for my taxes, that doesn't disclaim me from anything, so why would where you live disclaim you representing the people voted him not from there but for there. I think it was an overwhelming turnout from the Upland Terrace that they supported Dennis in his efforts and his past performance and it wasn't based and never an issue on the law when the council years ago appointed his wife to the same position.

Mr. McClintock responds that's not right. That's when the issue came to light back then. I didn't want to mention names and I'm not in dispute. I don't care who's Chairman of Auburn Village, it doesn't matter. I'm just saying, is it legal. Back then we were told it wasn't legal for someone living in the Village to be Chairman of the Committee because, for example, rent raises, or whatever.

President Mitchell responds that he doesn't know of any constitutional question or position that violated that. He also ran as committeeman in one and that was okay too.

Mr. McClintock responds that was their understanding back then and at that time the Chairman of the Village was removed for that reason, no other reason whatsoever, it was nothing personal, it was a matter of legality. I don't care. I really don't care of who is Chair of what. I'm just saying to you, it should be legal. If it's not legal, then something has to be done. If it's legal, fine. There is no problem.

President Mitchell responds that since there is a dispute on it, I would like to put a motion on the floor to put a vote of confidence for the fact that if it is ruled that Mr. Walls cannot serve as chairman, then he will be put on another committee as chairman.

Mr. Walls comments that he never minded Mr. McClintock representing the taxpayers in Upland. We voted for him every time he ran. I never minded him representing us renters in Auburn Village. Now it would seem like I have every right to be Chairperson of Auburn Village.

Mr. McClintock responds to Mr. Walls he just wants to make sure there is no conflict of interest.

Mr. Walls responds there is no more a conflict of interest than Dick talking about Crozer Hospital. Dick was a former employee and he is a retiree from Crozer Hospital and he sat here at the last meeting and as far as anything concerning Crozer Hospital as far as Mr. McClintock is concerned in voting is a conflict of interest.

Mr. McClintock responds: Because I work there?

Mr. Walls responds: Yes

Mr. McClintock responds: I don't work there anymore.

Mr. Walls responds: You collect a retirement check from there every month.

Mr. McClintock takes offense to that.

President Mitchell attempts to bring order to the meeting. The bottom line is that Mr. O'Connor is going to check into this.

Mr. McClintock again repeats that he takes offense to that and states he is an elected official. I'm supposed to represent everybody. I don't pick a certain segment of the population like you did and say that's what you represent. I represent everybody in the Borough. Democrats, Republicans. Dennis you've taken this as a personal thing and it wasn't meant to be personal. Not at all.

President Mitchell advises that council will get the Solicitor's opinion and that will take care of that.

VI. Resolutions and Ordinances: Mrs. Purcival stated that Resolution #01 are the Pay Rates for 2008, which is a carryover from last year and Resolution #02 Appointments is a carryover from last year with the addition of a new appointment with the resignation of Mr. Poliafico and a new title created by current council on Public Safety Coordinator.

Mrs. Hicks reads Resolution #01 of 2008 into the record.

Mr. McClintock questions the new employee. I know that wasn't included in the budget. Before we take a vote, which I will not vote nay because of that, but I'm just making the council aware that was not budgeted. \$145.00 per day and for how many days and when.

Mrs. Peterson offered a motion, which was seconded by Mr. Walls. Council unanimously voted aye on the motion during a roll call vote.

Mrs. Hicks reads Resolution #02 of 2008 into the record.

Mrs. Miazza offered a motion, which is seconded by Mrs. Peterson.

Mr. McClintock asks the following question on the Fire Marshall. Mr. McClintock suggests to the President that he read the code.

President Mitchell responds that we need to get somebody in there that is certified to enforce all of the codes. We had a dialog with the firehouse and there was no one there that was willing to go to school to get the certification. There was a flare up at a meeting last night that I am not privy to there was some comment that someone wasn't going to spend \$1000.00 to do that, where, in fact, we didn't open up the dialog with him at that point.

Mr. McClintock asks if we are talking about both positions, Fire Marshall and Emergency Management Coordinator.

President Mitchell responds that we had gotten into the fact that it ended up what it was. Without any embarrassment and without causing a lot of embarrassment here.

Mr. McClintock responds, that all I know is that Jody was certified as Emergency Management Coordinator. I didn't think you needed any certification for Fire Marshall.

President Mitchell responds that we have gone back to what the new laws really are and we are trying to be and will be in compliance with what they are.

Mr. McClintock responds that he wasn't aware that the gentlemen said he wasn't interested. We received a letter from the gentlemen telling us he was interested.

President Mitchell states you can't do everything on the first night. We're trying to tie in 2007 to 2008. That's where we are right now.

Mr. McClintock responds that the code speaks for itself. I don't know. You're saying that the gentlemen said he wasn't interested. All I know is that he sent us a letter telling us that he should be Fire Marshall.

President Mitchell responds that again there is a discretionary board chairman's decision and that's what we went with.

Mr. McClintock responds: Against the code? The code said it should be a Chief from the Upland Fire Company.

President Mitchell responds that the code has to be looked at and you darn well know that. There's some things that have to be updated.

Mrs. Miazza offered a motion which is seconded by Mrs. Peterson. Mr. McClintock will vote

aye with the stipulation that he doesn't agree with the appointment of the Fire Marshall and the Emergency Management Coordinator. Mrs. Purcival requests counsel from the Solicitor as to how to record the vote. Mr. McClintock will make it simple. If President Mitchell rescinds his motion and I'll make a motion that the Fire Marshall be appointed to our code.

President Mitchell responds that he will not rescind the motion.

Mr. McClintock responds that he doesn't agree with that. I agree with everything else. I'm voting Nay for the Fire Marshall. Why split hairs over this as they are all individual posts. So just because you vote aye doesn't mean you agree with everybody on there.

Chief Dan Smith states that he did come up to see what was going on and was blind sided with the fact that he was never notified in this borough that you guys were doing that. I do remember the conversations that I had with a lot of you guys before you were elected into office of what was going on and that question was specifically asked whether or not he had to be certified and it came out of your mouths that I did not and we voted on it anyway. Now you've been elected by the residents and now you want someone certified. It's just a slap in my face as fire chief for the work that I've been doing for this borough and I want to put that on the floor to you, Mr. Mitchell.

President Mitchell responds to Chief Dan Smith by saying, trust me, I do not know what you do over there but I understand when I'm told that the law has been changed and we need to comply with the law.

Mrs. Hicks reads each appointee separately of Resolution #02 of 2008.

Mr. McClintock offers motions on all appointees separately. On the appointment of Fire Marshall, the motion was offered by Mrs. Peterson.

Mrs. Purcival takes a roll call vote on the appointment of Fire Marshall.

Mrs. Hicks, Nay. Mr. Walls, Aye. Mr. McClintock, Nay. Mrs. Miazza, Nay. Mr. Hunter, Aye. Mrs. Peterson, Aye. Mr. Mitchell, Aye. The motion is carried.

Each motion is seconded by Mrs. Peterson or Mr. Hunter. Council unanimously voted aye on all other individual appointments.

Mrs. Hicks reads Resolution #03 of 2008 into the record.

The motion is offered by Mrs. Hicks and seconded by Mrs. Peterson.

Mrs. Purcival takes a roll call vote on Resolution #03 of 2008.

Mr. Hunter, Aye. Mrs. Hicks, Aye. Mr. Walls, Aye. Mr. McClintock, Nay. Mrs. Miazaa, Aye. Mrs. Peterson, Aye. Mr. Mitchell, Aye.

Mr. Mitchell offers Ordinance #01 of 2008. In light of the fact that we've heard from council.

This is dealing with the parking ordinance. We've heard what it's going to cost, but haven't made a decision, so therefore, we need a motion to table Ordinance #01, or bring it up at the next meeting after we get some information on it. All council members agree.

Mr. Mitchell requests any additional reports from the board members.

## VII. Monthly Reports

Mayor Ciach read the Police Report for December 2007. Total Citations issued for the month were 40. Total Citations and fines was in the amount of \$4,251.00. Borough's share which is half, \$2,125.50. There were 8 parking tickets issued. The amount received from the court from last month was \$2,017.69 and there were a total of 240 calls answered last month. The rest of the report council has in front of them and they can read it at their leisure.

Two additional items were discussed by Mayor Ciach. The Decorating Committee met yesterday and we've selected three winners and one Honorable Mention by address. We will be presenting those certificates and money at the February meeting.

There are also two training issues on January 22<sup>nd</sup> and January 23<sup>rd</sup>. I gave a copy of this to Mr. Hunter. It comes highly recommended and what I would like to ask and make a recommendation for is to ask council to make a motion to pay for two officers to go to a training class at a Street Survival Seminar that comes highly recommended and is \$199.00 per officer for registration, plus their standard seminar for two day classes. The only reason we are sending two is because right now we are limited as far as how many officers we have and I can't pull everyone off the street. There is another training class the end of February. It is a Glock training class. I'd like to get a little more detail on this. We can address that in February.

Mr. Mitchell asks if there are funds available?

Mayor Ciach stated that Mrs. Purcival advised it may be okay to at least compensate for the classes, but not for the hotel expenses in Atlantic City. It's a realistic course. I have checked into that. If we can get a recommendation to pay for the course, if we can't get that, then we won't send them. We normally pay for them to commute and if they want to stay at the hotel, that's on their own. We pay their mileage. There is a discount available, if they want to take advantage of it. It would be \$79.00 per night. I'm sure there are other classes available. If you want, what we can do is having further discussions between the Public Safety Committee and myself.

Mr. McClintock states that with no disrespect to any of the police officers, and I was always in favor of training, but one thing you're going to be careful of. You have police officers at our expense building up their resumes to go elsewhere. Chester, for example. Unfortunately, there's nothing we can do about that, but, there are police chief seminars over the Police Association that are freebies, usually. All you usually do is pay for the lunch, around \$11.00. I'd hate to have to vote on something like this because I've never turned police officers, but

Atlantic City.

Mayor Ciach responds that it is endorsed by the Police Chiefs and Sheriff's Association. This is a true training seminar and there is an obligation to attend class.

#### VIII. Use and Occupancy Report - Mrs. Shirley Purcival

Mrs. Purcival reads the Use and Occupancy Report for December 2007. There were 7 properties that passed the inspection. A total of \$690.00 was deposited into the General Fund for these inspections.

Mrs. Peterson offered a motion, which was seconded by Mr. Hunter. Council voted aye on the motion.

#### IX. Solicitor's Report - Mr. O'Connor

President Mitchell comments that in light of the fact the public is at a loss for what we are discussing here, can you fill in the council and the audience as to what are not the confidential line by line.

Solicitor O'Connor states that litigation, personnel, legal and things like that you're not going to find in my public report, since they are protected under the Pennsylvania Sunshine Act.

President Mitchell asks Mr. O'Connor if there is anything on the list that you can share with the audience.

Mr. McClintock responds that he should touch base on the Visionary because we don't have the transcript from the first meeting.

President Mitchell states there should be a total understanding of what can really go wrong, went wrong. President Mitchell addresses the audience to explain one of the things they are talking about is council, and we have not voted on it, but its kind of safe to say that we are going to continue the fight that the past council had in dealing with this issue of what they want to do with the prison. We want to continue with as much energy, Nick's still here, so I know that he's going to be a ramrod on this thing, so it's a good thing that we're going to continue on. It's not even disputable. We don't even need a discussion on that. Is everybody in agreement with that?

#### X. Engineer's Report - Mr. Charles J. Catania, Sr.

We want to report that the 2007 road program has been completed and reports have been filed with the Pendot and CBDG Program with Parkside has been completed and filed with the County. The CBDG project for the fencing around the park that is substantially complete, but probably won't be completed until the weather warms up in the spring.

President Mitchell asks if there is a motion on the agenda for paying the bills.

Mrs. Purcival responds there is no financial chairman.

#### XI. Financial Report - Mrs. Purcival

Mrs. Purcival advises council the bills for approval for the General Fund for December 2007 in the amount of \$61,810.99.

Mrs. Peterson offered a motion, which was seconded by Mr. Hunter. Council unanimously voted aye on the motion during a roll call vote.

Mrs. Purcival advises council the bills for approval for the Auburn Village for December 2007 in the amount of \$4536.16.

Mrs. Peterson offered a motion, which was seconded by Mr. Hunter. Council unanimously voted aye on the motion during a roll call vote.

#### XII. Old Business/New Business

Mrs. Purcival reminds council of the Auburn Village situation.

Mr. McClintock adds he doesn't think the committee had a chance to meet with the bank

Mrs. Hicks advises the committee did not meet with the bank.

President Mitchell explains to the audience the motion to decide the pending sale of Auburn Village.

Mr. McClintock offers a motion to tell them we are not interested. The motion was seconded by Mrs. Peterson.

Council unanimously voted aye on the motion during a roll call vote.

President Mitchell the motion to transfer the bank back to Wachovia Bank in Brookhaven has to be completed.

Mrs. Peterson offered a motion, which is seconded by Mr. Hunter.

Mr. McClintock has a question. We've spent considerable time changing banks because of larger interest and more benefits. Is there some reason why we're going back to Wachovia for less than what we were getting from the present bank?

President Mitchell responds that one of the things he heard while sitting in the audience back then was that the people at were ignorant and not very customer-service oriented. What is the interest rate we were getting?

Mrs. Purcival responds: 4.8.4 from Wachovia and it was 4.64% from United.

Mr. McClintock asks how that can be. Somebody is not telling the truth to council.

Mrs. Purcival explains that with new checks and Mr. Hanna coming in, we're at approximately \$1500.00.

Mrs. Peterson asks how much we paid last year to Wachovia.

Mrs. Purcival advises we have one account that has a service charge on it and that's the Penvest account and that's approximately \$11.00 per month.

Mr. McClintock doesn't understand if we were getting a better deal from the bank, it's just like anything else, you get the best deal. Personally, I deal with them and think Wachovia are the most arrogant people in the banking business.

President Mitchell asks how does the borough find Wachovia.

Mrs. Peterson offered a motion to transfer the funds to Wachovia Bank in Brookhaven and is seconded by Mr. Hunter.

Mrs. Purcival on roll call vote: Mr. McClintock, Nay. Mrs. Miazza, Aye. Mr. Hunter, Aye. Mrs. Hicks, Aye. Mr. Walls, Aye. Mrs. Peterson, Aye. Mr. Mitchell, Aye.  
The motion is carried.

Mrs. Peterson offered a motion to cancel the second council meeting of January 22, 2008, which is seconded by Mr. McClintock.

Council unanimously voted aye on the motion during a roll call vote.

President Mitchell requests a motion to perform an audit. Understanding that an audit has been completed and understanding that as a newcomer to council, I would like to have a better picture of what is there and what has been taken care of.

Mr. McClintock asks if the new council is going to pay to have a second audit.

President Mitchell responds: Yes, sir.

Mrs. Peterson offered a motion to perform an audit, which is seconded by Mr. Hunter

Mr. McClintock responds that we pay a large amount of money to our auditors and you want to have a second audit, which makes it look like something is wrong.

President Mitchell responds that as an example any number of questions came up regarding the fire company. Have we ever audited the fire company?

Mr. McClintock responds: No, we have never audited the fire company. It is in the state code that Borough Council has the right to audit the fire company.

President Mitchell responds: May I ask why?

Mr. McClintock responds: We didn't deem it necessary.

President Mitchell responds: That's a good reason. One of the things that tripped the alarm which brought up the question as to why, and I think it's safe to say that of the fire house. The past council just paid off a fire vehicle and the fire department was requesting from the new council coming on, and we weren't even here yet and we really had no knowledge as to what was going on with the finances with the fire company. They wanted us to hold off putting the money back into the general fund and to keep that for a new fire truck. I told them we would look into it. How much money do you really have and where are you with the finances?

Mr. McClintock responds: Are you saying you just want to audit the fire company?  
I can't see wasting big bucks to do another audit.

President Mitchell responds that another question came up was the antenna put up right smack dab in the middle of a playground in the Terrace.

Mr. McClintock responds: There never was a playground.

President Mitchell advises that money was taken for 8<sup>th</sup> and Mulberry tennis courts, and then ended up selling the property and now they have a storage facility.

Mr. McClintock responds: Now you have a tax base.

President Mitchell responds: I understand that, but are you looking at but was it ours really to sell?

Mr. McClintock responds: Yes and we ran that through the legal people.

President Mitchell responds: That's important. Also keep in mind that there are some things that we'd like to know about to make sure that we are correct in our future decisions as we're tying the past council and this council together.

Mr. McClintock responds: That's very vague, Ed. You say you want to audit the fire company, then say you want to audit the fire company.

President Mitchell responds: Well, that's what we want to do. There are any number of things when you are taking a look at what you are doing and how we did it in the past. We would like to come out what you presently saw earlier this evening. We would like to go into a business mode to where the borough can start generating some sources and take advantages of the opportunities out there.

Mr. McClintock responds: Well, I thought that's what the tower was going to do. Generate \$1,200.00 a month plus towards the fire company needs. The other thing is what I see here, it looks to me like everybody always says you repeat history if you're not careful. If we ain't repeating history, we're going back to 1971 Ed. Right through the same motions that this Borough Council withdrew in 1971 through 1975. There are a lot of innuendo's built into this. If the fire company asked for funds and we didn't have them, we politely told them we didn't have them. We never asked them how much they made on a drive. We never asked them how much they make from the volunteer drinking establishment. Just because they ask for something, you want to perform an audit. Go ahead and take your motion.

President Mitchell responds: There are a few things that were brought up, and it's easy enough to table this at our next meeting we can give you a laundry list of what we're looking at. It's not a witch hunt.

Mr. McClintock responds: When you start talking about the property at 8<sup>th</sup> Street, which was a blight, which to me is 100% improved and the borough ends up with something on the tax roles. We end up with a fire tower which is not ugly in. It's on a property that wasn't used for anything and we're going to generate \$1200. a month plus and you're taking a look at that and you're going to perform an audit on the fire company?

President Mitchell: I withdraw my motion until next months meeting to determine what type of audit we need. Is that acceptable to everyone?

President Mitchell offered a motion to change the caucus meetings to 6:00 p.m. on the same day as regular council meetings. We would have the caucus meeting at 6:00 p.m. followed by the regular council meeting at 7:00 p.m. once a month.

Mrs. Peterson offered a motion to change the caucus meetings to 6:00 p.m. on the same day as the regular council meetings, which is seconded by Mr. Hunter.

Council unanimously voted aye on the motion during a roll call vote.

President Mitchell offers a motion to advertise the schedule of the new caucus meeting dates.

Mrs. Peterson offered a motion, which is seconded by Mr. McClintock.

Council unanimously voted aye on the motion during a roll call vote.

President Mitchell offers a motion to create an Events/Planning Committee that would be made up of members of the Athletic Club, Marine Corps League, PTA, churches and Community Affairs. We want to try and do some things we have done in the past with 4<sup>th</sup> of July, Christmas parties. We're trying to get the kids more involved in the community spirit and restore some things they do in small communities.

Mrs. Peterson offered a motion to create an Events/Planning Committee, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion during a roll call vote.

President Mitchell wants to bring to attention that Mr. O'Connor, and the Auburn Village Committee and the Borough Manager will be modifying the Auburn Village lease. Some of the things we were looking at doing is readdressing the Pet Ordinance, looking at the playground parks section that's not there, but we enforce it. There are a lot of things in there that need to be upgraded and presented back for action. The Solicitor as well as Mr. Walls will play a key role in that.

### XIII. Floor Open to the Public

Mrs. Margaret Borreggine - I used to be a member of the Planning Commission, which is a volunteer position. I attended every meeting. I was never notified that I was removed from the Planning Committee. Now, for a council that just stated they want to be open with the public. I don't understand why I was not notified.

President Mitchell apologizes to Mrs. Borreggine.

Mrs. Borreggine responds: That doesn't help me, sir. It's wrong. It's unprofessional. You are a political person. You and all of these people should be well aware of that. I was not paid for this position. I gave my time and I should have been notified. I am a citizen of this borough. I am deeply offended. I was born and raised in this borough and the least that could have been done was a letter sent to me. So much for open politics.

President Mitchell thanks Mrs. Borreggine for her past service.

Richard Ladd - lives on 10<sup>th</sup> Street and works for Boeing respectfully requests and suggests because he has some experience with reciprocal agreements with the state of Delaware and other areas. He offers suggestions if an audit is conducted.

President Mitchell thanks him and asks that he leave his phone number and address with the Borough Manager.

President Mitchell asks if there is a report from the Fire Chief. The response was No.

Lynn Kirby - Church Street questions Resolution #01. Some of those figures are incorrect. Have you changed the budget with the addition of the Coordinator. I also think it we should be informed as to what the cost of the audit.

A member of the Athletic Club who did some work in the ballpark would like to suggest some pads for the poles and holes in the fields.

Mrs. Purcival responds saying the contractor that did the job is going to re-grade, re-roll and replant. They had an immediate freeze of the ground when they finished that project. I talked to the contractor today to make sure that he was and I'm well aware that this is taken care of. They didn't say anything about padding, but one thing that Widener College did was put some kind of system to show where the poles were.

President Mitchell asks Mrs. Purcival to bring that up to Mr. Catania's attention so we can find a solution to that.

Mr. McClintock comments that it's a shame that after we spent all of that money because one person wanted to sue because a ball hit his car.

There being no further business before the council, a motion was made by Mr. Hunter to adjourn the meeting at 9:25 p.m. The motion was seconded by Mrs. Peterson.

Respectfully Submitted,

Shirley Purcival  
Borough Manager

Virginia Sentyz  
Recording Secretary