

**WARREN CITY COUNCIL
REGULAR MEETING
FEBRUARY 20, 2012 – 7:30 PM**

OPENING OF REGULAR MEETING

Mayor Mark Phillips presided over the February 20, 2012 regular meeting of Warren City Council in Council Chambers of the Municipal Building and opened the meeting with the Pledge of Allegiance. Mayor Phillips stated that Council met in executive session immediately prior to this meeting as well as on January 30 and February 16 for discussion of personnel, real estate, and legal matters.

ROLL CALL

Members present and responding to roll call were: Mayor Phillips, Mr. Cashman, Dr. Ferguson, Mr. Harvey, Mr. Lewis, Mr. Park, and Mr. Zavinski. Mr. Nelles, Mr. Gustafson, Mr. Hildebrand, Mr. Holtz, Mrs. Leary, Chief Pascuzzi, Mr. Sceiford, Ms. Stapleford, Chief Zydonik, and Sgt. Deppen of City staff were also in attendance.

PROCLAMATION – PRESIDENTS’ DAY

Mayor Phillips presented a proclamation in honor of Presidents’ Day which encouraged all citizens to share in reflecting on George Washington’s contribution to our freedom and the founding of our nation and Abraham Lincoln’s steadfast commitment to the preservation of the United States.

APPROVAL OF MINUTES

Upon motion by Mr. Zavinski and second by Mr. Lewis, the minutes of the January 16, 2012 Regular Meeting were unanimously approved.

RECOGNITION OF VISITORS

Mayor Phillips welcomed all visitors. Present were:

- Terry Williams –Irvine Road, Irvine, PA
- Treena Holmes Hulings –Lincoln Avenue
- Pamela Holmes –Lincoln Avenue
- Bill Thompson – 4th of July Committee
- Randy Rossey –Dartmouth Street
- Kirk Johnson – Leadership Warren County Project Group
- Joe Beardsley - Leadership Warren County Project Group
- Penny Wolboldt - Leadership Warren County Project Group
- Ruby MacWithey - Leadership Warren County Project Group
- Lenny Gray – Russell Street
- Barb Phillips – Willoughby Avenue
- Chuck Shrader
- Shawn Castro – Conewango Avenue
- Wally Post – 4th of July Committee
- Barb Lucia – West Side Alliance
- Dan Ristau – Warren Main Street
- Julia Tarr – Warren Main Street
- Kathy Johnson – Owner, The Point
- Josh Cotton – Times Observer reporter

CORRESPONDENCE

Council members acknowledged receipt of the following correspondence:

- Warren Area Student Union, Inc.: Letter of thanks for monetary contribution
- Warren County Historical Society: Letter of thanks for monetary contribution
- Scott Baxter: Letter of resignation from the Parks and Recreation Commission
- David Sobina: Letter of resignation from the Planning Commission

Mr. Nelles noted that individuals interested in fulfilling Mr. Baxter's or Mr. Sobina's term may complete and submit the application located on the City web site.

DEPARTMENT REPORTS – JANUARY, 2012

The following reports were presented to Council:

- Police Department – Presented by Chief Zydonik
- Fire Department – Presented by Chief Pascuzzi
- Department of Public Works – Presented by Michael Holtz
- Building Codes Department – Presented by Alan Gustafson

During the Police Department report, Chief Zydonik noted that the Department has separated from the Warren County Drug Task Force. He cited concerns regarding the administration of the program and the impact that could potentially be made on the City Department's standing as an Accredited Police Department.

During the Department of Public Works report, Mr. Lewis inquired as to whether PennDOT has given any indication as to when a study of turning lanes at the intersection of Market Street and Pennsylvania Avenue may be expected. Mr. Holtz responded that the request has been made and indicated that the City is unable to hasten the State's process. Mr. Lewis also noted that opposing traffic lanes do not "match" at the intersection of Fifth Avenue and Market Street (i.e. Fifth Avenue westbound traffic is divided into left turn/straight and right turn only lanes while eastbound traffic is divided into left turn only and straight/right turn lanes). He further noted that he has received comments from residents regarding the confusion that this causes. Mr. Holtz stated that this, too, is a matter under PennDOT's jurisdiction and indicated that he would forward Mr. Lewis' comments to the PennDOT office. In response to Mr. Harvey's question, Mr. Nelles indicated that Streetscape Phase II plans call for installation of a traffic signal at the intersection of Liberty Street and Pennsylvania Avenue.

REQUESTS FOR USE OF CITY STREETS/PROPERTY

Mr. Nelles presented the following requests:

<u>Organization</u>	<u>Event</u>	<u>Property/Street(s)</u>	<u>Date/Time</u>
a. Warren Co. YMCA	Diane Kelly Memorial 5K Run & Walk	Lexington, Parker, PA Ave, Marion, Madison, Buchanan, Conewango	Sat. 3/24/12 10:00 AM to Noon
Motion to approve made by Mr. Lewis, second by Dr. Ferguson, approved unanimously.			
b. Warren Co. YMCA WCCBI	2012 New Year's Eve Bash	2 nd Ave – Liberty to PA Ave. PA Ave – Liberty to Hickory	Mon. 12/31/12 5:00 PM to 1:00 AM (1/1/13)

Motion to approve made by Mr. Cashman, second by Mr. Zavinski, approved unanimously.

- c. Request to amend previously approved Fourth of July parade route – There was no motion by Council; therefore, the parade route remains as approved at the December 19, 2011 regular meeting of City Council.
- d. Request by the 4th of July Committee to amend the previously-approved (December 19, 2011 regular Council meeting) Special Event Application to include the use of the western portion of Betts Park on Tuesday, July 3, 2012 in order to prepare for 4th of July activities.
Motion to approve made by Mr. Park, second by Mr. Lewis, approved unanimously.

During discussion of Item a. above, Mr. Park expressed his concern regarding the number of run/walk events conducted by the YMCA on an annual basis and the related expenses incurred by the City. Chief Zydonik noted that the \$100/per day Special Event Fee approximately covers the Police Department hours associated with these events.

During discussion of Item c. above, Sgt. Brandon Deppen, Community Service Officer, stated that extensive planning is required in order to accommodate traffic and safety concerns. He stated that the Department relies on the Warren County Fire Police for assistance in traffic control and noted that their membership has decreased. He stressed that a return to the extended parade route would require City Police officers to cover a significantly larger area and stated that he did not believe this would be in the best interest of the safety of parade onlookers and participants. Sgt. Deppen also stated that the shortened parade route will result in less preparation and cleanup by the Department of Public Works.

During discussion of Item d. above, Mr. Holtz reminded Mr. Post and Mr. Thompson that the City has begun a multi-year project of repaving the driving surface at Betts Park and indicated that no stakes, etc. are to be driven into the asphalt.

CONEWANGO CREEK WATERSHED INTERPRETIVE DISPLAY – POINT PARK

Mr. Nelles reported that at the February 2, 2012, meeting of the Parks and Recreation Commission, members of the Leadership Warren County (LWC) class presented a proposal for installation of an interpretive display at Point Park. The display would be located on a triangular kiosk with a panel on each side exhibiting information regarding the Conewango Creek Watershed Area.

Under the proposal, the LWC group will be responsible for securing funding and for installation of the kiosk at Point Park. The Conewango Watershed Association will be responsible for the ongoing maintenance of the kiosk. Joe Beardsley, City Firefighter and member of the LWC project group, and Mike Holtz, DPW Director, selected a site located just southeast of the Point Park pavilion.

The Parks and Recreation Commission (presently five members) voted unanimously to recommend City Council's approval of this proposal. Members of the LWC project group were present and answered Council members' questions.

Upon motion by Dr. Ferguson and second by Mr. Park, Council members voted unanimously to approve installation of a Conewango Creek Watershed interpretive display at Point Park with maintenance to be provided by the Conewango Creek Watershed Association.

RESPONSE TO ANSWERS PRESENTED BY WARREN MAIN STREET

Andrea Stapleford, City Solicitor, read the following questions as presented to Council at the January 17, 2012 regular meeting and the respective responses as provided by Council.

1. Was the Mayor involved in the voting processes, serving in both capacities? Mayor of Warren and Chairman of Gro-Warren.

Response: As with all boards and councils, the Mayor, as a member of City Council, was in a position to vote on Council matters. Mr. Phillips, as the President of the Board of Directors of GRO-Warren, was in a position to vote on GRO-Warren issues. Of the utmost importance, however, is that on numerous occasions with regard to Council matters, the Mayor abstained from voting, was absent at meetings at which votes were taken, or cast the seventh vote in a unanimous decision, thereby not casting the deciding vote.

2. "Who were the signers of the \$500K and \$80K loan agreements for the City and Gro-Warren?"

Response: The \$500,000.00 Loan Agreement was signed by Maurice Cashman, as Vice-President of City Council, on behalf of the City; by Harvey Stone, on behalf of GRO-Warren; and by Trish Durbin and Rob Kaemmerer, on behalf of the RDA. There was also a \$500,000.00 contract between the City and the Commonwealth of Pennsylvania which was signed by Mark Phillips, as Mayor, and Jim Nelles, as the City Manager, both on behalf of the City. There was no signature for GRO-Warren on this document. The \$80,000.00 Loan Agreement was signed by Jim Nelles, on behalf of the City, and was signed and accepted by Chris Cheronis, as Executive Director of GRO-Warren, Inc.

3. "Mr. Mayor, did you, or anyone else, receive any donations for Gro-Warren from any of the businesses listed as matching agencies?"

Response: Mayor Phillips did not receive any donations for GRO-Warren from any of the businesses listed as matching agencies. The Mayor cannot answer this question on behalf of any other individual.

4. "Did the Mayor's property receive the services of Eriez or any of its contractors, and did he pay for those services?"

Response: No property owned by Mayor Phillips received services from Eriez Construction which were beneficial to the property. Property owned by Mayor Phillips at 231 Liberty Street was, in fact, harmed by construction which was undertaken without the knowledge, permission, or authorization of Mayor Phillips.

5. "Who was responsible for pursuing Mainstreet for the debt incurred by Gro-Warren?"

Response: The City, requested the RDA to send a letter to Main Street asking for the repayment of the loans.

6. "Has the Mayor made any agreements with Mr. King regarding the parking lot?"

Response: The City has numerous parking lots, and it is difficult to determine which parking lot is the subject of this question. However, Mayor Phillips has not entered into any agreements with Mr. King regarding any City parking lot.

7. "Has the Mayor or City Manager received any promises from Mr. King regarding the payment of the outstanding loans in exchange for any city property?"

Response: While various discussions have taken place regarding the repayment of outstanding loans, there have been no promises made by Mr. King regarding outstanding loans being paid in exchange for ownership of any City property. Of importance is the fact that any “promise” to enter into an arrangement with Mr. King would have to be approved by Council. In addition, any financing that Mr. King would have to obtain to enable him to follow through on such a promise would have to be approved by his financing source which is outside the control of the City.

8. “Who is in charge of the dissolution of Gro-Warren, or is it still a viable entity?”

Response: The officers of GRO-Warren would be responsible for dissolving this entity.

9. “Who failed to oversee the expenditure of funds by Mrs. Cheronis?”

Response: No one representing the City failed in the oversight of funds utilized by Mrs. Cheronis. According to the parameters of the grant, there were no formal monitoring requirements imposed on the City. The City’s only responsibility was to insure that a final audit of the grant money be performed.

10. “Why was Mainstreet asked to cash a Gro-Warren check from the City?”

Response: Main Street was not asked to cash a GRO-Warren check. The request that was made was for Main Street to deposit a check into its account then write a check for the same amount from a GRO-Warren account to pay a service provider. These steps were taken on the basis of information provided to the City Manager and were in keeping with other similar payment practices which had been utilized on this project.

11. “Who was authorized to forgive the City debt in exchange for Mainstreet signing over the ACA properties?”

Response: No one has authorized this. In addition, any agreements in this regard would have to be approved by City Council.

In reference to question number 4 and the response, Mr. Lewis stated that he has a dissenting opinion. He stated that he is aware of a “SHPO (State Historical Preservation Office) application presented to the Department of the Interior at the time of design and it referred to a roof with a skylight in it and that skylight was part of the historical determination of that building needed to be removed because the repairs on it were, in fact, failing and it had to be replaced. That is a fact that I sat and went through the architectural design last week and it is there. They can’t accept the application without the permission of the property owner. So either it was given verbally or it was authorized somehow, but the SHPO application went through and was approved.”

Ms. Stapleford stated that, “to my knowledge there is more than one skylight up on top of, not just Mayor Phillips’ building, but the buildings in that series of buildings. So that’s one comment. I don’t know which skylight is the subject of this SHPO application.” Ms. Stapleford further stated that she has not seen the SHPO application and asked Mr. Lewis to provide a copy to her. Mr. Lewis stated that he could not provide a copy and suggested that the architect, InScale Architects be contacted. In response to Mayor Phillips’ question as to whether there was a signed document from he or his wife authorizing the skylight work, Mr. Lewis stated that he did not know.

Mr. Nelles stated that he “distinctly remembers the morning that Mayor Phillips called me at the office and he wanted to know if the City, or anybody that I had knowledge of, gave permission to take out his skylight.” Mr. Nelles further stated that when asked if there was a problem, Mayor Phillips had responded that someone removed the skylight and he was unaware of it until there was leakage and damage in the third floor apartment of his building and he was attempting to track down who gave permission to remove the skylight.” In response to Mr. Harvey’s question, Mayor Phillips confirmed that the skylight in question is over a shared stairwell between his building and the adjoining building.

In regard to question number 9 and the response, Mr. Harvey stated, “I do not completely agree with this, to the best of my knowledge, and I may be incorrect because I am new to Council. But I think the City did fail to put a lien on the buildings, to mortgage them basically, in exchange for funds. And, also, the City Council did unanimously approve a document that we agreed to pay back to the State any money that was misspent in that \$500,000.”

In regard to question number 10 and the response, Mr. Lewis inquired as to why, if GRO-Warren has not fully dissolved, they cannot pay the “\$3700 and change” amount due to InScale Architects. Mr. Nelles responded that the City (as approved by Council at the May 31, 2011 special meeting of Council) had provided a check payable to GRO-Warren in the amount due to InScale Architects. Mr. Nelles quoted an August 29, 2011 e-mail from Janet Gregory, Secretary/Treasurer for GRO-Warren, “Jim: Thank you taking care of the payments. I am working with Julia Tarr in getting a check cut for Eriez Construction as they control that account now. We have the check cut today but we’ll need a second signature....” Mr. Nelles stated that this message led him to understand that Ms. Gregory and Main Street were working together in this regard and, therefore, submitted the check to them for processing and payment to InScale Architects. The check was subsequently returned, uncashed, to the City.

Mr. Lewis made the motion to direct the City Manager to have a check cut for payment of the amount due to InScale Architects. The motion failed due to lack of a second.

COMMENTS AND PRESENTATION REGARDING ANCHOR BUILDING

Dr. Ferguson distributed copies of a document listing the following items and stated, “Backed by the hope and the belief that cooperative meet and discuss sessions are a productive way to find solutions, the following assumptions and/or facts are presented as a beginning framework to initiate a conversation regarding the ACA building in the near future.”

1. The finding of ways to creatively and positively complete the ACA building is desirable and achievable and is in the best interest of the people of Warren.
2. The primary objective of all concerned is to bring stakeholders together to seek means which will move every entity’s interests forward in a positive fashion.
3. To do so, it is necessary to have representatives of the interested entities engage in meet and discuss activities to address topics including, but not limited to, the settlement of debt, ownership of the property, and renovation of the property.

Dr. Ferguson suggested that should Council elect to move this forward, three members of Council be named to represent the City. It was his recommendation that Mr. Cashman and Mr. Park be named to serve on the committee and also asked, respectfully, that he, too, be named to serve.

4. All entities must be made whole and an amortization schedule of repayment to the City and RDA (Redevelopment Authority) must be completed.

Dr. Ferguson stated that the referenced repayment would be for the \$500,000 grant-to-loan from the City and the \$80,000 loan that the RDA forwarded to GRO-Warren for development of the ACA building. He further stated that it is important to consider that the original agreement for the payback of the \$500,000 was for a period of twenty years and it was never expected that the City would receive payback in an immediate fashion.

5. A developer(s) will need to meet a completion schedule for renovations which is determined and approved at the beginning of any renovation project. A developer will be required to agree to an amortization schedule to repay the City. Any developer must be approved by the City.
6. Warren Main Street will complete the sale of the Natale building with any proceeds of the sale to be used to assist in settling present debts to the contractor and/or the City.

Dr. Ferguson noted that Dan Ristau, of Warren Main Street, has told members of Council that he has been able to investigate, and possibly secure, a buyer for the Natale building.

7. Any plans envisioned for the completion of the ACA building are inherently complicated and, therefore, subject to ongoing financial and legal reviews and adjustments.

Dr. Ferguson stated that if Council approves of this strategy along with the membership of the committee, the committee will then take responsibility for contacting the other stakeholders. He further stated that, on behalf of City Council, he has been in contact with Eriez Construction and Eriez has indicated that they are willing to discuss this matter.

Mr. Cashman made the motion to form a committee and take the action proposed by Dr. Ferguson. The motion was seconded by Mr. Lewis and carried unanimously with six votes in the affirmative and one abstention by Mayor Phillips who cited a potential conflict of interest.

SEVERANCE OF COOPERATION AGREEMENT WITH GRO-WARREN, INC.

Mr. Harvey referenced the September 21, 2009 regular meeting minutes of City Council which reflect Council's approval of a Cooperation Agreement between the City and GRO-Warren, Inc. The referenced agreement stipulates that it "will continue in perpetuity unless revised, revoked, or if either entity would dissolve as an organization." Mr. Harvey suggested that, in consideration of the uncertain status of GRO-Warren as a viable entity and the potential for legal action against GRO-Warren, the agreement be severed.

Mr. Harvey made the motion to sever the Cooperation Agreement with GRO-Warren, Inc. The motion was seconded by Mr. Park. The motion carried with six votes in the affirmative and one abstention by Mayor Phillips who cited a potential conflict of interest.

MAIN STREET ADDRESS TO COUNCIL

(See also: December 19, 2011 City Council Regular Meeting Minutes, Allegheny Center for the Arts)

(See also: January 16, 2012 City Council Regular Meeting Minutes, Eriez Construction Address to Council and Main Street Address to Council)

Mr. Nelles stated that he spoke via telephone to Jim Schreiber of Eriez Construction on

February 16 and Mr. Schreiber indicated that his company is willing to enter into discussion as to a means to remove the plywood enclosure located at the front of the ACA building.

Mr. Harvey stated that, per the Pennsylvania Department of State web site, GRO-Warren, Inc. is an active corporation with a slate of officers and has not yet been fully dissolved.

Dan Ristau thanked Dr. Ferguson for his efforts and indicated Main Street's willingness to proceed in accord with the proposed course of action while reserving the right to also proceed independently.

Mr. Ristau stated that there are "several actionable situations in this whole matter" and further stated that Main Street is with counsel and looking into these actionable matters. Mr. Ristau stated that one of the items is an effort to collect money which Main Street asserts that they do not owe and the resultant damage to Main Street's reputation. Mr. Ristau stated that Main Street did not sign the \$500,000 loan or the \$80,000 loan and requested that a press release be made to that effect. Mr. Ristau presented copies of e-mails which he asserted evidence efforts to pressure Main Street Board members into signing proposed agreements regarding the ACA building.

Mr. Ristau stated that he has been contacted by a "legal watchdog group" which has been observing "all of this" and have stated their desire to put together a legal brief to be sent to the U.S. Attorney's Office. He indicated that this is to include "the whole matter – the KDA, the building, what's happened on the west end – put it all in what they call something that cannot be overlooked." He clarified that the "west end" referred to the BVK grant.

Julia Tarr stated that she looks forward to meeting with the newly-formed committee and will be prepared with a list of possible resolutions. Ms. Tarr questioned to whom the shared stairwell (see Main Street question number 4 above) is deeded and asserted that there were numerous conversations between Mayor Phillips and Christine Cheronis (former executive director of GRO-Warren, Inc.) regarding the shared skylight. Ms. Tarr suggested that the architect be contacted regarding this item.

Regarding Main Street question number 10 (see above), Ms. Tarr stated that she did not, at any time, sign a check drawn on a GRO-Warren account.

Ms. Tarr stated that the proposed contract was not only with Eriez Construction but also his successors and/or his assigns and asserted that Tim King would be the "successor and/or assign."

Ms. Tarr stated that she seeks not only a resolution to this matter, but to also receive an apology for the actions that happened. Ms. Tarr stated that via her Right-to-Know request submitted to the City, she learned that the \$80,000 loan from the RDA was issued to GRO-Warren and asked that another letter be written by the RDA for submission to the newspaper for clarification of this matter.

Ms. Tarr quoted an e-mail from the GRO-Warren secretary stating, "If Eriez came through with an offer they may want to take over the 501(c)3 as they could use it to obtain grants for future projects. Mr. Ristau stated, "We are very sure, by the way, that GRO-Warren was signed over. We're almost 100% positive that it was signed over." He further stated that he was not aware of to whom it was signed over. Mayor Phillips responded that he could state with certainty that GRO-Warren has not been signed over to any other board. He further stated that all members of the GRO-Warren Board have resigned and that two individuals are "winding down" the affairs and

stated that the process of a formal dissolution is not likely to take place as all debts, including taxes, must be brought current prior to receiving authorization to formally dissolve.

In response to Mr. Cashman's question, Mr. Ristau stated that GRO-Warren is a 501(c)3 organization which allows for grant opportunities while Main Street is a 501(c)4 non-profit organization without the benefit of grant opportunities.

Mr. Harvey suggested that, if Council is in agreement that Warren Main Street does not owe the City money, Council should request that the RDA rescind the demand letter. Mr. Cashman stated that the Anchor Building grant implies that GRO-Warren and Main Street are one and the same. He further stated that the City is now aware that while there were discussions regarding the merger of GRO-Warren and Main Street, this action did not formally occur.

Mr. Lewis made the motion to: "(1) We need to make a motion to instruct the Manager to have the RDA rescind that letter. (2) To instruct the Manager to also issue an apology to Main Street for, what I would call an unfair attempt at collecting, from people who did not sign the agreement in the first place whether they were part of, or sort of, or Warren Downtown Business District Coalition, whatever. They are separate entities." The motion was seconded by Mr. Harvey.

Mr. Harvey inquired as to whether the City Manager can instruct the RDA as to what to do. Mr. Nelles stated that the RDA is a separate authority and he may suggest action to be taken but cannot order them to do so.

Mr. Cashman suggested that the motion be amended to direct the City Manager to request rescission of the letter, to request a letter of apology, and to request the RDA to send a demand letter to GRO-Warren. Mr. Lewis stated that he would amend his motion to reflect such. Mr. Harvey seconded the amended motion.

Upon roll call vote, the amendment to the motion carried with six votes in the affirmative and one abstention by Mayor Phillips who cited a potential conflict of interest.

Upon roll call vote, the original motion carried with six votes in the affirmative and one abstention by Mayor Phillips who cited a potential conflict of interest.

During discussion, Dr. Ferguson suggested someone representing City Council should make a presentation to the RDA regarding this matter so that they may make an informed decision as to how to proceed.

Mr. Nelles stated that "they (Main Street) own the buildings and that the City would be remiss not to try to recover the City funds when they are the owner of the buildings and that is where the confusion comes in, I know, because Chris Cheronis when she titled those buildings under Main Street did create some additional confusion."

Mr. Nelles stated that the City continues to await the State monitoring report regarding the Anchor Building Grant-to-Loan and noted that the City will have fifteen days to respond to the report.

AUTHORIZATION FOR PAYMENT TO CUMMINS CONSTRUCTION COMPANY – STREETSCAPE PHASE I

Mr. Cashman made the motion to pay Cummins Construction \$100,000 as its final payment subject to Cummins Construction signing off that there are no more liabilities. The motion was seconded by Mr. Park and carried with six votes in the affirmative and one negative vote cast by Mr. Lewis.

APPROVED MINUTES OF BOARDS AND COMMISSIONS

Council acknowledged receipt of the following approved minutes:

- | | | | |
|---------------------------------|---|-------------------|-----------------|
| Parks and Recreation Commission | – | December 6, 2011 | Regular Meeting |
| Planning Commission | – | December 21, 2011 | Regular Meeting |

ADJOURNMENT

There being no further business to come before Council, Mayor Phillips declared the meeting adjourned.