

ALLEGHENY COUNTY COUNCIL
REGULAR MEETING

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BEFORE:

John P. DeFazio - President,
Council-at-Large
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
Richard Olasz, Sr. - District 9
James E. Simms - District 10
Richard Fitzgerald - District 11
Wayne Fontana - District 12
Joseph Natoli - District 13

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

Tuesday, December 19, 2000 - 5:09 p.m.

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APPEARANCES:

JAMES J. DODARO, ESQ., and JACOB N.
SKEZAS, ESQ., of the law firm of Dodaro,
Kennedy & Cambest, 1001 Ardmore Boulevard,
Suite 100, Pittsburgh, Pennsylvania
15221-5233, appearing on behalf of the
Allegheny County Council.

- - -

IN ATTENDANCE:

Guy A. Tumolo, Chief of Staff
John Mascio, Chief Clerk
Terrence F. McVerry, Esq.,
County Solicitor
George M. Janocsko, Esq.,
Assistant County Solicitor

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MR. DeFAZIO: The meeting will come to order. Will you all rise for the Pledge of Allegiance to the Flag.

(Pledge of Allegiance.)

MR. DeFAZIO: We'll have the roll call.

MR. MASCIO: Mr. Crossey?

MR. CROSSEY: Here.

MR. MASCIO: Mr. Fawcett?

MR. FAWCETT: Here.

MR. MASCIO: Mr. Fitzgerald?

MR. FITZGERALD: Here.

MR. MASCIO: Mr. Fontana?

MR. FONTANA: Present.

MR. MASCIO: Mr. Francis?

MR. FRANCIS: Here.

MR. MASCIO: Mr. Gastgeb?

MR. GASTGEB: Here.

MR. MASCIO: Mr. Martoni?

DR. MARTONI: Here.

MR. MASCIO: Mr. Natoli?

MR. NATOLI: Here.

MR. MASCIO: Mr. Olasz?

MR. OLASZ: Aye.

MR. MASCIO: Ms. Rea?

MS. REA: Here.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Here.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Here.

MR. MASCIO: Mr. Simms?

DR. SIMMS: Here.

MR. MASCIO: Ms. Wagner?

(No response.)

MR. MASCIO: Mr. DeFazio, President?

MR. DeFAZIO: Here.

MR. MASCIO: Fourteen members present.

MR. DeFAZIO: Okay. We have public comments. We have Jon Pushinsky.

MR. PUSHINSKY: Yes.

MR. DeFAZIO: I don't know how long you have, but usually we let you speak for three minutes. Is that --

MR. PUSHINSKY: That's okay.

MR. DeFAZIO: Okay.

MR. PUSHINSKY: My name is Jon Pushinsky, Members of Council. I am a lawyer who practices in the City of Pittsburgh. I also reside in the Highland Park section of the City. I am here today to speak on behalf of the American Civil Liberties Union in opposition to a policy

or practice which would result in the continuation of the display of a religious text, the Ten Commandments followed by Deuteronomy, Chapter 6, Verse 5, on the side of the County Courthouse.

Wit Walczak, the Executive Director of the American Civil Liberties Union, had a personal commitment and asked me to take his place today. The reason he requested me is because of my knowledge, information, experience and interest in the religion clauses of the First Amendment. I have litigated several, including the religious display case involving the display of the Nativity scene inside this building, the display of the menorah outside of the City-County Building. I have litigated creationism cases in our public schools, and I have litigated against our state prison system in an attempt to get religious accommodations for inmates in the prisons who without those accommodations would not have an opportunity to practice their religions due to their incarceration.

I urge this Council to take a position which would result in the removal of the plaque for three reasons. One, it is unconstitutional, and you are likely to lose in any court battle. Two, it will cost the County much money if it is litigated and the County loses, perhaps in an amount in excess of several hundred thousand dollars in attorneys' fees not for your own lawyer but to pay for the lawyer who would represent the plaintiffs in such a lawsuit. An attorneys' fee award was paid by the County in the original religious display case back in 1989. And third, such a dispute, by taking a policy that you were told by your own County Solicitor is unconstitutional, will result in community discord that will split this County wide open and it will do so in a way that is likely to be done on sectarian grounds. That type of dispute will not serve this County, and a policy adopted by this Council or the County Executive which knowing is unconstitutional yet promotes discord does not serve this County well.

Now, I start out --

DR. SIMMS: That's it.

MR. PUSHINSKY: Are there any questions?

MR. FITZGERALD: Mr. President.

MR. DeFAZIO: Yes.

MR. FITZGERALD: I would request Mr. Pushinsky -- this is on our agenda tonight, this motion. If you could maybe be around for some questions later --

MR. PUSHINSKY: Sure.

MR. FITZGERALD: -- when we debate this issue, I think it would probably be very helpful to this body.

MR. PUSHINSKY: Right. Because in preparation for coming here tonight, I did some research. There have been no less than five federal court cases decided this year alone on the display of Ten Commandments, all of which have gone against the government bodies.

MR. DeFAZIO: Okay. Next we have Earl Jones.

MR. JONES: Thank you very much for having me be here tonight.

My support would be behind keeping the Ten Commandments on the Courthouse. As a matter of fact, here's a shirt (indicating) that just came out yesterday. It says Peace Through Prayer. On the back of the shirt is the Ten Commandments. These shirts will be going out for sale pretty soon, and all that money will go toward making the monument Peace on Earth. In other words, it's Peace on Earth, but it's actually toward the Ten Commandments. The Ten Commandments will be placed on the monument.

This will be the third monument that I've made. One in Maryland for a runner that died in the Marathon, one in -- one of the monuments are in Greenfield as a runner died, and also the two little children that got shot by driveway shootings. I didn't know any of these people, but I did spend \$4,500 for an idea that worked.

So as of today in the -- down at the point we're going to have a Peace Through Prayer. With your permission, you let me do this. I only ask one thing from the Council now. When I make the monument, I'd like to have you tell me where to put it. I'll ask Jim Roddey, and I'll ask the Mayor. This will be the monument I'll build, and I'll turn to you just for your guidance. I only ask for your guidance.

MR. DeFAZIO: Thank you.

Okay. Next we have unfinished business. Report of the -- sorry. A

Proclamation. We have a Proclamation first. A Proclamation recognizing and commending the South Park Eagles Marching Band on winning the Pennsylvania State Championship. Sponsored by Council Member Gastgeb.

(Applause.)

MR. GASTGEB: Thank you, Mr. President.

Today we have a group of extraordinary youngsters from my district, the South Park area.

I've had the privilege of being up here in the past to recognize state champions. A lot of times we talk about state champions in the context maybe of athletics through the school system, but today I think we have a venue, if you will, of a group of youngsters who have to hone their skills many ways, have to be very good at what they do, and the precision of how they do their jobs has to be nearly second to none to perform. So the dedication and the things they go through, I personally respect very much.

I'd like to ask Mr. Bill Rossetti to come up here from the South Park Marching Band because this band did something that I think every band in the State of Pennsylvania would like to have happened. They won the State Championship.

Mr. Rossetti, I'd like to read this Proclamation to you on behalf of Allegheny County Council in light of the excellent showing you performed. The kids could stand behind me.

WHEREAS, the South Park Eagles Marching Band, under the instruction of Director William Rossetti and Assistant Director Amy Wolfe, have displayed a level of achievement to be admired by the community; and

WHEREAS, the South Park Eagles Marching Band was successful in capturing first place in the Pennsylvania Interscholastic Marching Band Association for two consecutive years, securing the title, Class A PIMBA State Champions; as well as earning first place in the distinguished "Tournament of the Bands Competition," a magnificent accomplishment worthy of the esteem of the citizens of Allegheny County; and

WHEREAS, the members of the South Park Eagles Marching Band advocate a community spirit which is unparalleled by

providing entertainment at Varsity Football games, as well as partaking in a myriad of community functions such as the South Park Community Day Parade, the Halloween Parade, and the Memorial Day Parade;

NOW, THEREFORE BE IT RESOLVED, that the Allegheny County Council hereby acknowledges the South Park Eagles Marching Band for their perseverance and determination and commend them for their tireless efforts and contributions they have made to their community.

I'd like to present you with this Proclamation.

(Applause.)

MR. ROSSETTI: Thank you.

MR. GASTGEB: A few words?

MR. ROSSETTI: Thank you, Mr. Gastgeb, for this opportunity. I'm always very pleased to teach the students of South Park, and I thank you for representing us here at the County Council.

MR. GASTGEB: Thank you very much. At this time I'd like to pass out the Proclamation to the youngsters. This, by the way, isn't the whole band, is it?

FROM THE FLOOR: No.

MR. GASTGEB: I'm going to give you the rest, and whatever we're short, I'll make sure that you get so each child is recognized. Again, thank you for an outstanding effort. Congratulations on your State Championship.

MR. ROSSETTI: Thank you.

(Applause.)

MR. SHUMAKER: Mr. President, I didn't have time to put this on the agenda, but I was hoping that you would recognize Staff Sergeant McGinley from the Marine Corps Reserve who will talk for just a minute about the Toys For Tots Program.

MR. DeFAZIO: And again, I told you I would, so where's he at? Come on up.

MR. OLASZ: Mr. Chairman, if I might, while the Marine's moving up here, I'd like to recognize Representative Harry Readshaw, who was also a gyrene at one time and my colleague in the House. Harry, stand up, please.

(Applause.)

STAFF SERGEANT MCGINLEY: Thank you, County Council Members. My name is Staff Sergeant McGinley from the Marine

Corps Reserve. I've just come down to remind people that this is the fifty-third year of the Marine Corps we've been involved in giving toys in the local Allegheny County, Pittsburgh area to needy families and needy children. So far this year we've collected quite a few toys, and I was told that there was going to be at least a truckload of toys in the County Council Chambers tonight, so I've got the truck waiting downstairs.

MR. DeFAZIO: I don't know about a truckload, but there were some toys back there.

STAFF SERGEANT MCGINLEY: Thank you. Thank you very much. I don't want to take up too much of your time and hoorah.

MR. SHUMAKER: Staff Sergeant McGinley, if people would like to donate toys, are there any locations they could use?

STAFF SERGEANT MCGINLEY: There is the North Versailles, that's where the Reserve Center's located at, and there's also another drop-off location Fifth Avenue, 200 Fifth Avenue downtown, Dollar Bank, the Post Office, quite a few other locations. And good luck in the Council meeting tonight.

MR. DeFAZIO: Thank you.

STAFF SERGEANT MCGINLEY: Thank you.

(Applause.)

MR. DeFAZIO: Okay. Unfinished business. Report of the Committee on Public Safety relative to Council Bill No. 0168. Communication from Chief Executive Jim Roddey submitting the name of Reverend James McLemore to serve as a member of the Juvenile Detention Board of Managers at Shuman Center. It was in Committee on Public Safety on December 13th.

Jan, do you --

MS. REA: Yes. Mr. Chairman, the Public Safety Committee does recommend that Reverend McLemore be appointed to the Shuman Center Board. (Brief pause.)

DR. MARTONI: Do you need a second?

MS. REA: No, no. I was going to say something after the siren.

He's the pastor at Bethel African Methodist Episcopal Church, and he's also a psychologist, so he does bring a good mix to that Shuman Board.

I attended the meeting.
Mr. Gastgeb voted in support of putting Reverend McLemore on the Board, and we did speak to him by phone. Thank you.

MR. DeFAZIO: Are you putting that in the form of a motion now?

MS. REA: Yes.

DR. MARTONI: I'll second that motion.

MS. REA: Thank you.

MR. DeFAZIO: Any remarks?

MR. CROSSEY: John.

MR. MASCIO: Motion to approve the appointment of Reverend --

MR. DeFAZIO: Hold it. Hold it.

MR. MASCIO: I'm sorry.

MR. DeFAZIO: Mike.

MR. CROSSEY: I was just going to ask a question. Did Reverend McLemore attend the interview, or is he here this evening?

MS. REA: No. I stated that I did speak to him by phone at the meeting.

MR. CROSSEY: Okay.

MR. DeFAZIO: Any other questions?

Mr. Simms.

DR. SIMMS: Yes, just one comment. I would like to support Ms. Rea's committee's recommendation. Reverend McLemore is an outstanding person, pastors an outstanding church and does tremendous work not only in the City but in the Hill District, and I think Shuman would be well served by having him as a part of the Board. And for those that may not have known him or had not a chance to talk with him, I support Reverend McLemore as being a man of the highest character and would serve well this position, and I support the recommendation of the committee. Thank you.

MS. REA: Thank you.

MR. DeFAZIO: No further questions, would you take a vote.

MR. MASCIO: The vote is on a motion to approve Reverend James McLemore to serve as a member of the Juvenile Detention Board of Managers at Shuman Center.

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: Mr. Gastgeb?
MR. GASTGEB: Yes.
MR. MASCIO: Mr. Martoni?
DR. MARTONI: Yes.
MR. MASCIO: Mr. Natoli?
MR. NATOLI: Yes.
MR. MASCIO: Mr. Olasz?
MR. OLASZ: Aye.
MR. MASCIO: Ms. Rea?
MS. REA: Yes.
MR. MASCIO: Mr. Schwartz?
MR. SCHWARTZ: Yes.
MR. MASCIO: Mr. Shumaker?
MR. SHUMAKER: Yes.
MR. MASCIO: Mr. Simms?
DR. SIMMS: Yes.
MR. MASCIO: Mr. DeFazio,

President?

MR. DeFAZIO: Yes.

MR. MASCIO: Ayes, 14; noes,
zero. Motion carries.

MR. DeFAZIO: 0198. Resolution amending the 2000 Capital Budget to add \$287,863 to project entitled Family Court Facility (Project #026018) for purchase of data/networking equipment at new Family Court Facility and to add \$1,204,450 into Port Authority 2000 Section 5307 Block Grant (Project #023002). Additional funding will come from eliminating \$1,492,313 in appropriation from the project entitled Shuman Center (Project #026042). This is the second reading. It was in Committee on Budget & Finance.

Mr. Simms.

DR. SIMMS: Thank you,
Mr. President.

Mr. President, I'd like to amend 0198 to separate out the two actions. I'd like to have an amendment that would amend it so that we can separate out the first part, which is dealing with the Family Court Facility, and to separate that out.

Out of our committee we came to two separate recommendations. The first recommendation was to approve the Family Court request. The second part of 0198 deals with an appropriation to the Port Authority from a capital project the Shuman Center. We are not prepared to

deal with that one this evening. The committee wants to have further discussion on this and to talk to the Port Authority and to Shuman Center about it. So rather than have it come this way, I would like to amend it to separate out and have us take action on the first part and then refer the second part back to the committee if that's all right.

MR. FONTANA: I'll second that.

MR. OLASZ: I so move,

Mr. Chairman.

MR. DeFAZIO: Second.

Under remarks? No remarks?

MR. SHUMAKER: Mr. President.

MR. DeFAZIO: Yes.

MR. SHUMAKER: I just wanted to know, was there a vote taken on the committee?

DR. SIMMS: Yes. The vote was unanimous to bring up the recommendation I just brought forward. Thank you.

MR. SHUMAKER: Thank you.

MR. DeFAZIO: Seeing no other remarks, we'll take the vote.

MR. MASCIO: Vote on Bill No. 0198 as amended?

MR. DeFAZIO: Yes.

MR. MASCIO: 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: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Mr. Natoli?

MR. NATOLI: Yes.

MR. MASCIO: Mr. Olasz?

MR. OLASZ: Aye.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.

MR. MASCIO: Mr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Mr. DeFazio, President?

MR. DeFAZIO: Yes.

MR. MASCIO: Ayes, 14; noes, zero. The bill passes as amended.

MR. DeFAZIO: Okay. We have a 15-minute presentation from ALCOSAN. Are you ready over there?

(ALCOSAN presentation and report to Council on the activities of the Authority.)

(Discussion held off the record.)

MR. OLASZ: I have another item for you if the court reporter would pick this up because I have a specific reason for it.

MS. WILLIAMS: Okay.

MR. OLASZ: Have you placed any restrictions on restaurants in your system that require them to install grease traps?

MS. WILLIAMS: I will let Mr. Hannum address that.

Mark, would you like to respond?

MR. HANNUM: Yes. There's an active industrial surcharge program where we've encountered restaurants that have discharged grease in excess of 200 milligrams per liter where we've --

MR. OLASZ: What's that number again?

MR. HANNUM: 200 milligrams per liter where we've ordered them to install some type of treatment. I mean, again, it's not a blanket approach, but as we find the problems, we've addressed them and usually in cooperation with the municipalities.

MR. OLASZ: Were you under any order from DER or EPA to pursue this?

MR. HANNUM: No.

MR. OLASZ: Well, I have a specific reason, because I live in West Mifflin and they came out with a building inspector forcing all restaurants in Century III and even churches to install grease traps even though I know when those systems were put in years ago, that the pumping stations and what all and the treatment plants did have that equipment. We had secondary. We didn't go into tertiary treatment. But their claim is that they were under order to go to every restaurant, church, whatever, to install grease traps, which in some instances can run up to \$8,000 at least minimum. For churches, I think it's ridiculous.

MR. HANNUM: West Mifflin is a

different system than ours.

MR. OLASZ: I know. I know.

MR. HANNUM: There are a number of systems that have gone to the wholesale approach where they say okay. Everybody to be fair will do that. I'm not so sure that's always the best use of resources.

MR. OLASZ: Once again, there's no recent order from DER or EPA?

MR. HANNUM: Not dealing with ALCOSAN.

MR. OLASZ: Because I checked with the Plumbing Association of Allegheny County, and I just wanted verification of that fact.

MS. WILLIAMS: No, there is nothing relative to ALCOSAN in the ALCOSAN system.

MR. OLASZ: Thank you very much.

MS. WILLIAMS: Certainly.

MR. SHUMAKER: Thank you very much. I enjoyed your presentation.

MS. WILLIAMS: Thank you.

MR. SHUMAKER: My question is one that probably you can't tell us on the spot, but if you could please get back to us. It doesn't pertain specifically to your presentation, but we are discussing a Living Wage Ordinance, and I would just like to know -- you mentioned a lot of the contractors right now who are working on expanding the facility, and would you please let us know if all of the employees of all of those contractors are paid a living wage.

MS. WILLIAMS: We can check into that, and we'll get back to you.

MR. SHUMAKER: Thank you very much.

MS. WILLIAMS: Thank you.

MR. DeFAZIO: Okay. Seeing no other questions, thank you.

MS. WILLIAMS: Thank you very much.

MR. DeFAZIO: Next we have new business. 0211. Motion Expressing Sense of Allegheny County Council requesting an audit of the procedures used to pay County Constables.

At this point I have a person here that's the Manager, Bob Gallis. Would you please come up. Yes, do you want to speak on this?

MR. GALLIS: President DeFazio, Council and Council people, members, I was on vacation yesterday and today, and when

I saw this on the agenda, I felt that I should come in and give an explanation of what's going on here.

I've been in this position going on six years in February. I've taken on people, Constables for fraud all by myself, protecting the County taxpayers' money, and finally, after almost six years, we've come down to a procedure that works. The only thing we need is the appropriate appropriations to pay the Constables.

Now, the reasons for that is if you go into the Clerk of Courts at any time of the day and look from wall to wall at all the criminal files, you'll see more than you ever saw before. Go down to the District Justices. Out in North Versailles -- this is only November -- we have a District Justice out there that has heard 12,000 cases. No matter whether they're traffic or criminal, 12,000 cases. Mr. Olasz's son up there in West Mifflin is one of the busy ones. They do nine to ten thousand cases a year. Down the river, District Justice Presutti and Russo do approximately 10,000 apiece.

The Constable is the arm of the law enforcement field. We need them to transport to the District Justices or to the Family Division Courts for the hearings, to and from. They are involved in transporting the juveniles at Shuman Center to and from hearings. Now that we have spent a lot of money on the Family Division Courts and the new jail that has appropriations, I feel that we need the appropriate appropriations here so that not at the end of every year that we have to go in and say, "Hey, how about giving us some money to pay these guys."

Now, I understand when I come in today that the November money owed to the Constables is going to go out in probably a day, which leaves only December, but we're right on keel.

Since I came to my job here, we have a printout here that's provided by the Clerk of Courts to the Controller, and I had put in the date of service, which shows whenever that Constable executed that voucher which he turns in to get paid. We are paying -- now, thank God, I have them up to 45 days which the law requires that they be paid on criminal cases. The District Justice pays directly out of his office to the Constable for

civil work, and that's required by law in 15 days. However, we have the subpoenas by the District Attorney's Office which the Constables serve. We have the Family Division warrants. We have the criminal bench warrants, the juvenile warrants. You've got a lot of things involved here.

Today I was prepared to go into everything, but it would be quite a lengthy thing, and from what I understand, there is a committee here on this subject, and I would be glad to attend the meeting with the committee and go over everything here so that everybody understands fully what's going on, because I think -- up until this time I don't think everybody has an idea of what's going on.

We do have a good procedure, and this procedure came into effect because years ago all the Constable had to come in and go to the Clerk of Courts. He was given a little voucher. He'd go right down to the Treasurer's Office and get paid. There was no documentation as to what he was getting paid for. And real quick, under Act 44, which was under state legislature, is a voucher which was made up by the County, myself and the Law Department, which is exactly what the law reads, Act 44, what they get paid for each item. They have to turn one of these in in order to get paid.

Now, what I have to do is on the summaries -- every summary submitted by the District Justice Office comes to the Clerk of Courts which finally comes to me. I have to go through all the paperwork. The criminal vouchers that come in that go to the Clerk of Courts that are put into a voucher and assigned an OTN number, I have to get those on a daily basis. Subpoenas, bench warrants, Family Divisions that come, I have to go through all of this paperwork. I don't just look at a voucher here and okay it. I have to go through the supporting papers that are to it. So I would say if there is a committee, that I would like to attend that committee meeting and give whatever information I have and answer further questions as to what's going on here.

MR. OLASZ: Mr. Chairman.

MR. DeFAZIO: Go ahead.

MR. OLASZ: Mr. Chairman, this obviously is a very complicated issue. I therefore move at this time that this

motion be tabled until we have an opportunity to have Mr. Gallis come in and the sponsor of this motion explaining what his concerns are and Mr. Gallis as to what procedures are being taken to correct it.

DR. MARTONI: I'll second the motion.

MR. FITZGERALD: Second.

MR. DeFAZIO: Okay. Under remarks?

DR. SIMMS: Mr. President, just so I'm clear about this, under the first reading --

MR. DODARO: Our parliamentarian messed up.

MR. DeFAZIO: I miscued under this here. There's no remarks under the amendments, so I guess --

DR. SIMMS: Go ahead.

MR. DeFAZIO: -- we should vote.

DR. SIMMS: That's all right. Go ahead. That's fine.

MR. DeFAZIO: I don't want to get caught up in my own thing here.

Okay. We have a motion. Do you want to --

MR. MASCIO: Motion to table Bill No. 0211.

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: Mr. Gastgeb?

MR. GASTGEB: No.

MR. MASCIO: Mr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Mr. Natoli?

MR. NATOLI: Yes.

MR. MASCIO: Mr. Olasz?

MR. OLASZ: Aye.

MR. MASCIO: Ms. Rea?

MS. REA: No.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: No.

MR. MASCIO: Mr. Simms?

DR. SIMMS: Yes.

MR. MASCIO: Ms. Wagner?

(No response.)

MR. MASCIO: Mr. DeFazio,
President?

MR. DeFAZIO: Yes.

MR. MASCIO: Ayes, nine; noes,
five. The motion carries.

MR. DeFAZIO: Thank you. We'll
get back to you on that.

MR. GALLIS: Okay.

MR. OLASZ: Another example of
bipartisan participation.

MR. DeFAZIO: Mr. Shumaker.

MR. SHUMAKER: Just as a
question, is there a set period of time
that -- how will this be untabled, for
lack of a better term?

MR. DeFAZIO: We're going to
have a meeting.

MR. TUMOLO: Two-thirds vote.

MR. DeFAZIO: Well, we could
put it in Jan Rea -- it would be in Public
Safety, and we'll call a meeting, and
Mr. Gallis would like to be there, and you
want to attend, you can come, and we can
talk about it.

MR. SHUMAKER: I'm just trying
to get a sense. I mean, are we now to the
point where it will require a two-thirds
vote to ever vote on this?

MR. DeFAZIO: No.

MR. TUMOLO: Yes. To untable,
a vote to untable --

MR. MASCIO: Just to untable
it.

MR. DeFAZIO: No.

MR. TUMOLO: To untable it, you
need two-thirds vote.

MR. DeFAZIO: We just tabled it
to have a meeting.

MR. TUMOLO: Yes. You didn't
vote to table it. You voted to put it
aside.

MR. SHUMAKER: And my only
question, Mr. President, is -- or I should
say a suggestion is that in the future I
would like to see a process so that when
we table something, we table it for a set
period of time. Otherwise, it would
allow --

MR. DeFAZIO: Yes, but you
can't do that if someone says, "I table
it."

MR. FRANCIS: I believe,
Mr. President --

MR. DeFAZIO: Hold it. Hold
it. Wait a minute. Chuck Martoni.

MR. SHUMAKER: It's only a
suggestion.

MR. DeFAZIO: Wait a minute.
Wait.
DR. MARTONI: I had my hand up
first.
MR. DeFAZIO: Hold it. Hold
it.
DR. MARTONI: I had my hand up
first.
MR. DeFAZIO: Now, you stop for
a minute and take a breath of air.
DR. MARTONI: Teacher, I had my
hand up.
MR. DeFAZIO: Go ahead.
MR. OLASZ: Pause for station
identification.
DR. MARTONI: I seconded that
motion because I thought there was a life
on the table. If I understood the motion
correctly, and I did because I seconded
it, it said to take it to committee for a
recommendation.
MR. DeFAZIO: Right.
DR. MARTONI: It was implied
and said it. So I would assume that it
would go to the Public Safety Committee
and the Public Safety Committee would come
back to the full Council, whatever time
that takes.
MR. FITZGERALD: Yes.
MR. DeFAZIO: That's the way it
would --
DR. MARTONI: I think that's a
pretty safe assumption.
MR. FITZGERALD: Yes,
absolutely.
MR. DeFAZIO: Okay. Go ahead,
Mr. Francis.
MR. FRANCIS: And just for
clarification, I believe if you look at
Robert's Rules of Order, you cannot table
something for an indefinite period of
time. That is not within the rules.
MR. DeFAZIO: We know.
MR. FRANCIS: But that was
where this conversation was headed. I
think it's --
MR. DeFAZIO: We said that.
MR. FRANCIS: I could find it
if I had the book.
MR. DeFAZIO: Well, we agree
with you. You can save your time. Okay.
MR. OLASZ: Christmas is
coming.
MR. DeFAZIO: Okay. Do you
want to come back now? No? Good. Saves
that.
All right. Anything else?

(No response.)

MR. DeFAZIO: Let's go on with the next thing. 02 -- wait a minute. Wait a minute, and we'll get back to that. The County Controller was here. I don't know if he wanted to speak on this or not. No? Fine.

Okay. 0212. An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, granting a license to Columbia Gas of Pennsylvania, Inc., for the purpose of installing and maintaining gas supply facilities on County-owned land located in North Park in Pine Township. First reading. It was submitted by the County Manager. Refer to Public Works.

0213. An Ordinance of the County of Allegheny establishing a County Taxpayers Bill of Rights. First reading. Sponsored by Council Member Shumaker. Refer to Committee on Budget & Finance.

0214. Amending Ordinance No. 41, approved December 12, 2000, entitled, "An Ordinance providing for the establishment of the Tax Levy upon all real property, subject to taxation within the limits of Allegheny County," by adding a discount rate for payment of current real estate taxes prior to April 1st, and setting the penalty and interest rate on delinquent real estate taxes. First reading. Sponsored by Council Member Simms. Refer to Committee on Budget & Finance.

0215. Resolution supporting the 112-year-old Allegheny County Courthouse as a National Historic Landmark to remain in its current condition and state; rejecting the efforts of a Washington DC group known as, Americans United for the Separation of Church and State, to alter this landmark by removing the bronze plaque entitled, "The Commandments," which has adorned the Courthouse for 80 years. First reading. Sponsored by Council Member Gastgeb. Co-sponsored by Council Member Olasz, Council Member Rea, Council Member Crossey, Council Member Fontana, and Council Member Martoni.

MR. GASTGEB: Mr. President.

MR. DeFAZIO: At this point, before you do that, I have a letter here pertaining to this from our County Solicitor, Terry McVerry, sent to Margaret F. Garrett from the Americans United for Separation of Church and State,

Washington, D.C. I'll read this.

"This correspondence is in response to the demand of your organization for the removal of the bronze plaque entitled 'The Commandments' which has adorned the National Historic Landmark H. H. Richardson Allegheny County Courthouse for nearly 100 years. Neither the Chief Executive nor the President of County Council accede to your contention that the Constitution of the United States 'mandates that the plaque be removed from the Allegheny County Courthouse' and therefore your request is respectfully declined." Signed Terrence F. McVerry.

Okay.

MR. GASTGEB: Thank you, Mr. President.

I think at this time it's appropriate to further look at the Resolution with your indulgence. The Resolution speaks to in its entirety:

Whereas, the Allegheny County Courthouse was built in 1888 and has been designated a National Historic Landmark. Including the semblance of symbols and plaques within the building, which was a contributory factor to this historical designation; and

Whereas, the very fiber of our community has for over 100 years looked upon the Allegheny County Courthouse as the foundation of our County with the many values and traditions that have long been established and agreed to by the citizens of Allegheny County and an interpretation of the express will of the people being therefore satisfied.

Whereas, "The Commandments" reflect values that are important to this community today as they were in the early part of the century.

Be it resolved by the Council of Allegheny County as follows:

That the Allegheny County Council believes that any issue regarding the Courthouse and the preservation is best served through the Home Rule Charter with the Executive and Legislative branches; also recognizing that while a public building, a special designation as an historic landmark has already been granted and this designation has been met with unanimity within the community.

Also, be it resolved that Allegheny County Council supports the decision of the Allegheny County Chief

Executive Jim Roddey and also rejects the demands of Americans United for the Separation of Church and State or any such group to alter this National Historic Landmark by removing, changing, or altering any of the features including the aforementioned bronze plaque that serves as a reflection of the values and foundation of this community.

I think it's important to know as a legislative body we certainly have the authority to make just laws and we certainly have the authority to pass appropriate resolutions that expressly, in our opinion, view the will of the people. In my opinion, this is a legislative matter at this point. We have an obligation to protect this building and preserve this building, and instead of attacking the plaque per se, let these outside fringe groups attack the Resolution that will express the will of the people.

The one thing that's different, and don't let people tell you any different, this is an historic landmark. I'm not sure how many cases have been involved in historic landmarks, but this is an historic landmark.

There's values and traditions here in this County that people have fought for, and as elected representatives, we should fight to continue that moving forward. This plaque in question has existed well before any court has ruled any separation of church and state. I believe the First Amendment could be taken a bunch of different ways, certainly not the way outside fringe groups would like us to believe. Therefore, it's not quite that simple. We have to have the will to continue to fight this.

I say that because if you look at beyond our Board, look at what some of the papers have written. The Post-Gazette, while they state they are pretty much in support of church-and-state separation, if I could quote, "So why aren't we cheering Americans United for Separation of Church and State?"

"There are several reasons for not making a federal case of the plaque. It was affixed in 1918, more than 40 years before the U.S. Supreme Court (properly) ruled that official prayers and Bible readings in public schools violated the

First Amendment.

"The plaque is thus an artifact of a time when people responsible for public buildings assumed not only that the Ten Commandments were part of the law-giving tradition of the Western world but also - let's be frank - that America was a Christian nation.

"Because of these positive developments, we see no reason to remove the Courthouse's Ten Commandments plaque, which, far from being a constitutional provocation, escaped the attention of the head of the local chapter of the American Civil Liberties Union."

Another paper, the McKeesport Daily News: "THE FIRST AMENDMENT of the Constitution is clear: 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'

"In turn, state or local governments are also so restricted.

"So is a posting of the Ten Commandments on the wall of the Allegheny County Courthouse a violation of the First Amendment as one activist group now claims?

"We say no.

"The bronze plaque doesn't endorse any religion. The Decalogue, as it is also known, is revered by Christians, Jews and Muslims alike. As is the God whose finger is said to have etched the original laws in stone.

"The plaque does not prohibit free exercise. One can read it...or ignore it."

I have another paper here from the South Hills basically saying the same thing.

If we're going to do our job as legislators, I don't think we could be intimidated by groups who have a so-called track record. Maybe the reason why their track record exists is because people are tired of something that doesn't make sense.

Tonight's vote is not the most important aspect in this fight, if you will. It's going to be the will to continue this after tonight. It's going to be the will politically to move forward. It's going to be the will to work with the many law firms that have agreed to take this on pro bono, at no cost to the County.

In short, I'd like to close. I think this is the right thing to do. I'd ask my colleagues to support this measure, and let me end by saying we have to have faith. Thank you.

(Applause.)

MR. OLASZ: Mr. Chairman, because of the importance of this Resolution, I move that we suspend whatever rules we have in effect to take immediate action on this Resolution.

DR. MARTONI: I second that.

MR. DeFAZIO: Second.

Under remarks?

MR. FITZGERALD: Discussion.

MR. DeFAZIO: Rich.

MR. FITZGERALD: Yes. Number one, if Mr. Pushinsky is still here, I'd like to bring him up here in a minute, but I'd like to make a statement. These type of issues really start to distract us from what we're supposed to be doing as legislators, and I'll read a letter that appeared in the Post-Gazette on Sunday based on this, and this is the type of divisiveness that happens when these issues come up.

"A Christian country.

"Atheists or non-Christians who object to religious displays in public places should be reminded that this is a Christian country built by Christians for Christians. If they don't like it, they should leave it.

"Separation of church and state is going too far. It seems minorities are ruling the majority. Non-Christians should be thankful they were allowed in, as I -- as a Christian -- am thankful." It's written by Bruno Tambellini from Upper St. Clair.

This is the type of intolerance I'm afraid that we would be promoting to try to fight this lawsuit. This is a lawsuit that we would lose.

We just came through a very difficult budget process in which we looked for every dollar. Now, having not known about the Ten Commandments and Jesus quotation plaque until this outside group has filed an objection to it, it was not one of the most important issues we've had to deal with in our first year in this new form of government. However, now that we are about to be the object of a lawsuit regarding its placement, we must deal with it as elected officials, and as an elected

official, we must look at our legal liability.

It is clear from the public statements in the newspaper from our Solicitor as well as others with expertise in this area that if we go to court, we will lose, and what will be the cost of our losing? Having just gone through this difficult budget process in which we looked for every available revenue source and worked to tighten every expense to balance our budget, I find it fiscally irresponsible to put our County government at risk of losing hundreds of thousands of dollars in legal fees and court costs to fight this, and what will we gain even if we win?

The Ten Commandments are a very important document that many of us, including myself, believe in and struggle to follow. As parents, my wife and I spend a lot of Sunday mornings discussing the Ten Commandments with our children. However, as a government official, I must not be in the business of promoting religion. In fact, we will be in violation of the establishment clause of the First Amendment in the eyes of the law. The law has been very clear on these issues.

I have seen a statement by the sponsor, Mr. Gastgeb, who indicates that we should fight this all the way to the Supreme Court, and while this sounds good on its surface, that's a very serious and expensive trip to take. When the County lost the creche case a few years ago, many of the same arguments we are hearing now, we heard then. We lost that case, and it was lucky for us that the plaintiffs were willing to take less in legal fees than they originally asked for. In fact, the creche now located at the USX Tower Plaza celebrates the Christmas season in a way that is more inclusional than before.

What I am suggesting we do, number one, we should table this motion and go -- or send it to committee and have an Executive Session with our Solicitor so we can get further legal opinions on this, but I would suggest that this plaque, which is a wonderful plaque, be donated to a religious group, a church, a historical building or a museum located in town so that people can see it, so that everybody can see it, but it does not have a place on a public building. It is not

historical. The building is historical, but the plaque is not. It's no different than any other plaque.

Additionally, in the spirit of tolerance and inclusion, we must not lose sight of the fact that while those of us on this Council, the majority of us, practice Christianity, there are many in Allegheny County who do not. We all represent members of the Jewish, Moslem, Hindu and other faiths as well as those who do not believe in religion or God at all.

One of the many things that makes America great has been the religious freedom and tolerance that has prevailed throughout our history. There are many examples of countries around the world that have state-sponsored religion, and what is the result? They have less religious participation. America has the highest level of religious participation in the world because people are free to practice their faith in their homes and in their places of worship. If we begin promoting religion, any religion, we chip away at the religious freedom that we enjoy. Thank you, Mr. President.

MR. DeFAZIO: Mr. Shumaker.

MR. SHUMAKER: Mr. President, assuming that Mr. Fitzgerald just made a motion to table, which I think he did --

MR. FITZGERALD: No. I meant to send it to committee --

MR. SHUMAKER: Yes, yes.

MR. FITZGERALD: -- because I don't want to go the two-thirds route. I apologize.

MR. SHUMAKER: A motion to send it to committee, I would second his motion to send it to a committee.

MR. DeFAZIO: Okay. We'll just have to vote. Okay. There's a motion to send it to committee now, and he seconded it.

MR. OLASZ: What committee?

DR. MARTONI: Wait. How could you just --

MR. OLASZ: The Religious Committee?

FROM THE COUNCIL: Do we have a Religious Committee?

MS. REA: Yes, we don't have --

MR. DeFAZIO: Hold it. Chuck, do you have a question?

DR. MARTONI: Yes. I don't think we're really going to send this

thing anywhere. Okay? First of all, we're not talking about the Christian religion or any religion. We're talking about this is a courthouse, and the little I know about history, okay, not as much as most of you probably, but a little bit, the Ten Commandments are kind of the cradle of our legal codes throughout the Western world, in my opinion. Okay? It has nothing to do with an established religion. If the Founders would hear us today, they would cringe: What's happening with us?

The fact is, what I want to do is donate this dollar bill (indicating), to send it to its group. Again, I probably can't read as well as most of you, but when I look at this dollar bill, it says, "In God We Trust." Is this dollar bill establishing a religion? I don't think so.

The Founding Fathers, their intent of the first Ten Amendments to the Bill of Rights was to keep the federal government from infringing on the rights of people, to keep the federal government from imposing religion on the people of the United States of America. It had nothing to do with the Ten Commandments.

The Ten Commandments are a fundamental code of ethics that the Western world has accepted since the beginning, and at first it wasn't accepted by a Christian. I don't think Moses was a Christian. It has nothing to do with religion here. This is a courthouse, this is a place of law, and that's the cradle of our law. Perhaps what we should do, instead of taking the Ten Commandments down, we should put Hammurabi's code from Mesopotamia up, maybe Justinian's code from Byzantine up, all cradles of our legal system.

I'm absolutely amazed that the best minds in America will be debating whether or not a plaque like that hangs in a courthouse. I can understand it in other places, but this is a courthouse. This is a place where we practice law, where many great legal decisions are made. We're just a small part of this building, this legislative body and this executive body.

I think the Ten Commandments could belong in a courthouse. I think the Founders would -- they would think you were crazy to even suggest anything

different, not you personally, but anyone who would suggest anything different.

MR. DeFAZIO: Okay. Let's do this now. There's a motion --

DR. MARTONI: I want to extend this. I want us to get Hammurabi's code and put up on this building. Okay?

MR. DeFAZIO: That's coming next week.

DR. MARTONI: And I want us to get Justinian's code and put up. It should be here.

MR. FITZGERALD: We could put everything up.

MR. DeFAZIO: Hold it. Wait.

DR. MARTONI: It should be here. This is a court of law.

MR. DeFAZIO: Okay. There's a motion to put it in committee. First, let's see if it passes. Okay? We'll worry about the committee. First, let's see if it passes to go to the committee.

MR. GASTGEB: Don't we have a motion on the floor to suspend the rules first?

DR. MARTONI: We should vote on that first.

MR. SKEZAS: That takes priority.

MR. GASTGEB: We should suspend the rules first.

MR. DeFAZIO: What was the motion?

MR. OLASZ: I did to suspend the rules for immediate action.

MR. GASTGEB: That's right.

MR. FRANCIS: May I comment on that?

DR. MARTONI: What am I going to do with this dollar, by the way?

MR. FITZGERALD: You could give it to me, Chuck.

DR. MARTONI: There's something wrong with this dollar. It says "The United States of America" and "In God We Trust." There's a contradiction here.

MR. DeFAZIO: Okay. Hold on.

DR. MARTONI: I don't know what to do with it. Maybe I could spend it.

MR. DeFAZIO: Ron Francis.

MR. FRANCIS: Well, I believe Mr. Olasz's motion was to waive --

DR. MARTONI: The second reading.

MR. FRANCIS: -- the second reading. That's what he's talking about.

MR. OLASZ: To suspend the

rules for immediate action.

FROM THE COUNCIL: Exactly.
We've done it before.

MR. DeFAZIO: Okay.

MR. FITZGERALD: I mean, Chuck, what you're saying makes a lot of sense, and I'm not disagreeing, but the fact is the Supreme Court has ruled on this.

I would like Mr. Pushinsky, if you could come up here. You're an expert in this field.

MR. DeFAZIO: No, no. We'll get to him. Let's first --

MR. FITZGERALD: If we're going to vote on this, John, I think we should -- maybe this should go to Budget because we might be talking about --

DR. SIMMS: No, don't send it to me.

MR. FITZGERALD: -- \$500,000 that this is going to cost us.

MR. DeFAZIO: Hold it. Wait a minute. Before we go any further, it's not going to cost us a penny. The whole deal from the beginning was Jim Roddey said he's going to go to foundations and other people. So it's not going to cost us nothing.

MR. FITZGERALD: He's not going to foundations to pay the legal fees of the other side. See, we're going to have to pay the legal --

MS. REA: How do you know?

MR. FITZGERALD: Chances are if we lose, we're going to have to pay the legal fees --

MR. PUSHINSKY: You will.

MR. FITZGERALD: -- of the plaintiffs. We absolutely will.

MR. GASTGEB: Chances are, are not --

MR. DeFAZIO: Well, wait. Hold it. Hold it.

MR. FITZGERALD: Is there going to be money put in escrow from these foundations before the County puts ourselves on the hook?

MR. DeFAZIO: It will have to get enough money that will take care of that if we lose.

MR. CROSSEY: Point of order, please.

MR. DeFAZIO: That's the deal.

MR. OLASZ: We'll buy lottery tickets.

MR. DeFAZIO: Mike.

MR. CROSSEY: I believe that

there have been two separate motions made on the floor. I believe that discussion at this point should only be related to those, not to the main motion.

MR. DeFAZIO: We're talking about suspending the rules right now.

MR. CROSSEY: And that should be the only discussion --

MR. DeFAZIO: You're correct.

MR. CROSSEY: -- at the point of the original resolution.

MR. DeFAZIO: Dave.

MR. FAWCETT: I agree with Mr. Crossey, and I want to just comment on the procedure. I think we ought to refer it to committee for a couple reasons.

Principally under the Supreme Court cases, as I understand them, there are a number of factors to be considered to determine whether the display of the Ten Commandments is a violation or not of the Constitution, and I think we ought to know what those factors are and we ought to know the answer to the question like can the plaque be removed, what is the difficulty in removing the plaque, that sort of thing so that we can really have more information.

Secondly, I really wish as a Council that we would focus on the question of not whether we're right or wrong but what our chances of success are, and I think we would get that kind of information in a committee atmosphere and we would be able to question our Solicitor in an Executive Session and really make an informed decision as opposed to simply saying that this is so important we have to suspend the rules and vote on it for the integrity and morals of the County.

MR. DeFAZIO: All right. We shouldn't even be debating it, but we did. Let's just vote on the rules first, if we're going to suspend it.

MR. GASTGEB: Can I comment on the rules?

MR. DeFAZIO: No. Technically you shouldn't.

MR. OLASZ: Only leadership can debate the suspension of the rules. Let's get on with the vote.

MR. DeFAZIO: Let's get the vote on the rules.

MR. MASCIO: The motion is to waive the second reading on --

MR. DeFAZIO: Right.

MR. MASCIO: -- Bill No. 0215.

MR. DeFAZIO: That's right.
MR. MASCIO: Mr. Crossey?
MR. CROSSEY: Yes.
MR. MASCIO: Mr. Fawcett?
MR. FAWCETT: No.
MR. MASCIO: Mr. Fitzgerald?
MR. FITZGERALD: No.
MR. MASCIO: Mr. Fontana?
MR. FONTANA: Yes.
MR. MASCIO: Mr. Francis?
MR. FRANCIS: Yes.
MR. MASCIO: Mr. Gastgeb?
MR. GASTGEB: Yes.
MR. MASCIO: Mr. Martoni?
DR. MARTONI: Yes.
MR. MASCIO: Mr. Natoli?
MR. NATOLI: Yes.
MR. MASCIO: Mr. Olasz?
MR. OLASZ: Aye.
MR. MASCIO: Ms. Rea?
MS. REA: Yes.
MR. MASCIO: Mr. Schwartz?
MR. SCHWARTZ: No.
MR. MASCIO: Mr. Shumaker?
MR. SHUMAKER: No.
MR. MASCIO: Mr. Simms?
DR. SIMMS: No.
MR. MASCIO: Mr. DeFazio,

President?

MR. DeFAZIO: Okay. Now we're voting --

MR. MASCIO: The motion is to waive the second reading on Bill No. 0215.

MR. DeFAZIO: Yes.

MR. OLASZ: To suspend the rules.

MR. DeFAZIO: Right. Yes.

MR. MASCIO: Ayes, nine; noes, five. The motion carries.

MR. FITZGERALD: You need two-thirds.

MR. MASCIO: Oh, you need two-thirds? The motion fails for lack of a two-third vote according to --

MR. DeFAZIO: Yes, that's right.

MR. SKEZAS: Yes.

MR. JANOCKO: That's according to the Charter.

MR. MASCIO: Or the Ten Commandments.

MR. DeFAZIO: That's it. It's going to go -- it will go to the next reading and we could put it in committee. That's all.

DR. MARTONI: What committee?

DR. SIMMS: Which committee are

you sending it?

MR. OLASZ: We just set up a Religious Committee.

DR. MARTONI: This isn't religious now. Let's not say that.

MR. GASTGEB: I recommend General Services.

MR. DeFAZIO: All right. Wait a minute. Let's just raise our hand. Let's don't --

MR. OLASZ: Give it to me.

MR. DeFAZIO: -- go crazy here.

Ron.

MR. FRANCIS: Well, just to add in response to Mr. Fawcett's comments about it, there's absolutely no reason when we do decide to vote on this thing why we cannot do the kind of analysis that was suggested which I think is important once and if we receive a complaint from this group. They might not sue us. And, you know, I think we may have to end up taking the thing down, but I don't think we should do it just because they sent us a letter. I think we should force those people to go to court, to file a complaint against us and then we can consider it, but I don't think we should do it --

MR. DODARO: I caution you again. I don't think discussion of this nature --

DR. SIMMS: Let's go to committee.

MR. DODARO: -- is appropriate in a public forum. We're talking about the potential for litigation, which obviously Mr. Pushinsky has indicated is the likelihood, and I think it more appropriate that it be discussed in Executive Session of the committee.

MR. JANOCKSKO: I would also want to add something to that. I will be happy, along with Mr. McVerry, to go to any Council meeting and talk about the Ten Commandments and the prior litigation dealing with the establishment clause. I also will talk to you, if it is the desire of Council, about a federal statute known as 42 USC Section 1988 which deals with the imposition of attorneys' fees on any prevailing party, and prevailing party does not necessarily mean a party who is successful in court but just gets the behavior of the defendant changed in any way. So I would counsel you that as Mr. Dodaro said, it's probably best to

consider all these matters in an Executive Session when you deal with discussion of this matter.

MR. DODARO: And I would suggest that whatever committee is assigned this task convene in Executive Session as it relates to the discussion of the legal issues.

DR. MARTONI: That makes sense.

MR. JANOCKO: And that's permitted under the Sunshine law.

MR. DeFAZIO: Okay. Hold on a minute. Mr. Olasz.

MR. OLASZ: I'm just talking to the wall, no one in particular, just the wall, but we all know that at least common law was founded, and you know what they were founded on, and I think every day right here in this Courthouse there are hearings and trials on people that kill, people that steal. They take an oath on that Bible. I think every Judge that performs his duties in this Courthouse takes that oath when he's sworn in on a Bible. This is public property. Where do we have them take their oath of office? Out in the street? Well, that's public property.

We stopped playing Christmas carols in all public buildings, Silent Night; O Come, All Ye Faithful. When does this stop, I ask the wall? Maybe some of these people that object to this ought to go back and remember that there are no atheists in foxholes and to remember the old sign on the tombstone: All Dressed Up and Nowhere to Go. Think about it.

MR. DeFAZIO: Okay. Dave Fawcett was next.

MR. FAWCETT: Real briefly, if I may, although I've suggested this should go to committee, really what I think is there ought to be some time where we could all consider. I doubt this is going to be a matter where we're going to change our minds based upon what a committee recommends, but I would recommend to people to read up on the law or to talk to people on the matter and to try to determine what our chances of success are.

Let me just say finally that if you took a vote of the people, there's no question that the majority of people would say keep the plaque up. That's what the majority wants. But the Constitution doesn't always work that way, and

oftentimes the majority has to do things that it may otherwise not believe is palatable because of the restriction of the Constitution.

MR. DeFAZIO: Go ahead. First Rich. Then you.

MR. FITZGERALD: Yes. I mean, I don't see our -- you know, the waiving of the rules and the time on this. I mean, it's been there 80 years. I don't think we need to take it down tomorrow. We need to consider it. But I think we're very fortunate to have Mr. Janocsko, who was here during the creche case, and Mr. McVerry, and also Mr. Dodaro, who was here during that time. So there's some history here that we can draw upon that will help us make our decision.

I would also ask whatever committee this goes to, that, you know, we get some experts in like Mr. Pushinsky or Mr. Walczak who knows this area and knows potentially what our legal liability may be and we could discuss these things further in Executive Session. I think we need to be prudent and not rush into something that, you know, while on its face sounds good but might get us in a little bit of trouble.

DR. SIMMS: What committee are we going to, Mr. President?

MR. GASTGEB: I'll speak to not The Commandments, as advised by Mr. Dodaro, but I want to make sure that my colleagues know this is a resolution and not an ordinance. This is a Sense of Council that we're making the strongest of terms as backing our Council President, Mr. DeFazio, who's on record and our County Executive. We're not trying to make the most complex of ordinances here. I think the committee structure is going to really cause us trouble, and I wish people would have considered that when they voted on this.

Secondly, as far as the Constitution, who knows. We just saw something down in Florida. We were amazed every day we turned on the TV with the court of law. Who knows what's going to happen. But to sit here and be afraid to fight it? I think the real tragedy is if you look what the people look at us as elected officials, people want us to fight for them and fight for the express will of the community and stop backing down, and that's what we're going to do. And who

knows what's going to happen, but if we don't try to do that and don't take that course, we're not going to know, and that's the true shame of not being a good leader. Thank you.

MR. DeFAZIO: Okay.

MR. MASCIO: Excuse me. What committee is that referred to?

MR. DeFAZIO: Well, we just --

MR. FAWCETT: Executive Session.

MS. REA: State & Federal Relations.

MR. OLASZ: No, no. Give it to me.

MR. DeFAZIO: We'll have to figure it out. We're going to refer it to --

MR. GASTGEB: General Services.

MR. DeFAZIO: Well, we could put it in General Services.

MS. REA: John, State & Federal Relations.

MR. DeFAZIO: Hold on a minute. Wait a minute, please. Relax.

Terry.

MR. McVERRY: Consider referring it to the committee of the whole in Executive Session.

MR. FONTANA: I'll second that motion.

MR. FITZGERALD: I'll second that motion.

MR. McVERRY: No, I just said consider it.

MR. FITZGERALD: I'll make a motion to that effect, then.

MR. DeFAZIO: Second? Anyone want to second that?

MR. SHUMAKER: Mr. President, can I just make one comment?

MR. DeFAZIO: Under remarks?

MR. SHUMAKER: I would wish you would --

MR. TUMOLO: We need a second.

MR. DeFAZIO: I thought he seconded it.

MR. NATOLI: I second it.

MR. SHUMAKER: I feel strongly that just as we've done here right now, that if Mr. Fitzgerald has a good idea as to which committee it should go to, then he should be able to make that motion and that motion should be voted on. And I would just ask that we remember that we're starting to establish a precedent, and in prior cases when Council members have

asked to refer to a specific committee, you've ruled that they didn't have that authority, that you had the sole discretion as to which committee it went to. So I would just ask that you consider that --

MR. DeFAZIO: No, no.

MR. SHUMAKER: -- in the future.

MR. DeFAZIO: No, it wasn't. We didn't do it that way, Tom.

MR. SHUMAKER: Okay. We don't have to discuss it. I'm just saying --

MR. DeFAZIO: No, but I mean, all you do is bring up things that sometimes are not true, you know.

MR. SHUMAKER: Well, we'll pull out the records sometime.

MR. DeFAZIO: Well, we'll pull out the records.

MR. SHUMAKER: Okay.

MR. DeFAZIO: I mean, no matter what it is, you have a comment that doesn't make sense.

MR. OLASZ: Merry Christmas.

MR. DeFAZIO: Okay. 02 -- oh, wait a minute. The motion was made. Joe Natoli seconded it.

FROM THE COUNCIL: Voice vote?

DR. MARTONI: The committee as a whole.

MR. DeFAZIO: The committee as a whole. No. Take a vote.

MR. MASCIO: Okay.

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: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. MASCIO: Mr. Martoni?

DR. MARTONI: Yes.

MR. MASCIO: Mr. Natoli?

MR. NATOLI: Yes.

MR. MASCIO: Mr. Olasz?

MR. OLASZ: Aye.

MR. MASCIO: Ms. Rea?

MS. REA: Yes.

MR. MASCIO: Mr. Schwartz?

MR. SCHWARTZ: Yes.

MR. MASCIO: Mr. Shumaker?

MR. SHUMAKER: Yes.
MR. MASCIO: Mr. Simms?
DR. SIMMS: Yes.
MR. MASCIO: Mr. DeFazio,

President?

MR. DeFAZIO: Yes.
MR. MASCIO: Ayes, 14; noes,
zero. The motion carries.

MR. DeFAZIO: 0218. Motion of the Council of Allegheny County requesting the appropriate department and/or company to notify and provide information to the taxpayers of Allegheny County concerning any type of lien applied against them during calendar year 2001. Sponsored by Council Member Gastgeb.

MR. GASTGEB: Thank you, Mr. President. What I would like is on a first reading, if this could be properly referred to Mr. Fontana's Committee on Property Assessment. This speaks to many County residents who have liens on their property but don't know it because of a title search not being active at the time they bought their homes, and I think Mr. Fontana's committee would be best served to investigate this and hopefully issue a new policy if it's warranted.

MR. DeFAZIO: Okay.

MR. GASTGEB: That wasn't written on here, though. That's why.

MR. DeFAZIO: Okay. You're making a motion?

MR. GASTGEB: I think that should just automatically be on here, refer to Property.

MR. DeFAZIO: Okay.

MR. GASTGEB: If you could announce that, that would be good enough by me.

MR. DeFAZIO: So right now we read that there's a motion requesting the appropriate department, and you're saying put it in --

MR. GASTGEB: Fontana's.

MR. DeFAZIO: Is there a problem with that from anybody?

(No response.)

MR. DeFAZIO: All those in favor, signify by say aye.

(Chorus of ayes.)

MR. DeFAZIO: Opposed?

(No response.)

MR. DeFAZIO: We have non-agenda items. We have two speakers, and first is Harry Liller.

MR. LILLER: For the record, I

was a drummer in the South Park Marching Band for four years. I'm proud of those young kids.

Second, when ALCOSAN was here, I didn't even hear anybody mention that the federal government is upset with ALCOSAN dumping raw sewage into our rivers. These County people come up here and sugarcoat everything. What about the realities? And now you're all wrapping yourselves up with the Ten Commandments. You'll all hiding behind the Bible.

Well, ever since January I brought up a plan to end poverty, and in the Bible it says do not ignore the cries of the poor. It's like you pick your own little ideas and hide behind the Bible and say, "Jesus loves me."

God is on my side to end poverty, and none of you guys will even bring it up for a vote. That's how you guys are hypocrites. And where's the media? They all hide. Every time I speak, they hide because they don't want to tell the public what goes on at public hearings.

Why I really came here was because of the Gulf War. I have a cousin who contracted tuberculosis from the Gulf War. There is a situation here by the Associated Press that George Bush, Dick Cheney, Colin Powell, Norman Schwarzkopf, ordered U.S. troops to blow up nerve gas. Why? Because George Bush gave it to Saddam Hussein through grain credits through Atlanta and Rome. These things are killing our own troops.

I've gone to CNN. I've gone to the Washington Post. I've gone to the Post-Gazette. And I want this on record. John Craig told me he doesn't care that Dick Cheney blew up nerve gas on our own troops killing our own troops, but he'll tell us all about a sex act by Monica Lewinsky and Bill Clinton. The media is not liberal. The media's owned by corporate America and they protect corrupt Republicans.

DR. SIMMS: Oh, my goodness, Harry.

MR. LILLER: And if you guys want to hide behind the Bible, I guarantee you on Judgment Day God is on my side, and when you ignore the cries of the poor, Mr. Gastgeb, we'll see who's telling the truth.

MR. DeFAZIO: Okay. Thank

you.

All right. We have Thomas Neuendorffer. Is he here?

MR. NEUENDORFFER: Since the issue of the model planes did not come up during this meeting, I respectfully waive my request to comment at this time, and I wish Council a happy holiday.

MR. DeFAZIO: Thanks a lot.
(Applause.)

MR. DeFAZIO: Okay. Is there a motion to adjourn at this time?

MR. OLASZ: Whoa, whoa, whoa.

MR. SCHWARTZ: Merry Christmas, John.

MR. OLASZ: I'm sure that most of you in this room took physics at one time and noted for every action there's an equal and opposite reaction, so if you kick me in the knee, look, my foot's coming right back at you.

Just this past week the Tribune-Review has seen fit to publish another one of their lies in the Whispers column. Do any of you ever wonder why that person hides behind the mask of anonymity? Could it be because he or she cannot not stand to face the light of the truth?

An accusation was made that I carry on lengthy conversations on my cellular phone. An absolute baldfaced lie. The conversation that Whispers referred to happened to be when I was called from the hospital informing me that my brother's condition had turned critical. He passed away shortly thereafter.

Whispers once again has displayed his or her total ignorance of the legislative process. To infer that there is dead silence when the President of the United States delivers his State of the Union message or when the Governor of Pennsylvania delivers his budget message, that phone calls are not received on that House floor or taken and put out through that House floor, it shows that the mind of Mr. or Mrs. Whispers must be contained in the vacuum of a lightbulb. That's Item 1.

Item 2. Because Mr. Cohan -- where are you?

MR. SCHWARTZ: He's outside.

MR. OLASZ: He did turn a little last week, so I'll give him a turkey leg.

I questioned his employer the Pittsburgh Post-Gazette today why a Letter to the Editor of mine wasn't published, but anyway, I'll read this into the record, which you will receive a copy of so it's ad infinitum in there. All right?

"When Jim Roddey ran for County Executive last year he made a campaign promise to take politics out of county government and run the county like a business. Well, he delivered on one promise and reneged on the second, so he's batting .500.

"In approximately 11 months time, he has made a \$700,000 profit for himself - actually the cash is tucked away in his slush fund, better known as his campaign committee. Never in the history of Allegheny County has a county elected official (previously the commissioners) raised that kind of money in an off-year election cycle.

"He accomplished this feat by packing the county boards and authorities with his corporate sponsors. One in particular, Mr. Neal Holmes, the Chairman of the Port Authority, scratched Roddey's back by sending a fund-raising letter requesting a \$15,000 contribution to Roddey's slush fund. For folks who don't have an extra \$15,000 lying around, his letter suggested they sell 15 tickets at \$1,000 each. Kind of him. Now we read in the paper that Neal Holmes is part owner of a North Hills ice skating rink complex where Port Authority plans to lease 124 parking spaces for a park-n-ride lot. Is this a coincidence?

"Apparently Mr. Roddey has chosen to ignore the admonition that his Republican ally on County Council, Mr. Francis, has fired at we Democrats on those rare occasions when a Democrat is actually nominated for a county board or authority.

"'In the spirit of compromise' Mr. Roddey has also chosen to remain 'neutral' in County Controller Onorato's attempt to recoup approximately \$1,000,000 in property tax exemptions enjoyed by restaurants at the Pittsburgh International Airport - \$250,000 of which belongs to Allegheny County. Could it be that some of those restaurant owners have contributed to Mr. Roddey?

"Recently, I questioned the

Port Authority's project bidding process in which bids rejected as being too high are rebid and awarded at a cost of \$325,000 over the original 'too high' bid. The South Hills Lite Rail project has recently been rebid for the same reason. Hopefully, our tax dollars will not be wasted on another 'rebid' as PAT is currently holding public hearings to justify a fare increase.

"Mr. Roddey's response to my questioning of PAT was typical of a corporate fat-cat CEO whose employee has the audacity to speak up 'how dare you question me you peon.' I remind Mr. Roddey, I am not his employee. I was elected by the people of the 9th County Council District to represent their interests and the spending on their tax dollars ranks at the top of the list.

"Stay tuned for the guest list of Mr. Roddey's Christmas Party. It is bound to appear next year when his campaign expense report becomes public information.

"All The Best."

Thank you, Mr. Chairman. Think about it.

MR. DeFAZIO: Mike?

MR. CROSSEY: No.

MR. DeFAZIO: No other business, do we --

DR. MARTONI: I move for adjournment.

MR. DeFAZIO: Second?

MR. GASTGEB: Second.

MR. DeFAZIO: All those in favor, signify by saying aye.

(Chorus of ayes.)

MR. DeFAZIO: Opposed?

(No response.)

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(At 6:50 p.m. the meeting was adjourned.)

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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.

PATRICIA V. MELLOR
Registered Professional Reporter