

MINUTES
UNION CITY BOROUGH COUNCIL PUBLIC HEARING
FEBRUARY 23RD, 2010

The Public Hearing of the Union City Borough Council was called to order at 6:36 P.M. by Vice-President Bowes. The meeting was held at the City Building.

Councillors present were Bowes, McCrillis, and Steadman. Councillor Tubbs arrived at 6:53 P.M. Councillors Brumagin and Hoban were absent.

Officials present were Borough Manager Cheryl Capela, Mayor Bill Hinkle, Police Chief Kevin Jones, Street Supervisor Paul Maynard and Solicitor Timothy Wachter.

Visitors present were Dustin Kolaja.

PURPOSE OF THE PUBLIC HEARING: Solicitor Timothy Wachter said the purpose of the Public Hearing is to hear comments on the proposed adoption of an Ordinance entitled Public Indecency.

He said we are dealing with First Amendment of the Constitution, Freedom of Expression.

He said the reason we are here today is to discuss the adoption of an Public Indecency Ordinance. He said the reason the Borough is taking a look at this ordinance and adopting it is because the Borough has under taken the amendment of the Zoning Ordinance to allow for the operation of an adult-oriented establishment in the Borough of Union City.

He said the ordinance that we are looking at right now, is unnumbered at this time, but it does repeal the Borough's current Public Indecency Ordinance Number 1018.

He said this ordinance was provided to Borough Council in draft form on January 26th Work Session. He said the draft of this ordinance was discussed at the January Borough Council Meeting. He said at the January 25th Work Session, the various studies that have been performed in the past with other municipalities pertaining to the detrimental secondary effects of adult-oriented establishments will briefly be discussed.

He said a copy of the proposed Public Indecency Ordinance was provided to Chief Jones for his review.

He said Borough Council has expressed their concerns in regards to the negative secondary effects caused by the location of adult entertainment and adult oriented establishments.

He said that Borough Council is fully aware of and fully respects the fundamental constitutional guarantees of free speech and full expression and realizes that restrictions of such freedoms must be carefully drafted and enforced.

He said that Borough Council at various times expressed their findings that the presence of adult entertainment and adult establishments have the negative secondary effects of decreasing commercial and residential property values, attracting transients, increasing traffic and parking problems, traffic accidents and littering, decreasing retail trade and the resulting loss of business, as well as increasing certain lewd, immoral and indecent activities and crime.

He said that Borough Council has determined that it is in the best interest of the citizens of the Borough to further regulate the operation of adult entertainment and adult-oriented establishments through the repeal of Ordinance Number 1018.

He said for purposes of the record, to show that Borough Council by the passage of this ordinance will recognize, find and adopt the following studies:

- 1.) Survey of Appraisers, Forth Worth and Dallas; Effects on Land Uses on Surrounding Property Values, September 2004.
- 2.) Adult Business Study, Town and Village of Ellicottville, Cattaraugus County, New York, January 1998
- 3.) Crime Risk in the Vicinity of a Sexually Oriented Business: A Report to the Centralia City Attorney's Office, February 2004
- 4.) Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report to the City Attorney: City of Los Angeles-May 2007
- 5.) Study and Recommendations for Adult Entertainment in the Town of Islip, September 1980.
- 6.) Adult Entertainment Businesses in Indianapolis, 1984.
- 7.) Adult Business Study of City of Phoenix Planning Department of 1979.
- 8.) Effects of Adult Entertainment Businesses on Residential Neighborhoods, City of El Paso, 1986.
- 9.) Report on the Secondary Effects of the Concentration of Adult Use Establishments in the Time Square Area, April 1994.
- 10.) Adult Entertainment Study, City of New York, 1994.

He said for the purpose of record, in regards to criminal activities in adult businesses prepared by the City of Phoenix Planning Department, it was found that there is a relationship between arrest for sexual crimes and location of adult businesses.

He said the Survey of Appraisers Fort Worth and Dallas, in regards to property values. He said they found out that appraisers were nearly unanimous in responding that adult-oriented businesses of any kind would decrease single valued home property values.

He said the New York City Time Square Report states that using crime and pollution statistics for the years 1992 and 1993 studies show that streets were significantly less polluted and overall crime in the areas had dropped drastically since the increase in regulations in the operation and location of sexually oriented businesses. He said the study did reveal as well reduction in criminal complaints corresponding to the distance of major concentration of sexually oriented establishments.

He said from 1985 to 1993, after the significant regulations of the operation of adult-oriented businesses, property values increased 26% less in areas of concentrated areas of sexually oriented businesses.

He said the last study to be noted is the Town and Village of Ellicottville, New York with a population of 1600. He said the study concluded negative secondary effects of sexually oriented businesses would likely have an increase in crime, decrease market values, public resentment, general blighting of the commercial district and negative influence on community character.

He said in the ordinance, we define various things like adult bookstore, adult-drive in movie theater, adult entertainment, adult mini-motion picture theater, adult motion picture theater, adult-oriented establishment, adult-oriented merchandise, adult retail use establishment, nude, nudity, public indecency, public place, specified anatomical areas and specified sexual activities.

He said specifically this ordinance prohibits public indecency. He said no person shall commit an act of public indecency in the Borough of Union City or maintain acts of public indecency as a property owner, lessee, proprietor or manager of a business or other establishment, and it shall be unlawful for any such person to commit or maintain any acts of public indecency.

He said no person shall engage in any specified sexual activity as defined at 68 Pa. C.S.A. subsection 5502.

He said no establishment constituting an adult entertainment or adult-oriented establishment shall be open for business earlier than 10:00 A.M. on Mondays through Saturdays or 12:00 P.M. on Sundays, and no such establishment shall be open for business later than 12:00 A.M. on any day of the week.

He said no establishment constituting an adult entertainment or adult-oriented establishment shall be situated or located nearer than 500 feet from the nearest property line of any other adult entertainment or adult-oriented establishment, or situated or located nearer than 275 feet from any bottle club, church, day care, school or other institution of learning or education, hospital, library, park, playground or family social service provided. He said they shall not be situated or located on the same side of any street on the same block of any land zoned residential, and no establishment constituting an adult entertainment or adult-oriented establishment shall be situated or located on the same side of any street on the same block from any single or multi-family dwelling.

He said that the Borough's Chief of Police and his/her designees are authorized to inspect adult-oriented establishments at reasonable times for purposes of enforcing the regulations of State law and this ordinance.

He said that any building, structure or portion thereof regularly used for acts of public indecency in violation of this ordinance is a public nuisance, subjecting the owner, lessee, proprietor or other operator thereof to any and all actions authorized by the Commonwealth of Pennsylvania or the Borough of Union City's various Ordinances for the abatement of public nuisances. He said in the event of any action by the Borough to abate a public nuisance, the owner of the subject

property shall further be liable for payment to the Borough of all costs, attorneys' fees and other related expenses incurred by the Borough in such action.

He said there is also a penalties for violation in this ordinance.

He said the next step is Borough reviews the ordinance, we have had our Public Hearing, and Borough Council has reviewed these studies. He said at the next meeting, Borough Council should consider this ordinance again and approve it for advertisement so it can be adopted at the April Borough Council Meeting.

He said at the March Borough Council Meeting, he will prepare a Resolution formalizing the Boroughs findings of the negative secondary effects of the operation of oriented establishments within the confines of the Borough of Union City.

He asked "are there any questions from Borough Council?"

Vice-President Bowes asked "what are the requirements for adults and or children that don't want to be exposed to this environment?"

Solicitor Timothy Wachter said it is not specifically listed in the ordinance on what these requirements would be. He said it would be an act of public indecency. He said the physical construction of the store would have to be such that minors would not be exposed.

Solicitor Timothy Wachter asked "are there any questions from the public?"

There were no questions from the public.

Solicitor Timothy Wachter asked Chief Jones "do you have any thoughts on the ordinance that has been presented here this evening?"

Chief Kevin Jones said he does not.

ADJOURNMENT: The Public Hearing adjourned at 7:01 P.M.

ATTEST: _____

Borough Manager