

**MINUTES**  
**Special Meeting of City Council**  
**City of Butler, Pennsylvania**  
**April 13, 2016 6:00 PM**

Mayor Donaldson called the meeting to order at 6:02 PM. Mayor Donaldson and Council members Walter, Kline, Schontz and Roche were present. Motion was made to reconvene the meeting in the Public Safety Building by CW Kline. All voted aye.

Mayor Donaldson reconvened the meeting at 6:11 PM.

City Solicitor, Jim Coulter reviewed the rules and procedures for public participation in meetings of city council.

Mr. Coulter then explained the conflict of interest about the situation in demoting the fire chief. He introduced Attorney David Mitchell, Cambell Durrant Beatty Palombo & Miller, P.C., who interpreted the PA Consolidated Statutes; Title 11; PA Cities section and provided a legal opinion that the Mayor had authority to demote the Fire Chief.

**PERSONS TO BE HEARD** *(Brief summary of comments):*

**Jeff Smith** requested that council terminate its relationship with Cambell Durrant Beatty Palombo & Miller, P.C. based on the legal opinion given to the Mayor. Mr. Smith suggested that the fire chief be reinstated.

**Clair Boring** said the council should move forward.

**James Raglan** the move is not going to help Butler.

**Bryan Presco** addressed the situation with the fire chief and wanted an explanation. He also voiced his concerns about the shooting dens and pill pressing machines in the city of Butler.

**Sherry Holm** is a lifelong resident in the city and takes pride in the fire station.

**Jamie Goehring** support Nick Ban and expects a reasonable explanation and voiced her anger over not allowing Nick an honorable retirement.

**Don Shearer** said he would like a reasonable explanation for what has happened.

**Tim Roxbury** doesn't feel that mayor owes an explanation to the citizen and the citizens need to stand behind the Mayor.

**Rita Lane** was blindsided by the decision and reviewed meeting minutes looking for anything about this but found nothing.

**Bob Dandoy** said aside from legal interpretation, it was the lack of respect for CW Kline and the other council members, as well as both the police and fire departments and the residents of the city, that was upsetting.

**Dess Schnur** said the lack of respect and lack of trust affects all the employees of the city. He asked "why"?

**Rick Zitalone** was a firefighter for 22 years. He was also asking why this happened.

Mayor Donaldson and Councilwoman Kline comments are attached to these minutes.

## **COUNCIL REPORTS/ACTIONS**

### **Councilman Walter**

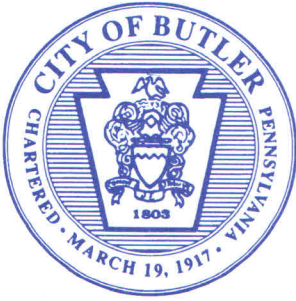
CM Walter discussed the serious financial situation in the city of Butler. The city needs about \$500,000.00 to break even at the end of 2016. After discussion with the city's auditor, he had two options that could help. First option would be to sell Kelly Automotive Park. CM Walter does not feel that's something the city would or could do. Second option would be to sell the parking lots in the city. A part-time firefighter program needs to be in place again.

### **Councilwoman Kline**

1. Motion to approve the retirement of Chief George N. Ban, Jr. from the Butler Bureau of Fire following 25 years of service, effective April 9, 2016. Second by CW Walter. All voted aye.

Mayor Donaldson adjourned the meeting at 7:18 PM.

# CITY OF BUTLER



THOMAS P. DONALDSON  
MAYOR

**MICHAEL E. WALTER**  
*Accounts & Finance*

**KATHY D. KLINE**  
*Public Safety*

**RICHARD J. SCHONTZ, JR.**  
*Streets & Public Improvement*

**COREY D. ROCHE**  
*Parks/Recreation & Public Property*

**GRETCHEN D. EHLMAN**  
*Controller*

**JOHN L. GRENCI**  
*Treasurer*

**RONALD J. BROWN**  
*Chief of Police*

**GEORGE N. BAN, JR.**  
*Fire Chief*

**JOSEPH L. GRAY, P.E.**  
*Municipal Engineer*

**MELINDA F. GALL**  
*City Clerk*

**JAMES P. COULTER**  
*City Solicitor*

**JOHN E. EVANS**  
*Zoning & Code Management Officer*

**GARY A. BONELLI**  
*Health Inspector*

## Statement Regarding Fire Chief

I understand that everyone feels I should respond in regards to my decision to demote Chief Ban. The section in the code states that the Mayor may demote without reason but must have the consent of council to name a new chief. I realize some disagree, I stand by my decision, but will make this statement. This is in no way personal I like Nick Ban personally. I have been in office just over 2 years during this time I have watched and evaluated things in the city among those is the fire department and fire chief. After many observations and much thought, I felt that it should be time to name a new fire chief I spoke with members of city council in executive session and voiced my feelings and opinion. I had also spoken with our city solicitor who asked me to defer to the city labor lawyers. They gave a legal opinion and that opinion is the basis for my decision. I shared that with members of council. I have had numerous discussions with Nick Ban since taking office, I explained things to him in regards to how he ran the department. I recently had asked him if he knew what he would do if I demoted him, he stated he would return to his previous rank of Lt. After that discussion I made the decision and took the action.

Many studies have been done here in Butler. Most say we need to address issues in regards to our fire services. Hopefully this change at the position of chief will enable us to move towards some of those suggestions. Please view this with a sports analogy much like when a sports team changes the coach. The cities financial situation demands attention. The fire department needs restructured to help maintain financial solvency. Streets and parks have been cut beyond reason, yet these employees seem to be miracle workers. The police have given back freely to help the city and are worked to the bone. We need to turn our attention to the fire department as past efforts have proven fruitless. If this does not occur at once this city will be irretrievably forever financially lost.

Mayor Thomas P. Donaldson  
April 13, 2016

All the years on Council has taught me how 3<sup>rd</sup> Class statutes come with a set of checks and balances to ensure situations such as we are experiencing never happen. So how can this be happening? One nagging thought for me has been how a second opinion on the issue at hand could be sought unilaterally without consent and approval of Council for that second opinion. All these years on Council when a second legal opinion was sought it was decided collectively by Council. So I couldn't understand how a second opinion could be sought without Council's consent. After all, if each elected Councilperson sought second opinions it could get crazy and more expensive for that second opinion than it already is. So I started reading Title 11 (2015.) Chapter 116 Section 11602 states "The city solicitor shall have the direction and control of the legal matters of the city. Unless authorized by council, a department of the city may not employ or retain any additional counsel in any matter or cause." But to follow past practice and reading of Section 11602, a request of Council should have been made for that second opinion. It is for this reason I find these actions very self-serving and manipulating and why should tax payers of the City pay for a second opinion that should never have happened? Why should we (Council) be forced to accept this second opinion when it was not approved? It is the responsibility of elected officials to learn policy and procedures.

It has been reported that some Council members said the possibility of demoting Ban had been a topic of discussion in executive session in February. I would ask my fellow council members to recall that it was not the topic of demotion that was on the table. It was dismissal. Before this February session, in an earlier, private conversation with the Mayor I said he could not dismiss Chief Ban without the consent and approval of Council.

Let's go back again to 3<sup>rd</sup> Class City Code. Under Chapter 109 Section 10901 subsection c - Appointed office or position—the following shall apply to an individual who is appointed to a city office or position, except for elective offices: (1) the individual may be removed by the **appointing power**, except as limited under law or the Constitution of Pennsylvania. (2) The individual must be removed on conviction of misbehavior in office or of an infamous crime. The Mayor of the City recommends a Chief but **the appointing power** is City Council. It seems to me the interpretation of Chapter 121 Section 12101.1 falls precisely in line with what Chapter 109 is saying; another check and balance of the Code.

With the consent and approval of Council, I wish I could say "you're fired." But the same checks and balances that protect all city employee; protect the Mayor, the 5<sup>th</sup> member of Council... not the first.

Lastly, it was reported that a good, firm leadership is what he is seeking. An insult to the Chief is an insult to me as I am his direct supervisor.

I try to be kind to everyone; but don't ever mistake my kindness for a weakness.

Councilwoman Kathy Kline  
April 13, 2016