



# ***COMMITTEE of the WHOLE***

## ***CITY COUNCIL***

### **SUMMARY**

**July 5, 2022**  
**5 pm**  
**Hybrid Meeting**

#### **COUNCIL MEMBERS PRESENT:**

D. Reed, C. Daubert, J. Cepeda-Freytiz, W. Butler – in person and M. Goodman-Hinnershitz - virtually

#### **OTHERS PRESENT:**

L. Kelleher, F. Lachat, F. Denbowski, E. Moran – in person and S. Smith, J. Kelly - virtually

Ms. Cepeda-Freytiz called the meeting to order at 5:03 pm. She stated that Ms. Ventura is recovering from a procedure.

#### **I. 2<sup>nd</sup> Class A City – Pros/Cons**

Mr. Denbowski quoted from the memo prepared by Mr. Mann and PFM on the ability of Reading to become a 2A Class City. Beginning in 1927, the Commonwealth created a fourth city classification, allowing cities with a population between 80,000 and 249,000 residents to be designated Second Class A. Currently Scranton is the only city in this class, although Allentown and Erie are also eligible. Allentown is a Home Rule, Third Class city and Erie is under the Third Class City Code. The memo questions if the taxing options available to Third Class sized cities would be available to Second Class A cities. The memo further states that:

- We do not know if Cities with Second Class A status can levy the residency based per capita tax that Reading uses. Scranton and Pittsburgh do not have the tax, which is authorized in the Third Class City Code. That Code allows cities to levy a \$5 per capita tax, and Reading uses its Home Rule authority to increase its levy to \$20. We do not know how or whether the City's reclassification would impact the Reading School District's ability to levy an additional \$10 per capita tax.
- Reading currently levies a General Fund real estate tax, plus 0.20-mill real estate levies to support the library and its shade tree funds. It appears that cities of the Second Class A status do not have the ability to levy these special purpose real estate taxes, nor can they levy the real estate tax designated for debt or recreational purposes. Scranton only uses a General Fund real estate tax. Reading could conceivably incorporate the library and shade tree levies in its General Fund levy and collect the same amount of revenue.

The memo goes on to describe the various pieces of litigation filed against the City of Scranton by Scranton residents and the resulting court decisions against the City of Scranton, noting that this could be a detriment to Reading.

Mr. Lachat expressed the opinion that Scranton and Pittsburgh are both Home Rule cities so the taxing issues would be set aside. He added that there is an extensive amount of case law available to Third Class sized cities compared to that available to Second Class sized cities.

Ms. Goodman-Hinnershitz questioned if there would be any positives resulting from a reclassification. Mr. Lachat expressed the belief that there are no resulting benefits.

Mr. Daubert inquired if a reclassification would enable Reading to seek and obtain more laws that would apply to only Second Class cities. Mr. Lachat expressed the belief that a reclassification would not offer that benefit, noting that the Second Class A Code was drafted in 1927 and never updated. He added that the State legislature has updated various municipal codes over the past 10 years.

## **II. Expanding Public Pools**

Mr. Kelly stated that the administration has started evaluating various two (2) acre sites to determine the location of potential public pools, apart from the addition of a kiddie pool at the Schlegel Park pool.

Ms. Goodman-Hinnershitz noted the Jeffrey S. Waltman Sr. Legacy Fund focused on recreation projects. She stated that some potential donors want to see a defined project with a cost before they make a contribution. She requested that the administration provide the cost of the new pools when making a recommendation.

Mr. Kelly stated that the Schlegel Park kiddie pool is expected to cost \$400K, excluding the cost to upgrade the pumping station.

Ms. Goodman-Hinnershitz noted that the climate in Reading allows the use of outdoor pools for approximately four (4) months of the year. She suggested considering indoor pools as well.

Ms. Cepeda-Freytiz inquired about when the administration will make a recommendation. Mr. Kelly stated that a recommendation would likely be made during the Capital Budget process.

Mr. Kelly disconnected from the meeting and Mr. Mann connected to the meeting.

## **III. Adding Mold to the Property Maintenance Code**

Mr. Denbowski stated that currently other Third Class sized cities have no provisions for mold. He stated that the EPA has not defined any remediation standards for mold. Currently

Property Maintenance Inspectors can cite if mold is present without specific standards but cannot require remediation. While there are no available models in Pennsylvania, the Hoboken NJ Property Maintenance Code requires properties to be “free from mold” without remediation standards. He stated that if mold is added to the City’s Property Maintenance Code, the City would need to seek inspectors who are specialized in mold.

Chief J. Stoudt arrived in Council Chambers.

Ms. Cepeda-Freytiz recalled the public comment from a citizen who developed health problems due to her exposure to mold and suggested adding mold to the Code.

Ms. Reed questioned if the City has a legal duty to add mold to the Code. Mr. Lachat expressed the belief that the City has no legal duty to add mold to the Code.

Ms. Goodman-Hinnershitz suggested seeking a recommendation from the Board of Health or the EAC.

Mr. Lachat and Mr. Denbowski noted that if mold is added to the Code the City will also need to define the testing process and establish thresholds.

Mr. Daubert stated that there are mold standards for school buildings and he described the lengthy testing process. He expressed the belief that adding this requirement goes beyond the City’s capabilities. Also noted was the many forms and types of mold in many indoor and outdoor locations.

#### IV. Ordinance Review

- **Bill 55-2022** – directing the Berks County Board of Elections to place a referendum question before city voters on the 2022 General Election Ballot which would amend the Home Rule Charter Section 404 (a) - (b) – requiring Council approval for the termination of the Managing Director ***Introduced at the June 13 regular meeting; Tabled on June 27<sup>th</sup>***
- **E. Bill 64-2022** – directing the Berks County Board of Elections to place a referendum question before city voters on the 2022 General Election Ballot which would amend the Home Rule Charter Section 603 (a) - (b) – requiring Council approval for the termination of the Department Directors

Mr. Moran stated that the position he expressed at the June 27<sup>th</sup> regular meeting is unchanged. He expressed the belief that the proposed referendum to add Council approval for the termination of the Managing Director and Department Directors is nothing but a backdoor move by Council to weaken his strong mayor authority and amend the form of government. He suggested that if Council wants to change forms of government that they follow the correct legal process. He stated that if these ordinances are enacted he will veto the ordinances and if Council successfully overrides the vetoes, he will file legal challenges.

Ms. Reed suggested tabling further discussion on these ordinances until the Council Solicitor is present. She expressed the belief that the proposed ordinances merely provide an additional

check which will increase job security for these executive positions, providing the means for continuity that could transcend through to new administrations. She stated that as Council approval is required for filling these positions, it makes good sense to apply Council approval for the mayor's desire to terminate. She noted that these proposed amendments are not pointed at the current mayor, but at a problem that has existed through seven administrations. She expressed the belief that if the electorate approves these amendments, the positions will attract a wider pool of qualified candidates.

Mr. Lachat noted that the legal challenge of these ordinances does not need to be contentious. Instead it will help to provide clarity.

Mr. Moran questioned why these proposed ordinances are being directed against him when he has behaved inclusively with City Council and he has done his best to protect the integrity of the City and its finances.

Ms. Reed stated again that these proposed referendum questions are not directed at the current mayor but at an issue that has existed with each administration. She expressed the belief that having Council approve the mayor's termination recommendation will add an important level of job protection that will help these executive positions carry over when administrations change every four years.

Mr. Murray connected with the meeting.

Mr. Denbowski expressed the belief that in Pennsylvania management positions are at will positions and that various middle management positions are also gutted when administrations change which damages the City's ability to function.

Ms. Cepeda-Freytiz noted that while both Council and the administration recognize the problem there is disagreement about the solution to the problem.

- **B. Bill 61-2022** – authorizing residential permit parking from 8 am to 8 pm with a 2 hour period for non-permit holders Zones in the 100 block of Schiller Street, the 100 block of North 8<sup>th</sup> Street and the 200 block of Reed Street, in accordance with City Code Chapter 576 Vehicles and Traffic, Part 4 Stopping and Parking, A – Regulations, Section 576-417 Residential Permit Parking, as recommended by the Reading Parking Authority

Mr. Butler questioned the process to move these residential parking permits forward.

Ms. Kelleher explained that all three neighborhoods made application to the Parking Authority under the process listed in City Code Section 576-417. The Parking Authority checks to see if the neighborhood meets the proper criteria, holds public hearings then makes a recommendation to City Council.

- **C. Bill 62-2022** – amending City Code Chapter 396, Part 3 Park Use by providing additional authority for law enforcement agencies to act when responding to calls for service at public park

properties as defined herein and allowing responding law enforcement agencies to seize devices that are in violation of this ordinance for possible forfeiture and destruction.

- **D. Bill 63-2022** – amending City Code Chapter 387 Noise by adding references to Chapter 396, Part 3 Park Use regarding noise at City and City agency owned properties

Mr. Daubert suggested deferring discussion on these ordinances until the Council Solicitor is present.

Ms. Goodman-Hinnershitz noted that the current MDJs require the City to post signage listing the ordinances being applied. She stated that some members of the public intentionally damage some signage to remove the ordinances from the signs.

Mr. Moran question the use of the phrase “law enforcement agencies”. Ms. Kelleher explained the City currently has a mutual aid agreement with Central Berks Police which allows them to cite the City ordinances when responding to calls on Mount Penn when Reading police are unable to respond. The term “law enforcement agencies” is meant to be inclusive for this and future mutual aid arrangements.

Chief Torielli entered Council Chambers

- **F. Bill 65-2022** – authorizing the conveyance of 140 Schiller Street Berks County Parcel I.D. No. 06530765523615 from the Reading Redevelopment Authority and execution of the agreement of sale of the property for nominal consideration as per the agreement of sale

Mr. Denbowski stated that this is a housekeeping matter. He stated that at one time the Reading Redevelopment Authority (RRA) transferred the parcels making up the playground at Front and Schiller to the City. This parcel was accidentally missed. The RRA is working to eliminate small parcels to eliminate their insurance and other carrying costs.

Mr. Moran stated that the sale price is \$1.

Ms. Goodman-Hinnershitz disconnected from the meeting at this time.

## **V. Public Safety Reports**

- **Fire**

Chief J. Stoudt highlighted the report that was distributed electronically and attached to the agenda:

- Only 2 dumpster fires related the illegal use of fireworks
- The ceremony to sign the steel beam at the 9<sup>th</sup> and Marion Fire Station
- The ramp for the SW Firehouse was completed
- 85 applicants tested to become firefighters and 41 have moved into the physical agility process
- 10 members of the Fire Department were nominated and approved for the Burn Prevention Lehigh Valley Spirit of Courage Awards for three separate events that occurred in 2021. A recognition ceremony is scheduled for October.

- **Police**

Chief Tornielli stated that the 4<sup>th</sup> of July deployment between Friday evening and the early hours of July 5<sup>th</sup> yielded responses to 152 incidents for fireworks related calls, a decrease from 250+ in 2021. However there were 20 significant seizures compared to 16 from last year. He noted that some officers going off duty were held over to assist at Riverfront and some officers in the Criminal Investigation unit volunteered to come in to assist the detail. He expressed the belief that the work of the expanded detail helped to greatly reduce the number of fire calls related to the use of fireworks.

Chief Tornielli reported on the incidents at Pagoda/Skyline Drive and Riverfront Park between January 1<sup>st</sup> and July 4<sup>th</sup>

- Pagoda/Skyline - 236 incidents with 195 resulting from proactive patrols
- Riverfront Park – 165 incidents (16 noise complaints) with 145 resulting from proactive patrols

Chief Tornielli stated that Public Works painted the Riverfront Park curbs yellow to restrict parking last week due to complaints from Penske and other businesses.

Mr. Daubert congratulated Chief Tornielli and the police for their great work. He stated that some residents are reporting that the Department's excellent response to Riverfront Park is relocating the problem to an area near the Buttonwood Street Bridge and across the river to the West Reading and Cumru areas. The Chief stated that the Department has had reports about that and adjustments have been made.

Ms. Reed thanked the Chief and his Department for their excellent response, noting that this response may have distracted the Department from other priorities. The Chief assured Council that responses to these incidents have not distracted the Department's focus from its main priority: fighting violent crime.

Mr. Denbowski noted that the majority of the quality of life problems at Pagoda/Skyline and Riverfront were solved by proactive patrols under the Chief's leadership.

Ms. Cepeda-Freytiz questioned, overall, the effectiveness of issuing a citation. The Chief explained the effectiveness of a citation is dependent on the situation and the violator.

Mr. Daubert inquired if local laws with progressive fines would assist. The Chief expressed the belief in some cases, progressive fines would work well. Mr. Lachat expressed the belief that the City could provide progressive fines for some local ordinances.

Ms. Reed inquired if the problems on Penn Street have increased after DID was disbanded. The Chief expressed the belief that there has been no increase or decrease in incidents on Penn Street since DID was disbanded.

Mr. Moran cautioned Council about implementing progressive fines too quickly, as our post-pandemic world is quite different from the pre-pandemic world for some individuals. He stated that he has been told that some outlying municipalities choose to give a violator a one-way bus ticket to Reading and enough cash to purchase a meal rather than issue a citation. He suggested working with various agencies and municipalities before moving to progressive fines.

Mr. Daubert stated that the suggestion was not seeking incarceration, but potential solutions.

Ms. Cepeda-Freytiz expressed the belief that some have a blatant disregard for law and common sense. She described scenes she regularly encounters at her Penn Street restaurant on a daily basis. She expressed the belief that the officers assigned to the downtown area do an excellent job.

- **Finance Report**

Mr. Denbowski requested that the Finance Report be moved to the July 11<sup>th</sup> meeting.

Ms. Kelleher reminded the group that due to Redevelopment Authority interviews the July 11<sup>th</sup> COW will begin at least 30 minutes late and that there are already two other topics scheduled in addition to Agenda Review. She suggested delaying the report. She also noted that on Monday June 27<sup>th</sup> she asked Mr. Kelly for a copy of the prepared finance report in excel format so it could be distributed to Council, noting that Mr. Kelly did not respond to the request.

Mr. Daubert stated that if the report can be distributed electronically, a presentation will not be required as Council can instead raise questions if need be.

- **HR Report**

Mr. Denbowski reported that HR has been filling many of the vacant positions.

## **VI. Other**

Mr. Moran reported that 15 students were interviewed for the Summer Employment program. He stated that some applicants withdrew after learning that there would be a background check and drug testing.

Ms. Cepeda-Freytiz encouraged District 6 residents to apply for the vacant District 6 Council seat. The application period closes on July 11<sup>th</sup>.

The COW adjourned at 6:32 pm.

*Respectfully Submitted by Linda A. Kelleher, CMC, City Clerk*