



COMMITTEE of the WHOLE

CITY COUNCIL

SUMMARY
August 15, 2022
5:00 P.M.
Hybrid Meeting

COUNCIL MEMBERS PRESENT:

D. Reed, C. Daubert, C. Miller, M. Ventura, M. Goodman-Hinnershitz, J. Cepeda-Freytiz, W. Butler (in person)

OTHERS PRESENT:

L. Kelleher, M. Rodriguez, F. Lachat, J. Stoudt, F. Denbowski, E. Moran, B. Heim, (in person), K. Zeiber, S. Harrity, M. Lynch, BCTV (virtually)

The meeting was called to order at 5:04pm by Ms. Cepeda-Freytiz. She welcomed new Managing Director Bill Heim.

The mayor welcomed Mr. Heim and extended his thanks and gratitude to Mr. Denbowski for his dedication to this position while the search process moved forward.

Mr. Heim thanked Council for their confidence in appointing him to the position. He assured everyone that he is prepared for the challenge.

I. Solid Waste Update

Mr. Harrity, Solid Waste Division Manager, stated that the City started its single hauler trash system in early 2021. Republic, like other businesses, experienced a worker shortage which required them to reallocate resources to handle the City's trash collection without interruption. He stated that in 2021 Republic had 189 missed trash pickups from 100,204 units and 40 missed recycling pickups from 112,885 units. In 2022 they reduced that to 189 missed trash pickups and 20 missed recycling pickups.

Mr. Harrity stated that work has started on the education and outreach component with the hiring of Sweeps in the Property Maintenance Division and a Clean City Coordinator and an Outreach Coordinator in the Solid Waste Division.

Mr. Harrity stated that efforts are turning to correct the manner in which people set out their trash and recycling. A short time ago, Council enacted an ordinance requiring trash set out in bags to be a minimum of 1 mil in thickness (*the mil rating for trash bags is printed on the packaging*). Bags that are below a 1 mil rating are susceptible to tearing and damage from the elements or animals when it is staged for collection.

Mr. Harrity stated that within the upcoming weeks, educational bilingual door hangers regarding the proper staging of trash and recycling will be distributed. Other trash and recycling issues will be covered with door hangers moving forward.

Mr. Harrity stated that although people think they are doing a good deed by sweeping the sidewalk debris into the curb, they are contributing to clogged storm catch basins as the street sweepers cannot pickup all debris that is in the street. He added that this debris can clog and damage the sweeper trucks.

Ms. Goodman-Hinnershitz thanked Mr. Harrity for his work to educate residents and improve the City's appearance. She noted the problems caused by household debris on the curb that is left behind when people move on a day other than their trash setout day. Mr. Harrity stated that when that issue is reported, the property is ticketed, a City crew is dispatched to remove the debris and the property owner is invoiced.

Ms. Ventura inquired about the procedure when the hauler drops debris and leaves it behind. Mr. Harrity noted the need to report that issue to the Solid Waste office as the contract requires Republic to return and collect the debris. He suggested the same for when the hauler leaves the bin in the street or throws it back onto the sidewalk.

Ms. Reed reminded everyone about her suggestion to place screening over catch basins to prevent litter from entering the storm sewer system and flowing into the river. She suggested reviewing the costs and potential impediments for screening. Mr. Harrity agreed to research this issue.

Mr. Miller described the problems associate with people dropping take-away food packaging into the street. He inquired about enforcement. He also questioned why people would stuff public litter cans with household trash when there is a single hauler trash collection system in place.

Mr. Harrity stated that Property Maintenance Inspectors are not enforcing littering regulations.

Ms. Cepeda-Freytiz expressed support for the door hanger education efforts and she questioned what information the QR code on the door hanger will provide. Mr. Harrity stated that the QR code leads the user to the Trash/Recycling area of the City's website.

Ms. Cepeda-Freytiz questioned if the City could provide recycling containers with the trash containers in public areas. Mr. Harrity stated that the double bins that do exist are filled with trash. He stated that additional trash containers are planned. He stated that those that adopt a block will be encouraged to accept a trash container for their block, with trash collected by the City.

Ms. Cepeda-Freytiz inquired about the enforcement of littering and the installation of signs regarding the littering regulations. Mr. Harrity stated that Property Maintenance is not currently focused on enforcing littering and he raised doubts that signage would have any impact on the littering problem.

II. ARPA Next Steps

Mr. Moran stated that in his remarks on July 26th he reminded everyone about the ARPA requirements, which allows municipalities to provide COVID relief funding to those affected. He stated that throughout this process he advocated for a fair, transparent and open process for non-profits, community groups and small businesses. He expressed his desire to respond to the wants and needs in our community by sharing this monetary gift provided by the Federal government.

Mr. Harrity disconnected from the meeting at this time.

Mr. Moran stated that it is very unfortunate that certain members of Council have chosen to challenge and dispute the process in a public forum. He stated that now that the City is out of Act 47 we can do big things to support our community, if we get out of our own way. He stated that we can provide funding to those who applied at any level we agree upon. He stated that in March he announced the plan to provide \$5M in grant funding to external organizations. This statement was made after working with Council in November through February about the funding and proper process to use.

Mr. Moran stated that in March, through a conversation with former Council President Waltman, he learned that certain Council members had reservations about the funding. He added that Council, with former Council President Waltman, agreed to form the review committee to consider and score the applications solicited. He suggested not making this process more difficult than required, when we have the opportunity to provide once in a life time funding to the community. He urged everyone to work together to move forward on this process and to utilize the consulting firm to assist in the management and required reporting on the funds dispersed.

Ms. Goodman-Hinnershitz agreed with moving forward in a fair and equitable way. She noted her 40 year career in working with non-profits and grants and offered to assist in developing a sound process. She voiced the need to consider individual applications, follow the advice of the Council Solicitor and require the funding to be used within a one (1) year period. She noted those applications that fell through the cracks in some manner need to be considered.

Ms. Goodman-Hinnershitz reminded everyone about the disparities in the information in the applications and that provided to Council on the spreadsheet and the need for all applicants to submit financial information. She also noted the need to use the services of the consultant so the proper process is followed. She suggested delaying a vote on the applications, breaking the applications out into individual ordinances, deciding on the amount of funding for the organization and considering a vote in September.

Mr. Daubert agreed with the need to move the applications received and reviewed forward. However, he noted that he has a conflict with one of the organizations and will need to abstain from a vote on that application. He noted that others also need to disclose conflicts and that after those disclosures there may not be four (4) votes available on some applications. He agreed delaying a vote until September 12th.

Ms. Reed agreed on approaching each application with a separate ordinance and the need for the disclosure of potential conflicts of interest. She stated that the group needs to define the amount of funding that will be applied to these applications. She noted the need to include the applications of those overlooked organizations.

Mr. Gombar confirmed the need to disclose conflicts of interest in written form as required by the Administrative Code and Ethics Codes. He noted that the broad language used in various conflict of interest requirements points to matters of financial interest for the official, the official's family or private interest. He stated that the official should disclose potential conflicts when they arise. He added that disclosure also applies to the mayor and auditor.

Ms. Kelleher stated that there is a form to disclose a conflict of interest in writing.

Mr. Miller stated that although he was just appointed three (3) weeks ago, he agrees with the need to apply a fair and equitable process to all applications even if that process requires a delay in the consideration of the application.

Mr. Daubert stated that he too was appointed to Council recently and is on a learning curve.

Ms. Ventura agreed with addressing all applications individually at an amount not to exceed \$5M. Additional applications can be considered if there is leftover funding available.

Mr. Butler requested the conflict of interest guidelines.

Ms. Cepeda-Freytiz stated that Council and the administration have been having discussions about ARPA since 2021. She stated that she went over the meeting summaries and reminded the group about the ARPA guidelines for eligible uses. She noted that prior to COVID Council COW meetings were held in the Penn Room without video recording. Since COVID COW sessions are now televised on the BCTV MAC Channel 99 and on Facebook, which allow more people to watch government work and watch the decision making process. She reminded

everyone that former Council President Waltman strongly believed that ARPA funds should be used for legacy projects, for organizations that received no prior COVID funding and for capital projects that were interrupted by COVID.

Ms. Cepeda-Freytiz stated that there is Council consensus on the consideration of individual applications; however, there is no consensus on the mayor's recommendation to allocate \$5M to this grant program. She noted that the amount of funding provided for applications can be reconfigured. She inquired if the ordinances can be amended to reduce the amount of funding. Mr. Gombar stated that the amount of funding can be reduced; however, if the amount is increased the ordinance will have to be reintroduced. He added that the total allocations cannot exceed the total amount agreed to by Council and the mayor.

Mr. Moran stated that the amount allocated to organizations can be increased or decreased.

Ms. Cepeda-Freytiz stated that in addition to the grants for non-profits, there is also the need to consider funding for colleges and small businesses.

Ms. Reed noted that City ARPA funding has already been allocated to the Convention Center, the Fightin Phils and City capital needs. If a total of three (3) grant programs are funded, that will require more funding and reduce the amount required to meet the City's needs. She noted the need for the administration to set a specific amount of money for the total grant program to be used for non-profits, small businesses and colleges.

Mr. Daubert expressed the belief that moving forward the consultant should handle the application process and make a funding recommendation, due to the difficulties identified during this first round.

Ms. Goodman-Hinnershitz noted that this grant process is not unlike others. She suggested learning from the missteps and moving forward. The amounts requested need to be considered based on the amount of funding available, the applicants ability to use the funding within a one (1) year period, and the project the funding will be applied to.

Ms. Cepeda-Freytiz stated that the 25 recommendations will be separated out into separate ordinances for reintroduction, as per Mr. Gombar. The two (2) applications that were overlooked will also become ordinances and introduced.

Mr. Daubert noted the need to refine the amount of funding that will be awarded. He expressed concern that addressing the applications separately may not consider the total amount of funding available.

Ms. Goodman-Hinnershitz noted the inaccuracies on the spreadsheet provided to Council and the need to consider if the application meets the required criteria (city-based organization, financials submitted, 501c3, etc) prior to consider the amount of funding to award. She

inquired if Council can amend the funding amounts prior to a vote. Mr. Gombar opined that as long as the total amount is not exceeded, amounts can occur prior to a vote.

Ms. Cepeda-Freytiz stated that the total amount of awards recommended came to \$5.197M.

Mr. Moran suggested a total of \$5.5M, for the 25 recommendations plus the two applications that were overlooked. He explained that the Committee recommendation plus the recommendations he made, after vetting by the consultant, came to \$5.197.

Council agreed with \$5.5M with no further increases.

Ms. Goodman-Hinnershitz noted that in a prior statement by Mr. Moran, he stated that \$1M would be dedicated to youth violence prevention. Mr. Moran agreed, based on his recollection of a conversation with former Council President Waltman.

Ms. Goodman-Hinnershitz suggested having a subcommittee of Council review the 25 applications again to be sure all the required information was submitted.

Mr. Daubert expressed the belief that Council should undertake that step together at a COW.

Ms. Goodman-Hinnershitz agreed with using the COW for the review but she requested a new spreadsheet that provides the amount requested, the amount recommended and correction of the existing flaws. She also inquired about how to handle the various amendments some organizations have requested or submitted.

Mr. Gombar advised against accepting the amendments that were submitted or requested. He stated that if some are accepted, every organization that applied should be provided with the opportunity to revise their application. He again noted the need to treat all organizations in the same manner.

Council requested an additional COW devoted to the ARPA process with work to finalize the allocations on Wednesday, August 24th at 5 pm. Ms. Cepeda-Freytiz also requested the submissions by Opportunity House and RIZE.

Mr. Daubert noted the need to get a final determination on the existence of conflicts between certain members of Council and some organizations who applied for grant funding, as the determination that a conflict exists will prohibit the Council member from deliberating and voting on the grant application.

Mr. Gombar stated that he and Mr. Lachat are working with the Ethics Solicitor to make that determination on the existence of a conflict.

III. Charter Board Ordinance Amendment

Mr. McFarlane stated that the Charter Board sees the proposed ordinance as a slap in the face and opposes the proposal. He stated that the Board believes the draft is Draconian and lacks objectivity. He expressed the belief that Mr. Gombar had minimal participation in crafting this proposed ordinance and that the draft was solely prepared by Mr. Lachat. He described the Law Department's repeated strikes at the Charter Board as they believe that the Charter Board should not exist. He noted the unsuccessful lawsuit filed by the City challenging the constitutionality and jurisdiction of the Charter Board. He noted the affirmation that the Charter Board is constitutional and has jurisdiction has been declared by the courts as the Board was approved by the first amendment to the Charter by the City electorate.

Mr. McFarlane stated that the Board is reactive based on the filing of complaints on City officials and when complaints are not active the Board spends around \$5,000 per year. He noted the Board's understanding of the need to be frugal with tax payer dollars. He expressed the belief that the Board is working with their Solicitor to reduce fees. He questioned what is broken. He again noted that without the misbehavior of City officials, no complaints are filed. He stated that over the past 10 years each mayor, but the current mayor, has had Charter complaints filed against them.

Charter Board Solicitor Eric Smith agreed that the Charter Board is reactive to complaints that are filed against officials and the Board has only once initiated a complaint. He stated that costs are driven higher when Charter Board decisions are appealed into the Court system, noting the cost to the suit filed by the City against the Board regarding the constitutionality and jurisdiction of the Board.

Mr. Smith stated that Charter Board decision on Investigation 54 continues to be appealed and re-appealed by former mayor Scott, which drives the legal expenses higher.

Mr. Smith questioned the sense of not allowing officials and boards with their own legal representation to file advisory opinion requests to the Board which is charged with being the expert on the Charter language and intent.

Ms. Goodman-Hinnershitz recalled her work on the committee that drafted the first amendment to the Charter and she expressed the belief that Charter complaints have grown out of control with litigation and unnecessary spending. She agreed that if officials obey the Charter complaints will not be filed. She asked for the Board's input on curtailing expenses.

Mr. Smith stated that his municipal rate of \$195 is surely lower than the rates charged by outside legal counsel handling the appeals for an official.

Mr. Lachat recalled that the need for this amendment came through conversations with former Council President Waltman about curtailing Charter Board expenses and the need to contain Charter Board expenses has been publically discussed often. The draft ordinance works to

contain Charter Board expenses. He stated that changes to the draft were made after obtaining input from the Charter Board Chair at a meeting few months ago. He stated that Reading will remain the only municipality in the Country where a citizen can file a complaint to a Board if they believe an official has violated the Charter.

Mr. Lachat expressed the belief that the draft provides a smoother and faster process to resolve Charter complaints and ends complaint activity and City representation when the official is no longer holding office. He added that the appeals with Investigation 54 would have ended two (2) years ago.

Mr. Smith agreed that the draft does attempt to prevent runaway costs. However, he questioned how adding an investigative officer to the process will save money. He also questioned how moving the complaint into the Court of Common Pleas will save time and money, as the briefing schedule, filing fees and the application of a discovery period. He expressed the belief that the draft ordinance violates the first amendment to the Charter as the language requires the Charter Board to hear and decide all cases alleging Charter violations.

Section 2. Charter Board.

*b.) **Jurisdiction.** The Charter Board shall hear and decide all cases alleging violations of the Charter or Administrative Code, except that its jurisdiction shall not extend to any case arising under the Ethics Code or the Personnel Code. Insofar as permitted by state law the Board shall issue binding opinions, impose penalties and administrative fines, refer cases for prosecution, and conduct investigations on its own initiative and on referral or complaint. City Council shall appropriate sufficient funds to enable the Board to perform the duties assigned to it, including expenses for independent counsel and other necessary staff*

The Charter Board shall, in addition, be responsible on an ongoing basis for educating the public and members of City government as to their rights, duties, and obligations under the Charter and Administrative Code.

Mr. Smith noted that removing the confidentiality of the complainant does nothing to contain costs or streamlines the process. He stated that the confidentiality of the complainant originates in the State Ethics Code. He requested more detail about the requirement for the legal rates to be tied to those charged by Berks County firms and attorneys. He agreed with using the purchasing policies.

Mr. Smith questioned striking out the majority of the penalties included in Section 604 standards of interpretation and limiting the penalties until the complaint has worked through court appeals process or after an official has a 2nd violation. He again noted that forcing a complaint into the court system will not speed the process and he explained that the Charter 45 day requirement and other similar deadlines were used to ensure that complaints would not linger.

Ms. Cepeda-Freytiz inquired if the Charter Board would draft a counter proposal. Mr. McFarlane and Mr. Smith agreed to draft a counter proposal.

Mr. Daubert questioned if the counter proposal will be the best thing for the City. He noted the importance of being right in this situation.

Ms. Goodman-Hinnershitz expressed the belief that this cannot turn into a “win-win” situation and she is unsure if there are tweaks that will fix the problem.

Ms. Reed stated that she respects the Charter Board as an objective arbiter. She agreed with the problems associated with the millions of dollars in legal fees charged and paid to process a complaint that occurred between 2013-15. She agreed with the need for the Charter Board and the need for a compromise to contain the costs to process complaints.

Ms. Cepeda-Freytiz suggested providing the Charter Board time to prepare a draft ordinance that can be considered. Mr. Smith and Mr. McFarlane agreed to provide a draft to be reviewed at the September 19th COW.

IV. BAC and VP Appointments

Ms. Cepeda-Freytiz reviewed the list of Council board and commission appointments. The following changes were agreed upon:

1. **Resolution** – appointing Melissa Ventura to the BCAP Board, with Wesley Butler as an alternate
2. **Resolution** – appointing O. Chris Miller to the Downtown Revitalization Public Private Partnership (P3)
3. **Resolution** – appointing Donna Reed to Reading Area Transportation Study (RATS), with O. Chris Miller as an alternate
4. **Resolution** – appointing Johanny Cepeda-Freytiz to the Blighted Property Review Committee (BPRC) Board, with O. Chris Miller as an alternate
5. **Resolution** – appointing Christopher Daubert to the Reading School District work group
6. **Resolution** – appointing Marcia Goodman-Hinnershitz to the Aulenbach Cemetery Board, with Donna Reed as an alternate

Information on the Citizen Initiative Commission was requested.

Mr. Daubert nominated Ms. Reed as Council Vice President. All present agreed.

Ms. Cepeda-Freytiz adjourned the COW at approximately 7:40 and Mr. Gombar requested an executive session with Council on a personnel matter. Everyone but the seven (7) Council members and Mr. Gombar left the room.

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