

THE CHARTER BOARD OF THE CITY OF READING

RESOLUTION NO. 1-2018

**A RESOLUTION DIRECTING THE INVESTIGATIVE OFFICER TO
COMMENCE CHARTER ENFORCEMENT PROCEEDINGS UPON
NEW VIOLATIONS FOUND AND AGAINST ADDITIONAL SUBJECTS UPON
COMPLETION OF PRELIMINARY OR FULL INVESTIGATION**

WHEREAS, Section III, Part A, of the City of Reading Charter Board Ordinance, Bill No. 46-2005, *as amended*, (“Ordinance”) provides the Charter Board (“Board”) with enumerated powers and duties, including at Sub-part 3, to “[i]nitiate preliminary investigative [sic] on its own motion, through the Investigative Officer;”

WHEREAS, further, Section III, Part A, of the Ordinance, at Sub-part 6, provides the Board with the power to “[a]dopt rules and regulations to administer, implement, enforce and interpret the Charter Board Ordinance;”

WHEREAS, it also appears to the Board that complainants may, from time to time, file a Charter Board complaint (“Complaint”) as to a transaction or occurrence giving rise to multiple potential violations of the Charter or the Administrative Code, but the complainant files a Complaint as to less than all of such potential violations;

WHEREAS, it appears to the Board that complainants may, from time to time, file a Complaint as to the conduct of only a certain subject, or subjects, when there may be additional subjects who may be solely, or jointly, responsible for the alleged violations of the Charter or the Administrative Code as set out in the Complaint, but who are not named as subjects;

WHEREAS, it further appears to the Board that the Board’s Investigative Officer may, from time to time, be presented with facts or circumstances discovered in the course of an investigation, indicating that other parties may be solely, or jointly, responsible for the Charter or

Administrative Code violations alleged in the Complaint, or other possible violations not alleged in the Complaint, and not arising from the transaction or occurrence alleged in the Complaint;

WHEREAS, it is the Board's desire by this Resolution to give guidance, when the aforementioned circumstances arise, to the Investigative Officer and the citizens and officials of the City of Reading, to provide an expedient forum and Charter enforcement process, and to conserve the resources of the City and the parties, by consolidating investigations and hearings and by joining additional violations or subjects, where appropriate.

NOW THEREFORE, UPON THE UNANIMOUS VOTE OF THE BOARD, LET IT BE RESOLVED THAT:

1. Specific Authorization.

The Investigative Officer is specifically authorized and directed to proceed in the performance of his or her duties in accordance with this Resolution.

2. Additional violations arising from the underlying transaction and occurrence.

If, during the course of a preliminary investigation under the Ordinance, the Investigative Officer discovers that a) additional violations of the Charter or the Administrative Code may have occurred which arise from the underlying transaction or occurrence as alleged in the Complaint investigated by the Investigative Officer, or b) additional subjects should properly be joined in the Complaint, the following procedures shall be employed, as applicable:

a. In the instance where the Investigative Officer finds that additional violations of the Charter or Administrative Code may exist, or, that from conduct arising out of the underlying transaction or occurrence as alleged in the Complaint, parties other than the original subjects of the Complaint may be solely or jointly responsible for the commission of some or all of the alleged violations, and if the Investigative Officer is satisfied that the criteria

of the Ordinance, Section V, Part A, sub-part 4(a), are met, relating to *de minimis* violations and the Board providing an adequate and timely remedy, then the Investigative Officer shall notify the Board and its Solicitor in writing of the finding of the alleged additional violations or additional subjects and, thereafter, the Board shall promptly vote whether or not to authorize the Investigative Officer to commence a preliminary investigation as to the alleged additional violations or additional subjects, or both, as the case may be;

i. Violations. If the Board votes to authorize the Investigative Officer to commence a preliminary investigation and the preliminary investigation finds a prima facie showing that the alleged additional violations occurred, then those violations shall be joined in the underlying Complaint, and the Investigative Officer shall: a) immediately notify the subjects in writing of the additional violations joined, b) provide the subjects a summary of the pertinent factual information which substantiates the additional violations, c) complete the preliminary investigation within the time frames provided by the Ordinance, if not already completed, d) continue with the full investigation of the subjects and issue a Findings Report as to both the additional and original violations alleged against the subjects; e) continue to proceed with the investigation upon the same time frames as which correspond to the filing of the underlying Complaint;

ii. Subjects. If the Board votes to authorize the Investigative Officer to commence a preliminary investigation and the preliminary investigation finds a prima facie violation of the Charter or the Administrative Code arising out of the underlying transaction or occurrence as alleged in the Complaint as to parties other than the original subjects of the Complaint, the Investigative Officer shall: a) immediately notify the additional subjects in writing of their joinder in the underlying Complaint and investigation, b) provide the additional

subjects a summary of the pertinent factual information which substantiates the violations as asserted against them, c) complete the preliminary investigation within the time frames provided by the Ordinance, if not already completed, d) continue with the full investigation of all subjects and issue a Findings Report as to all violations as alleged against both the original and additional subjects; and e) continue to proceed with the investigation upon the same time frames as which correspond to the filing of the underlying Complaint;

b. All additional violations or subjects joined to the underlying Complaint shall be joined in the same Findings Report and heard together at the same hearing before the Board as provided for in Section V, Part A, Sub-Part VII, of the Ordinance;

c. There shall be no confidentiality of identity as between the original subjects of the Complaint and any later joined subjects;

d. Where additional subjects are joined to an existing Board investigation, such subject or subjects, as the case may be, may make a written request to the Board within seven (7) days of the issuance of the Findings Report that the hearing to be conducted with respect to that subject be held separately, which the Board may grant in its discretion;

e. No new violations or additional subjects may be joined to a Complaint after the period for preliminary investigation, including all extensions, have expired; however, additional violations or subjects identified by the Investigative Officer after the conclusion of the preliminary investigation period may form the basis of the initiation of a separate preliminary investigation, with notice of said alleged violations or additional subjects given promptly by the Investigative Officer to the Board, together with a request to commence a preliminary investigation, upon which request the Board shall promptly vote, and if approved the matter shall proceed in accordance with Section V, Part A of the Ordinance;

f. All additional violations and subjects joined to a Complaint shall be investigated and heard in accordance with all procedures, and within the time frames, provided by the Charter Board Ordinance.

3. Additional violations arising from a different transaction or occurrence.

If at any time during the course of a Board investigation, the Investigative Officer discovers that the subject or any other person or entity may have violated the Charter or the Administrative Code, upon facts and circumstances which do not arise from the transaction or occurrence as alleged in the underlying Complaint then being investigated by the Investigative Officer, the Investigative Officer shall notify the Board and its Solicitor in writing of the discovery of the alleged new violations arising out of a different transaction or occurrence than the underlying Complaint then under investigation, and, thereafter, the Board shall promptly vote whether or not to authorize the Investigative Officer to commence a preliminary investigation as to the alleged new violations;

a. If the Board votes to authorize the Investigative Officer to commence a preliminary investigation, the investigation shall proceed in accordance with the Ordinance, Section V, Part A, and independently of the underlying Complaint as an investigation commenced by the Board pursuant to the Ordinance, Section III, Part A, sub-part 3.

4. Improper joinder not a basis for dismissal.

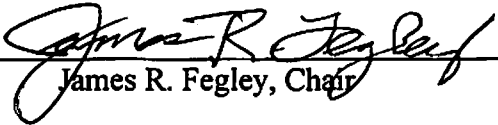
Under no circumstance shall improper joinder, or non-joinder, of additional violations or subjects form the basis for dismissal of any Complaint or investigation.

5. Applicability.

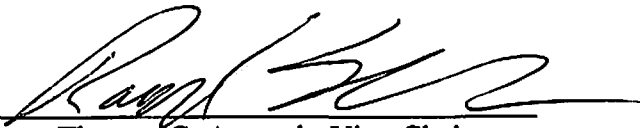
Additional violations and subjects may be joined pursuant to Section 2 and a preliminary investigation may be initiated pursuant to Section 3 whether or not the underlying investigation

originated with the filing of a Complaint or an investigation commenced by the Board under
Section III, Part A, Sub-part 3.

THE CITY OF READING CHARTER BOARD


James R. Fegley, Chair

Date: 7-17-18

ATTEST: 
Thomas C. Anewalt, Vice-Chair

Raymond Schuenemann