



CITY COUNCIL

Meeting Agenda

***REGULAR MEETING
COUNCIL CHAMBERS***

***MONDAY, MAY 24, 2010
7:00P.M.***

1. OPENING MATTERS

A. CALL TO ORDER

B. INVOCATION: Pastor Jack Williams, First Century Worship Center

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

2. PROCLAMATIONS AND PRESENTATIONS

A. Council Commendation recognizing the 115th Anniversary of the Conrad Weiser Society Children of the American Revolution, accepted by Floyd Turner

B. Council Commendation recognizing Historic Preservation Month, accepted by Preservation Officer Amy Johnson

C. Council Commendation recognizing Brother Fox of the Fairview Christian School

D. Recognizing RHS athletes for winter sports achievements

3. PUBLIC COMMENT – AGENDA MATTERS:

Citizens have the opportunity to address the Council, by registering with the City Clerk before the start of the meeting. All remarks must be directed to Council as

a body and not to any individual Council member or public or elected official in attendance. Any person making personally offensive or impertinent remarks or any person becoming unruly while addressing Council may be called to order by the Presiding Officer and may be barred from speaking before Council, unless permission to continue speaking is granted by the majority vote of Council.

*All comments by the public shall be made from the speaker's podium. **Citizens attending the meeting may not cross into the area beyond the podium.** Any materials to be distributed to Council must be given to the City Clerk before the meeting is called to order.*

Those commenting on agenda business shall speak at the beginning of the meeting and shall limit their remarks to 5 minutes. Those commenting on general matters shall speak after the legislative business is concluded and shall limit their remarks to 3 minutes. No comments shall be made from any other location except the podium, and anyone making "out of order" comments may be subject to removal. There will be no demonstration at the conclusion of anyone's remarks. Citizens may not ask questions of Council members or other elected or public officials in attendance.

4. APPROVAL OF AGENDA

A. MINUTES: Council Meeting of May 10, 2010

B. AGENDA: Council Meeting of May 24, 2010

5. Consent Agenda Legislation

6. ADMINISTRATIVE REPORT

7. REPORT FROM OFFICE OF THE AUDITOR

8. REPORT FROM DEPT. DIRECTORS, BOARDS, AUTHORITIES, & COMMISSIONS

9. ORDINANCES FOR FINAL PASSAGE

A. Bill No. 21-2010 – amending the Codified Ordinances Chapter 1 Administration and Government, Part 6 Pensions, A. Police Pension Fund, Section 1-607 to provide for application of previous time to a pension account upon being re-hired (**Law**) ***Introduced at the April 12 regular meeting; Tabled at the April 26 and May 10 regular meetings***

10. INTRODUCTION OF NEW ORDINANCES

A. Ordinance –amending the process for denials of requests and appeals regarding access for public records of the City of Reading **(Law)**

B. Ordinance – to approve/reject the Act 47 Coordinator’s Recovery Plan **(PFM)**

11. RESOLUTIONS

A. Resolution 49-2010 - authorizing the filing of a proposal for funds with the Department of Community and Economic Development (DCED), Commonwealth of Pennsylvania to access Early Intervention Program funds **(Man Dir) Tabled at the May 10 regular meeting**

B. Resolution – Promoting Police Officer Brian Cole to the rank of Sergeant, effective May 30, 2010 **(Police)**

C. Resolution – consenting to and authorizing the Redevelopment Authority of the County of Berks (the “Authority”) to issue \$3,000,000.00 of Recovery Zone Facility Bonds within the meaning of, and for the purposes of, Sections 1400-1 and 1400u-3 of the Internal Revenue Code of 1986, as amended, for the benefit of Shuman Development Group, or its assignee, for the Hiester Lane project and the expansion of the Authority’s field of operation to include said Hiester Lane project **(County Redevelopment Authority)**

D. Resolution – authorizing the submission of the joint response report from Muhlenberg Twp and the City of Reading to the proposed remediation plan for Bernhart’s Park **(Council Staff/Bernhart Task Force)**

E. Resolution – authorizing amending the FFY2010 CDBG Action Plan by moving the Recreation Activity For Teens Program from the Millmont Elementary School at 400 Summit Avenue to the City of Reading’s Third and Spruce Recreation Center **(CD Dir)**

F. Resolution – approve/deny the Conditional Use application for 335 N 11th St by adding an additional rental unit to a total of three rental units **(Council Staff/Law) To be distributed on Monday**

G. Resolution – approve/deny the conditional use applications for 315 N 6th St and 430 Elm St **(Council Staff/Law) To be distributed Monday**

H. Resolution – authorizing the intervention of Appeal in Zoning Hearing Board Decision regarding 1431 N 14th St **(Law) To be distributed Monday**

I. Resolution – authorizing the intervention of Appeal in Zoning Hearing Board Decision regarding 1500 N 14th St **(Law) To be distributed Monday**

12. PUBLIC COMMENT - GENERAL MATTERS

13. COUNCIL BUSINESS / COMMENTS

14. COUNCIL MEETING SCHEDULE

Monday, May 24

Committee of the Whole – Council Office – 5 pm

Regular Meeting – Council Chambers – 7 pm

Monday, May 31

City Offices Closed

Thursday, June 3rd

Planning Commission Public Hearing re Amended Zoning Ordinance – 6 p.m.

Monday, June 7

Special Meeting – Act 47 – Council Chambers – 5 pm

Public Safety Committee – Council Office – 6 pm

Administrative Oversight Committee – Council Office 6:55 pm

Tuesday, June 8

Zoning Hearing – Rezoning of portions of the 500 block of Crestmont & Arlington Sts –

Council Chambers – 5 pm

Monday, June 14

City Offices Closed

****Tuesday, June 15****

Committee of the Whole – Council Office – 5 pm

Regular Meeting – Council Chambers – 7 pm

15. BAC AND COMMUNITY GROUP MEETING SCHEDULE

Monday, May 24

DID Authority – Reading Eagle 3rd Floor Conference Room – noon
BARTA – BARTA Office – 3 pm

Tuesday, May 25

Housing Authority Workshop - WC Building – 4 pm
Housing Authority Meeting – WC Building – 5 pm
Environmental Advisory Council – Council Office – 5:30 pm
Planning Commission – Penn Room – 7 pm
District 7 Crime Watch – Holy Spirit Church – 7 pm
Penn’s Common Neighborhood Group – Penn’s Common Meeting Room – 7 pm

Wednesday, May 26

Human Relations Commission – Penn Room – 5:30 pm
Parking Authority – Parking Authority Office – 5:30 pm
Outlet Area Neighborhood – St. Mark’s Lutheran Church – 6:30 pm
18th & Cotton Community Crime Watch – St. Matthew’s UM Church – 7 pm
Stadium Commission – Stadium RBI Room – 7:30 pm

Thursday, May 27

Water Authority – Penn Room – 4 pm

Tuesday, June 1

Charter Board – Penn Room – 7 pm

Wednesday, June 2

Reading Elderly Housing Crime Watch – Front & Washington Sts – 2:30 pm
Board of Health – Penn Room – 6 pm
District 2 Crime Watch – St. Paul’s Lutheran Church – 6:30 pm

Thursday, June 3

Police Civil Service Board – Penn Room – noon
Glenside Community Council – Christ Lutheran Church – 6:30 pm
District 3 Crime Watch – Calvary Baptist Church – 7 pm

Monday, June 7

Centre Park Artifacts Bank – 705 N 5th St – noon

Shade Tree Commission – Planning Conference Room – 6 pm

Tuesday, June 8

Reading Regional Airport Authority – Airport Authority Office – 8 am

Water Authority Workshop – Penn Room – 4 pm

District 11 Crime Watch – Orthodox Presbyterian Church – 7 pm

Wednesday, June 9

Zoning Hearing Board – Penn Room – 5:30 pm

Center City Community Organization – Holy Cross Church – 6 pm

Thursday, June 10

Police Pension Board – Penn Room – 10 am

Legislative Aide Committee – Penn Room – 7:30 pm

Sunday, June 13

College Heights Community Council – Nativity Lutheran Church – 7 pm

Monday, June 14

Fire Civil Service Board – Penn Room – 4 pm

6th & Amity Neighborhood & Playground Assn – 6th & Amity Fieldhouse – 6:30 pm

Tuesday, June 15

Charter Board – Penn Room – 7 pm

HARB – Planning Conference Room – 7 pm

CITY COUNCIL MEETING MONDAY, MAY 10, 2010

A regular meeting of City Council was held on the above date for the transaction of general business.

Vaughn D. Spencer, President of Council, called the meeting to order.

The invocation was given by President of Council Vaughn D. Spencer.

All present pledged to the flag.

ATTENDANCE

Council President Spencer
Councilor Acosta, District 1
Councilor Goodman-Hinnershitz, District 2
Councilor Sterner, District 3
Councilor Marmarou, District 4
Councilor Reed, District 5
Councilor Waltman, District 6
Mayor T. McMahon
Interim Managing Director C. Geffken
City Auditor D. Cituk
City Clerk L. Kelleher
City Solicitor C. Younger
Sergeant At Arms Captain R. Schafer

PROCLAMATIONS AND PRESENTATIONS

City Council issued the following:

- Council Commendation recognizing Lance Corporal Brandon McCulley
- Council Commendation recognizing Reading Police Memorial Day, accepted by Police Chief William Heim
- Certificates recognizing “The Song of a Father’s Heart” mural at 3rd & Washington Sts

The Mayor issued the following:

- Proclamation recognizing Bike Month, accepted by Emily Weidner, Kate Kennedy, and Michele Berret

PUBLIC COMMENT

Council President Spencer announced that four (4) citizens were registered to address Council on non-agenda matters. He inquired if any Councilor objected to suspending the rule which requires non-agenda comment at the end of the meeting. As no one objected, the rule requiring non-agenda at the end of the meeting was suspended. Council President Spencer reminded those registered to speak of the remaining public speaking rules.

Denise Berger, of North Tenth Street, discussed the impact that the location of sexual predators proposed on Elm and North Sixth Street have brought to this urban neighborhood. She stated that the properties are operated by John Rush and are already occupied by eleven (11) sexual predators. She questioned the appropriateness of centralizing sexual offenders in this one neighborhood. She expressed the belief that children will suffer.

Ralph Rosado, of Madison Street, stated that as a parent of young children, he is opposed to the proposed group homes for sexual predators on North 6th Street and Elm Street. He stated that more than twenty (20) sexual predators are already located in other properties in this same area and stated that the area cannot tolerate any further density. He also noted being upset by the lack of notification by the State Police about the relocation of these sexual offenders to this neighborhood. He asked Council to deny the application for two (2) group homes.

Ray Torres, of South Fifth Street, stated that his community has been meeting to discuss the public safety hazards caused by the removal of the traffic light at 5th and Bingaman. He stated that neighbors have been circulating petitions to encourage action by the State.

Angelina Torres, of North Fifth Street, declined when offered the floor.

APPROVAL OF AGENDA & MINUTES

Council President Spencer called Council's attention to the agenda for this meeting, including the items listed under the Consent Agenda heading, and the minutes from the April 26th regular meeting of Council. He noted the need to add a resolution to the agenda that addresses traffic issues at 5th and Bingaman streets.

- Resolution – addressing the traffic and safety issues at 5th and Bingaman Streets.

Councilor Marmarou moved, seconded by Councilor Acosta, to adopt the agenda as amended including the legislation listed under the consent agenda heading, and the minutes from the April 26th regular meeting of Council. The motion was approved unanimously.

CONSENT AGENDA LEGISLATION

- A. Resolution -2010** Authorizing RACP funding to Alvernia in the amount of \$500,000 (**Law**)
- B. Resolution -2010** Traffic and safety issues at 5th and Bingaman.

ADMINISTRATIVE REPORT

Mayor McMahon read the report distributed to Council at the meeting covering the following:

1. Receipt of the draft Act 47 Recovery Plan from PFM
2. Congratulating Council President Spencer on receiving the distinguished Northeaster Award this year
3. Dedication of the Orange and Cherry Street playground
4. Child Day held this past weekend at the Pagoda

Councilor Goodman-Hinnershitz noted that Child Day was offered at no cost to the City. It was funded through private donation.

Councilor Acosta described the success of the meeting with the community to discuss the 5th and Bingaman traffic issues caused by the removal of the traffic light at this intersection. He noted his belief that the issue will be successfully resolved.

AUDITOR'S REPORT

City Auditor Cituk read the report distributed to Council at the meeting covering the following:

1. 2010 Unemployment compensation expenses
2. Receipt of Reading Parking Authority's annual external audit

ORDINANCES FOR FINAL PASSAGE

A. Bill No. 16-2010 - amending the City of Reading Codified Ordinances Chapter 15 Motor Vehicles and Traffic Part 12 Parades by renaming Part 12 Parades, Special Events and Public Gatherings and amending to create regulations for Special Events (**Police Dept/Council Staff**) *Introduced at the April 12 regular meeting; Tabled at the April 26 regular meeting*

Councilor Marmarou moved, seconded by Councilor Acosta, to enact Bill No. 16-2010.

Council President Spencer stated that this ordinance adds specialized regulations for events in City neighborhoods on public and private property.

Councilor Goodman-Hinnershitz noted the need for public education about the requirements and asked the Administration to coordinate.

Bill No. 16-2010 was enacted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.
Nay: None- 0.

B. Bill No. 17-2010 - providing for the Business Privilege License Ordinance under Chapter 13 Licenses, Permits & General Business Regulations, Part 4 Business Privilege License of the Code of Codified Ordinances and creating revocation procedures **(Law/Council Staff) *Introduced at the April 12 regular meeting.***

Councilor Reed moved, seconded by Councilor Acosta, to enact Bill No. 17-2010.

Councilor Waltman stated that this revocation procedure is not an effort to attack businesses but a process that places penalties on businesses that choose not to abide by the City's laws. He expressed the belief that the ordinance will be used infrequently, if at all. He noted his hope that this ordinance will inspire compliance with City regulations and added that as it is used it will probably require adjustment moving forward.

Councilor Reed thanked Councilor Waltman for his good summary about the intent of the ordinance. She expressed her belief in the mission of the ordinance as it will properly address quality of life issues that will affect neighborhoods.

Councilor Goodman-Hinnershitz expressed the belief that this is a strong ordinance with good structure. She noted the need to differentiate between good businesses and businesses that require the City to dedicate costly resources to solve neighborhood problems.

Council President Spencer explained why he will not support this ordinance.

Bill No. 17-2010 was enacted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, - 6.
Nay: Spencer, President - 1.

C. Bill 18-2010 - amending the Codified Ordinances Chapter 5 Code Enforcement to add the \$750 fee for filing an appeal to the building – Fire Board of Appeals, Plumbing Board of Appeals, Electrical Board of Appeals and Mechanical Board of Appeals and make consistent timing for filing of appeals and hearing of appeals before all boards **(Law) Introduced at the April 12 regular meeting**

Councilor Acosta moved, seconded by Councilor Marmarou, to enacted Bill No. 18-2010.

Councilor Acosta noted the receipt of information reporting on the costs for this appeal process, satisfying his request.

Council President Spencer noted the cost study completed by Maximus that created recommendations for fee increases based on the City's actual cost of various services.

Bill No. 18-2010 was enacted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.

Nay: None - 0.

D. Bill No. 21-2010 – amending the Codified Ordinances Chapter 1 Administration and Government, Part 6 Pensions, A. Police Pension Fund, Section 1-607 to provide for application of previous time to a pension account upon being re-hired **(Law) Introduced at the April 12 regular meeting**

Councilor Goodman-Hinnershitz moved, seconded by Councilor Acosta, to table Bill No. 21-2010.

Bill No. 21-2010 was tabled by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Reed, Sterner, Waltman, Spencer, President - 6.

Nay: Marmarou - 1.

Council President Spencer announced that the ordinance was tabled at the Solicitor's request.

E. Bill No. 22-2010 – authorizing the City to enter into an Intergovernmental Agreement for the purpose of providing mutual aid among the County of Berks, the Friendship Hook and Ladder Company No. 1 of Boyertown, PA, the City of Reading and the Township of Spring to assist first responders in the mitigation of emergencies related to trench and structural collapse **(Law) Introduced at the April 12 regular meeting**

Councilor Goodman-Hinnershitz moved, seconded by Councilor Reed, to enact Bill No. 22-2010.

City Solicitor Younger explained that this ordinance will create regional cooperation between five (5) municipalities for specialized fire services.

Councilor Reed expressed her belief in this effort to create regional services that will enhance public safety efforts.

Councilor Goodman-Hinnershitz noted her belief in this logical approach to sharing between municipal entities. She suggested regularly reviewing the terms of the agreement to expand and adjust as necessary.

Council President Spencer noted the Interim Managing Director's belief that the City would be able to handle this mutual aid service without increasing Fire overtime. Mr. Geffken agreed that the City can provide this service without increasing overtime expenditures and promised to provide reports after mutual services are provided.

Bill No. 22-2010 was enacted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.

Nay: None - 0.

F. Bill No. 25-2010 - amending Chapter 10 – Health Code of the City of Reading Codified Ordinances Section 1212.03.1, required, by requiring a food employee certificate for all food restaurants or facilities in the City of Reading (Law) *Introduced at the April 26 regular meeting*

Councilor Acosta moved, seconded by Councilor Reed, to enact Bill No. 25-2010.

City Solicitor Younger stated that this ordinance is being amended so that it complies with State regulations.

Bill No. 25-2010 was enacted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.

Nay: None- 0.

G. Bill No. 24-2010 – amending the Vending License Board of the Sidewalk Vendor Ordinance (Law) *Introduced at the April 26 regular meeting*

Councilor Acosta moved, seconded by Councilor Goodman-Hinnershitz, to enact Bill No. 24-2010.

Council President Spencer explained the provisions of this amendment.

Bill No. 24-2010 was enacted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.

Nay: None- 0.

INTRODUCTION OF NEW ORDINANCES

No Ordinances were introduced at this meeting.

RESOLUTIONS

A. Resolution 48-2010 – Addressing the traffic and safety issues at 5th and Bingaman Streets.

Councilor Acosta moved, seconded by Councilor Reed, to adopt Resolution No. 48-2010.

Councilor Acosta noted the work to address the traffic and public safety issues caused by the removal of traffic light at 5th and Bingaman. He noted the community's outcry and the City's attempt to bring resolution successfully.

Resolution No. 48-2010 was adopted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.

Nay: None- 0.

B. Resolution 46-2010 – amending the Handicap Parking Regulations as attached (*Law Tabled at the April 26 regular meeting*)

Councilor Goodman-Hinnershitz moved, seconded by Councilor Acosta, to adopt Resolution No. 46-2010.

City Solicitor Younger explained the need for the change and highlighted the new language.

Councilor Goodman-Hinnershitz noted the struggle with an inner-city parking needs and the abuse of the privilege by some who use handicapped parking tags. She noted the need to address parking hardships throughout various neighborhoods.

Resolution No. 46-2010 was adopted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.
Nay: None- 0.

Resolution 49-2010 authorizing the filing of a proposal for funds with the Department of Community and Economic Development (DCED), Commonwealth of Pennsylvania to access Early Intervention Program funds (Man Dir)

Councilor Goodman-Hinnershitz moved, seconded by Councilor Reed, to table Resolution No. 49-2010.

Resolution No. 49-2010 was tabled by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.
Nay: None- 0.

C. Resolution 50–2010 appointing Rebecca Acosta to the Reading Housing Authority (Admin Oversight)

The Administrative Oversight Committee moved to adopt Resolution 50-2010.

Councilor Acosta noted his need to abstain from voting on this resolution due to his relationship with Ms. Acosta.

Councilor Marmarou noted the amazing background of Ms. Acosta in the housing and HUD areas.

Resolution No. 50-2010 was adopted by the following vote:

Yea: Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 6.
Nay: None- 0.
Abstain: Acosta-1

D. Resolution 51–2010 appointing Thomas Anewalt to the Legislative Aide Committee (Admin Oversight)

E. Resolution 52–2010 appointing Twila Ramirez to the Legislative Aide Committee (Admin Oversight)

F. Resolution 53–2010 appointing Lynn Smith as an alternate to the Animal Control Board (**Admin Oversight**)

G. Resolution 54–2010 reappointing Russell Manbeck to the Disruptive Conduct Review Board of Appeals (**Admin Oversight**)

The Administrative Oversight Committee moved to adopt resolution 51-2010 – 54-2010.

Councilor Marmarou noted the skill and qualifications of those being appointed and reappointed tonight. He noted his satisfaction with the new appointments as it represents Council and the Administration’s work to identify new volunteers to assist the City.

Resolutions No. 51-2010 - 54-2010 were adopted by the following vote:

Yea: Acosta, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Spencer, President - 7.

Nay: None- 0.

COUNCIL COMMENT

Councilor Marmarou stated that the College Heights Community Council meeting will occur on Sunday, May 16th at Nativity Lutheran Church where the group will discuss Act 47.

Councilor Goodman-Hinnershitz congratulated the McCulley family and thanked the City and East Reading community for their support.

Councilor Goodman-Hinnershitz noted the promotional opportunity brought to the City by Paramount Pictures as they used the City’s Pagoda landmark in the Air Bender film.

Councilor Reed noted the many benefits of having the downtown Sovereign Performing Arts Center and the Sovereign Center. She noted the need to bolster uses such as restaurants, taverns, and retail that will serve people coming downtown to concerts and for other activities. She noted the need to start making things happen on Penn Street so the City can capitalize on these evening events.

Councilor Sterner thanked those who provided comments this evening and congratulated those honored with proclamations and commendations.

Councilor Waltman thanked Dean Kaplan and PFM for preparing the draft recovery plan. He noted that the City overall needs to make this work to benefit the City. He noted the speedy timeline following the presentation of the finalized plan, which will occur shortly after the Public Hearing scheduled for May 19th.

Councilor Waltman noted his belief that the proposed tax hikes are unfair, as it places an additional burden on those who are already paying. He stated that property taxes are paid by approximately 70% of all City properties and Earned Income Tax (EIT) is paid by approximately 50% of all City residents. He again noted the unfair tax burden to those already paying. He noted the need for a more equitable solution to be used and the need to find permanent solutions will benefit all.

Council President Spencer stated that he did not support the Business Privilege License Revocation ordinance due to his belief that it is unfair to single out certain business owners.

Councilor Marmarou moved, seconded by Councilor Acosta, to adjourn the regular meeting of Council.

Linda Kelleher CMC, City
Clerk

BILL NO. _____

A N O R D I N A N C E

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, CHAPTER 1 ADMINISTRATION AND GOVERNMENT, PART 6 PENSIONS, A. POLICE PENSION FUND, SECTION 1-607 TO PROVIDE FOR APPLICATION OF PREVIOUS TIME TO A PENSION ACCOUNT UPON BEING RE-HIRED.

THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 Administration and Government, Part 6 Pensions, A. Police Pension Fund, Section 1-607 shall be and is hereby amended and shall hereafter be set forth as shown in Exhibit A attached hereto and made a part hereof.

SECTION 2. All other items, parts, sections, etc. of the Code of Ordinances of the City of Reading, Berks County, Pennsylvania, shall remain in effect unchanged and likewise are ratified.

SECTION 3. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.

Enacted _____, 2010

President of Council

Attest:

City Clerk

EXHIBIT A

SECTION 1-607. Termination of Employment of Members Prior to Being Entitled to Pension Benefits.

Any member who has been in the service of the City for a period of less than 20 years and whose service shall terminate prior to he or his spouse or children becoming eligible for a pension shall be paid the total amount of the contributions paid into the fund by him and without interest.

If the member's employment is terminated by the City of Reading and as a result of said termination, the member withdraws all or any part of his pension contributions and, thereafter, the member is re-hired to service as a police officer, said member shall repay one-hundred percent (100%) of the total amount of the pension contributions which were withdrawn by said member, within one year of the date member is re-hired, for previous time to be applied to his pension account.



CITY OF READING,
PENNSYLVANIA
DEPARTMENT OF LAW
CONFIDENTIAL
MEMORANDUM

TO: President and Members of City Council
CC: Carl Geffken, Acting Managing Director
Charles Younger, Solicitor
Linda Kelleher, City Clerk
FROM: Michelle R. Mayfield, Legal Specialist
DATE: May 5, 2010
SUBJECT: Right to Know Ordinance

The Department of Law received a copy of the "Appeal Notice" from Ronald Heckman dated April 28, 2010 wherein he seeks to appeal the City's alleged failure to respond to your April 13, 2010 Right to Know Request within five (5) days. In reviewing the aforesaid document, we researched as to whether or not Mr. Heckman had appropriately filed an appeal with the City versus the Pennsylvania Office of Open Records. In so doing, we discovered a conflict between with the City's Right to Know Ordinance, §1-1001 *et seq.* and the Pennsylvania Right to Know Law, 65 P.S. §66.1 *et seq.*

The City's Ordinance provides that a denial, which includes a failure to respond, of a Right to Know Request shall be heard by three (3) members of City Council. Specifically, the relevant portions of the City of Reading Ordinance states with respect to denial of a request:

§1-1007. Denial of Request.

1. A request may be denied if the requester has made repeated requests for the same record and the repeated requests have placed an unreasonable burden on the agency. A denial for this purpose shall not restrict the ability to request a different record.
2. A request may be denied when timely access is not possible due to fire, flood, or other disaster.
3. A request may be denied if historical, ancient, or rare documents, records, archives and manuscripts when access may, in the professional



judgment of the curator or custodian of records, cause physical damage or irreparable harm to the record.

4. If the request is denied or deemed denied, the requester may file exceptions with the City of Reading City Council within 15 business days of the mailing date of the Managing Director's notice of denial, or within 15 days of a deemed denial. The exceptions must:

- A. Indicate the date of the original request.
- B. Identify and describe the record(s) requested.
- C. State the grounds upon which the requester asserts the record(s) is a public record.
- D. The typed name, title, business address, business telephone number and signature of the open records officer on whose authority the denial is issued.
- E. Date of the response.
- F. The procedure to appeal the denial of access under this Part.

5. A subcommittee of the City Council of the City of Reading, consisting of any three

Council persons, shall review the exceptions and may conduct a hearing to assist in

making a final determination. A final determination will be made within 30 days of the

mailing date of the exceptions, unless extended by the parties. If the denial is upheld, the decision shall contain a written explanation of the reason for denial and an explanation of the process for further appeal.

⁴¹. Appeals of decisions rendered by City Council will be heard by the State of Pennsylvania's Office of Open Records.

5. This policy shall be posted conspicuously at the Managing Director's office in addition to the contact information for the State Office of Open Records.

There is, however, no provision in the Right to Know Act of Pennsylvania for such an appeal proceeding.²

¹ Misnumbering from Codified Ordinance.

² It should be noted that this alteration to the law is set forth in the Ordinance notwithstanding that the remainder of the Ordinance quotes the Right to Know Law including the definition of an appeals officer from a determination to be one designated per §503(a) of the Right to Know Act.

The requirements and procedure for filing an appeal under the Right to Know Act are set forth in Section 1100. Specifically, Section 1101 of the Right to Know Act entitled Filing of appeal provides in relevant part:

(a) Authorization. –

(1) If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under section 503(d)³ within 15 business days of the mailing date of the agency’s response or within 15 business days of a deemed denial. . .

(2) Except as provided in section 503(d), in the case of an appeal of a decision by a Commonwealth agency or local agency, the Office of Open Records shall assign an appeals officer to review the denial.

³ Section 503(d) refers to Law Enforcement Records and review by a District Attorney’s Office.

The responsibility of the Office of Open Records assigning an appeals officer for a determination of a local agency is confirmed in Section 503 which states:

Section 503. Appeals officer.

(a) Commonwealth agencies and local agencies. — Except as provided in subsection (d), the Office of Open Records established under section 1310 shall designate an appeals officer under section 1101(a)(2) for all:

- (1) Commonwealth agencies; and
- (2) local agencies.

A local agency is defined in the Act to include a political subdivision such as the City of Reading.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Local agency.” Any of the following:

- (1) Any *political subdivision*, intermediate unit, charter school, cyber charter school or public trade or vocational school.

As is evident from a review of the Right to Know Act of Pennsylvania, an appeal from a denial by a Right to Know Officer of a local agency is to an appeals officer appointed by the Open Records Office. There is no provision or authorization for an intermediate review between the decision of a Right to Know officer and an appeal to the Open Records Office of Pennsylvania. In fact doing so is contrary to the Act. The Act requires an appeal to the Office of Open Records to be filed within fifteen (15) days of a denial or deemed denial of a request. Should a requestor undertake the review process provided for in the City’s Ordinance, they could lose their right to appeal to the Open Records Office as such an appeal would be deemed untimely.

Accordingly, it is suggested that the portion of the City’s Ordinance regarding a review by City Council be repealed and the ordinance amended to provide for an appeal of a denial by the Right to Know Officer to the Office of Open Records per the Pennsylvania Right to Know Act.

If you should require anything further, please contact us. Thank you.

BILL NO. _____

AN ORDINANCE

AN ORDINANCE OF THE CITY OF READING, BERKS COUNTY,
PENNSYLVANIA, AMENDING THE PROCESS FOR DENIALS OF
REQUESTS AND APPEALS REGARDING ACCESS FOR PUBLIC RECORDS
OF THE CITY OF READING

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS
FOLLOWS:

CITY OF READING
POLICY FOR ACCESS TO PUBLIC RECORDS

SECTION 1. The City of Reading Policy for Access to Public Records set forth in Chapter 1 Part 10 of the Codified Ordinances shall be amended as follows:

§1-1007. Denial of Request.

A request may be denied if the requester has made repeated requests for the same record and the repeated requests have placed an unreasonable burden on the agency. A denial for this purpose shall not restrict the ability to request a different record.

A request may be denied when timely access is not possible due to fire, flood, or other disaster.

A request may be denied if historical, ancient, or rare documents, records, archives and manuscripts when access may, in the professional judgment of the curator or custodian of records, cause physical damage or irreparable harm to the record.

~~1. If the request is denied or deemed denied, the requester may file exceptions with the City of Reading City Council within fifteen (15) business days of the mailing date of the Managing Director's notice of denial, or within fifteen (15) days of a deemed denial. The exceptions must:~~

- ~~(a) Indicate the date of the original request;~~
- ~~(b) Identify and describe the record(s) requested;~~

- ~~(c) State the grounds upon which the requester asserts the record(s) is a public record;~~
- ~~(d) Address any grounds stated by the School District in its notice of denial. The typed name, title, business address, business telephone number and signature of the open records officer on whose authority the denial is issued;~~
- ~~(e) Date of the response; and~~
- ~~(f) The procedure to appeal the denial of access under this act.~~

~~2. A subcommittee of the City Council of the City of Reading, consisting of any three (3) Council persons, shall review the exceptions and may conduct a hearing to assist in making a final determination. A final determination will be made within thirty (30) days of the mailing date of the exceptions, unless extended by the parties. If the denial is upheld, the decision shall contain a written explanation of the reason for denial and an explanation of the process for further appeal.~~

~~3. Appeals of decisions rendered by City Council will be heard by the State of Pennsylvania's Office of Open Records.~~

1. If the request is denied or deemed denied, an appeal shall be filed within 15 business days of the mailing date of the City's response or within 15 business days of a deemed denial with the Pennsylvania Office of Open Records in accordance with the Pennsylvania Right to Know Law, Act 3 of 2008, effective January 1, 2009, Chapter 11, 65 P.S. § 67.110.

Exception: Appeals of denials or deemed denials of requests for Law Enforcement Records which per the Right to Know Act an appeal shall be filed the Berks County District Attorney's Office in accordance with said Act, Chapter 11, 65 P.S. §67.1101 and Chapter 5, 65 P.S. §67.503.

2.4. This policy shall be posted conspicuously at the Managing Director's office *in addition to the contact information for the State Office of Open Records.*

SECTION 2. All other provisions of the City of Reading's Policy regarding Request for Access to Policy Records as Codified as Chapter 1 Administration and Government Part 10 not amended hereby shall remain in full force and effect.

SECTION 3: If any section, subsection, sentence or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 4: This Ordinance shall become effective in ten (10) days, in accordance with Charter Section 219.

Enacted _____, 2010

President of Council

Attest:

City Clerk

(LAW)

Draft

Reading, Pennsylvania

Ordinance No. _____ of 2010

An Ordinance Adopting and Approving the Implementation of the Recovery Plan, dated _____, 2010, Prepared by the Recovery Plan Coordinator Pursuant to the Municipalities Financial Recovery Act and Authorizing and Instructing the City Solicitor and City Clerk to Prepare for Enactment, Adoption and Execution any Ordinances, Resolutions, Agreements and Other Documents Necessary for the Implementation of the Recovery Plan.

WHEREAS, upon petition duly filed with the Commonwealth of Pennsylvania, Department of Community and Economic Development (hereinafter "Department") pursuant to the Municipalities Financial Recovery Act, Act 47 of 1987 (hereinafter "Act"), the City of Reading was declared a financially distressed municipality on November 12, 2009; and

WHEREAS, the Act provides that a Plan Coordinator be appointed for distressed municipalities and that a Recovery Plan be prepared by the Coordinator; and

WHEREAS, Public Financial Management was appointed as the Plan Coordinator (hereinafter "Coordinator") on December 7, 2009; and

WHEREAS, the Coordinator prepared in accordance with the Act the Recovery Plan, and on May 6, 2004, filed the Recovery Plan with the City Clerk; and

WHEREAS, following receipt of public written comments and following a public meeting on the Recovery Plan held on May 19, 2010, the Coordinator filed a revised Recovery Plan with the City on May ____, 2010; and

WHEREAS, the Council of the City of Reading has determined that it is in the City's best interest to adopt the Recovery Plan at this time.

NOW THEREFORE, be it ordained and enacted by the City of Reading, and it is hereby ordained and enacted by authority of the same as follows:

SECTION 1. The Council of the City of Reading hereby adopts the Recovery Plan for the City of Reading as prepared and submitted by the Coordinator on May ____, 2010, including subsequent amendments thereto, if

any, pursuant to the Act, as amended. The Council of the City of Reading hereby approves the implementation of the Recovery Plan for the City of Reading as prepared and submitted by the Coordinator on May ____, 2010, including subsequent amendments thereto, if any, pursuant to the Act, as amended.

SECTION 2. The City Clerk and City Solicitor are hereby authorized and instructed to prepare for adoption any necessary related ordinances, resolutions, agreements and other documents and revisions to ordinances, resolutions, agreements and other documents necessary to implement the Recovery Plan.

SECTION 3. Council President and the Mayor and other appropriate City officials are authorized and instructed to execute any and all documents necessary to implement the Recovery Plan.

SECTION 4. In the event that any provisions, section, sentence, clause or part of this Ordinance shall be held invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, and the remaining provisions shall remain in full force and effect.

SECTION 5. All Ordinances or parts of Ordinances not in accord with this ordinance are hereby repealed insofar as they conflict hereby.

SECTION 6. This ordinance shall take effect immediately upon its enactment.

ORDAINED AND ENACTED into a law in Council on June ____, 2010.

Vaughn Spencer, President

Attest: _____
Clerk of Council

Mayor's Office
June _____, 2010

Approved: Thomas McMahon, Mayor

Attest: _____

**CITY OF READING
RESOLUTION NO. _____**

**RESOLUTION OF THE CITY OF READING AUTHORIZING THE FILING OF A
PROPOSAL FOR FUNDS WITH THE DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT (DCED), COMMONWEALTH OF
PENNSYLVANIA TO ACCESS EARLY INTERVENTION PROGRAM FUNDS**

WHEREAS, the City of Reading, in cooperation with the cities of Bethlehem, York, Lancaster and Easton will be undertaking a project under the Early Intervention Program to retain consultant services to conduct an analysis of our respective....

WHEREAS, the City of Reading wishes to participate in said project and will assume responsibility for administering funds and coordinating with the other four cities; and

WHEREAS, the Pennsylvania Department of Community and Economic Development makes available grants-in-aid to such projects through the Early Intervention Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Reading hereby authorizes the application for Early Intervention Program funds and would support the allocation of local resources in an amount not to exceed \$5,000.00.

Adopted this _____ of _____, 2010

Vaughn D. Spencer, President of Council

Attest:

Linda Kelleher, City Clerk



AGENDA MEMO

POLICE DEPARTMENT

TO: City Council
FROM: Chief William M. Heim
PREPARED BY: Chief William M. Heim
MEETING DATE: May 24, 2010
AGENDA MEMO DATE: May 17 2008
REQUESTED ACTION: Authorize the Promotion of one Patrol Officer to Sergeant

RECOMMENDATION

The Mayor and Police Chief recommend the promotion of the following patrol officer to the rank of Sergeant:

Officer Brian A. Cole, date of employment January 20, 2003

BACKGROUND

There are currently vacancies for Sergeant as a result of retirements. Officer Brian Cole took the written and oral examination for the position of sergeant and is among the top three candidates on the current certified list. The Police Chief has reviewed his performance, dependability, and conduct and the Mayor and Police Chief recommend him for promotion.

BUDGETARY IMPACT

None. This funded position has become vacant due to a promotion and retirements.

PREVIOUS ACTIONS

None

SUBSEQUENT ACTION

Council to take action to approve a resolution to authorize the promotion of Officer Brian A. Cole to the rank of Sergeant.

RECOMMENDED BY

The Mayor and Police Chief recommend approval.

RECOMMENDED MOTION

Approve/deny the resolution authorizing the promotion of Officer Brian A. Cole to the rank of Sergeant effective May 30, 2009.

RESOLUTION NO. _____

THE COUNCIL OF THE CITY OF READING HEREBY
RESOLVES AS FOLLOWS:

That Patrol Officer Brian A. Cole is promoted to the rank of
Sergeant in the Reading Police Department, effective Sunday, May 30,
2010.

Adopted by Council _____, 2010

Vaughn D. Spencer
President of Council

Attest:

Linda A. Kelleher
City Clerk

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF READING, PENNSYLVANIA CONSENTING TO AND AUTHORIZING THE REDEVELOPMENT AUTHORITY OF THE COUNTY OF BERKS (THE "AUTHORITY") TO ISSUE \$3,000,000.00 OF RECOVERY ZONE FACILITY BONDS WITHIN THE MEANING OF, AND FOR THE PURPOSES OF, SECTIONS 1400-1 AND 1400U-3 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, FOR THE BENEFIT OF SHUMAN DEVELOPMENT GROUP, OR ITS ASSIGNEE, FOR THE HIESTER LANE PROJECT AND THE EXPANSION OF THE AUTHORITY'S FIELD OF OPERATION TO INCLUDE SAID HIESTER LANE PROJECT.

ADOPTED: _____, 2010

WHEREAS, the Authority is a body corporate and politic constituting a public instrumentality of the Commonwealth of Pennsylvania ("Commonwealth"), created under and pursuant to the Urban Redevelopment Law of the General Assembly of the Commonwealth, approved May 24, 1945 (P.L. 991), as amended and supplemented (the "Act"); and

WHEREAS, the Authority is authorized pursuant to the Act to acquire, rehabilitate, improve, sell, finance and lease commercial redevelopment projects within its Field of Operations as set forth in the Act; and

WHEREAS, the Act defines the Authority's Field of Operation as being the area within the territorial boundaries of the city or county for which the Authority is created; provided, however, the Field of Operation of any county authority shall not include a city having a redevelopment authority, without the consent of such city; and

WHEREAS, pursuant to Resolution No. 115-10 (the "County Resolution"), the Board of Commissioners of the County of Berks, Pennsylvania (the "County") authorized the allocation of \$3,000,000.00 of the County's aggregate Recovery Zone Facility Bond allocation of \$11,690,000.00 to the Shuman Development Group for the purpose of expanding an existing commercial building located at the intersection of Hiester Lane and Kutztown Road, in the City of Reading, Pennsylvania (the "Hiester Lane Project") for future retail development; and

RESOLUTION NO. _____

Whereas, the City of Reading formed a Task Force, composed of representatives from City Council, the County Commissioners and their Environmental Scientist, the City Administration, Council Staff, the Reading Board of Health and the Reading Environmental Advisory Council, to address the contamination levels leading to the closure of Bernhart's Park in the late 1990s; and

Whereas, the Bernhart's Task Force reviewed the Bernhart's Park remediation plan proposed by Exide and US EPA at a meeting held by Senator Arlen Specter, Congressman Tim Holden and Congressman Jim Gerlach in March 2010; and

Whereas, the Bernhart's Task Force reviewed the remediation plan and found deficiencies and worked in conjunction with Muhlenberg Township to prepare and submit a unified response to the proposed remediation; and

Whereas, the Muhlenberg Township Commissioners authorized the submission of the attached report at their May 17th business meeting.

Now therefore, the Council of the City of Reading hereby resolves as follows:

To authorize the submission of the attached as the joint response from the City of Reading and Muhlenberg Township on the remediation proposed by Exide and the US EPA for Bernhart's Park.

Adopted by Council on _____, 2010

President of Council

Attest:

City Clerk



AGENDA MEMO
COMMUNITY DEVELOPMENT

TO: CITY COUNCIL
FROM: MARTY MAYES, DIRECTOR
MEETING DATE: May 24, 2010
AGENDA MEMO DATE: December 14, 2009
REQUESTED ACTION: TO APPROVE AN AMENDMENT TO THE FFY2010 (36TH YEAR - JANUARY 1, 2010 TO DECEMBER 31, 2010) CDBG ACTION PLAN

CD is asking City Council to pass the resolution at the **May 24, 2010** City Council meeting.

BACKGROUND: The City Recreation RAFT Program is currently located at the Millmont Elementary School 400 Summit Avenue. The City Recreation Office would like to move the program to the Third and Spruce Recreation Center.

BUDGETARY IMPACT: None.

PREVIOUS ACTION: None.

SUBSEQUENT ACTION: None

RECOMMENDED BY: Public Works Director, Managing Director and Mayor.

RECOMMENDED MOTION: To approve/deny a Council Resolution authorizing amending the FFY2010 CDBG Action Plan by moving the Recreation Activity For Teens Program from the Millmont Elementary School at 400 Summit Avenue to the City of Reading's Third and Spruce Recreation Center.

Cc: Ryan Hottenstein
Charles Jones
Neil Nemeth
Brenda Skimski
Heather Boyer

RESOLUTION No. _____

**COUNCIL OF THE CITY OF READING RESOLUTION
AUTHORIZING A FFY2010 CDBG ACTION PLAN AMENDMENT**

WHEREAS, under 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) outlines the consolidated submissions for community planning and development programs which will serve as: (1) a planning document for the City that builds on a participatory process at the grass roots level, (2) an application for federal funds under HUD's formula grant program, (3) a strategy to be followed in carrying out HUD programs, and (4) an Action Plan that provides a basis for assessing performance;

WHEREAS, the FFY2009 to FFY2013 five year Consolidated Plan (35th to 39th years - January 1, 2009 to December 31, 2013) specifies activities the City will undertake to address priority needs and local objectives using formula grant funds and program income the City expects to receive during a five year period;

WHEREAS, the FFY2010 (35th year January 1, 2010 to December 31, 2010) Action Plan specifies activities the City will undertake to address priority needs and local objectives using formula grant funds and program income the City expects to receive during the program year;

WHEREAS, the City Recreation Office wishes to change the location of the Recreation Activity For Teens Program;

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF READING THAT:

The FFY2010 (36th year January 1, 2010 to December 31, 2010) Action Plan is amended changing the location of the Recreation Activity For Teens Program from the Millmont Elementary School at 400 Summit Avenue to the City of Reading's Third and Spruce Recreation Center. The activity eligibility / fundability is public services 24CFR570.201(e) / low mod limited clientele 24CFR570.208 (a)(2).

The Mayor, on behalf of the City of Reading, is authorized and directed to execute the amendment to the satisfaction of HUD.

PASSED COUNCIL _____, 2010

PRESIDENT OF COUNCIL

ATTEST:

CITY CLERK