



CITY COUNCIL

Committee of the Whole

Monday, February 24, 2014

5:00 pm

Agenda

Although Council committee meetings are open to the public, public comment is not permitted at Council Committee of the Whole meetings. However, citizens are encouraged to attend and observe the meetings. Comment from citizens or professionals during the meeting may be solicited on agenda topics via invitation by the President of Council.

All electronic recording devices must be located behind the podium area in Council Chambers and located at the entry door in all other meeting rooms and offices, as per Bill No.27-2012.

I. Charter Board Ordinance Amendment (F. Lachat)

II. BAC Nominations for 2-24 Agenda

- Anthony Spadafora - reappointment - HVAC Board
- Brian Miller - appointment - Plumbing Board
- Jim McHale - appointment - Water Authority

III. Agenda Review

IV. Reorganization Matters – Selection of board assignments

- Environmental Advisory Council
- Diversity Board
- Solid Waste and Recycling Appeals Board – 2 members of Council
- Business License Appeals Board
 - Council representation depends on the District in which the business is located and changes based on the appeal.

- Local Redevelopment Authority – Council President and 2 members of Council
- Blighted Property Review Committee
- Audit Committee – Finance Chair
- Reading Area Transportation Study (RATS) Coordinating Committee – Council President and Finance Chair
- Berks County Criminal Justice Advisory Board
- Capital Improvement Program (CIP) Committee – Administration of the Capital Improvement
- Berks Community Action Program



COMMITTEE of the WHOLE

CITY COUNCIL

MINUTES
February 10, 2014
5:00 P.M.

COUNCIL MEMBERS PRESENT:

D. Sterner, S. Marmarou, M. Goodman-Hinnershitz, D. Reed, C. Daubert, F. Acosta,
J. Waltman

OTHERS PRESENT:

L. Kelleher, S. Katzenmoyer, C. Younger, R. Johnson, C. Snyder, D. Cituk, J.
Miravich, T. Coleman, K. Talbot, E. Lloyd, F. Lachat

The Committee of the Whole meeting was called to order at 5:15 pm by Council
President Acosta.

I. Executive Session

Mr. Acosta announced the need for an executive session to discuss potential
litigation and an update on the consent decree.

Council entered executive session at 5:19 pm and exited executive session at 6:18
pm.

II. Agenda Review

Ms. Kelleher distributed copies of the final version of the Charter Review
Commission's recommendations for ballot questions.

Council reviewed this evening's agenda including:

- Awarding a contract for municipal trash slingers

Ms. Snyder explained that this contract is to hire temporary workers for recycling collection.

- Ordinances pertaining to the Charter Review Commission's recommendations for ballot questions

Mr. Waltman requested that votes be taken individually as he has differing positions on each one. Mr. Acosta agreed.

Ms. Goodman-Hinnershitz stated that Council has no choice but to enact all of the ordinances as per the advisory opinion of the Charter Board. She questioned if this opinion was correct. Mr. Younger stated that it is. He stated that all six questions must appear on the ballot. He stated that State statute requires the ballot questions be submitted to Election Services as ordinances so all six ordinances must be enacted. He stated that if they are not, it is a Charter violation.

Mr. Acosta questioned if this was opinion or law. Mr. Younger stated that it was opinion.

Mr. Waltman stated that the Charter cannot conflict with State law. He stated that enactment of legislation cannot be mandated. Mr. Acosta agreed. Mr. Younger stated that this is the opinion of Mr. Waltman and Mr. Acosta.

Ms. Reed questioned if members of Council who served as part of the Charter Review Commission could vote on the ordinances. Mr. Younger stated they could as there was no conflict.

Mr. Waltman expressed the belief that six referendum questions were too many on one ballot.

- Ordinance authorizing a lease agreement for Egelman's Park baseball field

Ms. Snyder noted that the Administration is requesting the withdrawal of this ordinance. She stated that Mr. Gaston is not interested in using the field. She stated that she will be meeting with the executive director of the Recreation Commission in the near future about the use of this field.

Ms. Goodman-Hinnershitz noted her understanding that the Recreation Commission wishes to schedule use of the field and allow others to use it as requested.

- Resolution setting the Council committees for 2014-2015

Mr. Waltman stated that he, Ms. Reed, and Ms. Goodman-Hinnershitz are listed as members of the Finance Committee. He suggested that Mr. Daubert be a member of this committee to gain City financial knowledge and experience. Mr. Acosta agreed with Mr. Waltman's suggestion but recommended that the committee stay as listed so that Mr. Waltman can be involved in the current and future deficit situation that the City is projecting. He stated that Mr. Waltman is an asset to the Finance Committee.

Mr. Acosta explained that the Strategic Planning Committee will be co-chaired by Mr. Waltman and Mr. Daubert with Ms. Snyder facilitating. Mr. Waltman stated that this Committee will include all of Council.

Mr. Acosta stated that the Nominations & Appointments Committee will be interviewing candidates for several very important positions in the upcoming months. He stated that having this Committee include all of Council sets the quorum at four. He suggested that the Committee include all of Council when the important positions are being addressed. He stated that he has supplied suggested interview questions for consistency.

Ms. Goodman-Hinnershitz stated that this committee should speak with candidates as if it is a job interview. She noted the need to ensure that the candidate meets the requirements of the BAC and that they have experience in that field. She stated that the interviews should not focus on personal relationships.

Mr. Acosta agreed but stated that the interviews should be pleasant for the candidate.

There was a discussion about the start time of the Nominations and Appointments Committee. Some members of Council noted that they will not be able to attend meetings that begin at 4:30 pm. The start time will move to 5 pm.

Nominations and Appointment Committee members are Mr. Marmarou, Mr. Sterner, and Ms. Goodman-Hinnershitz but all members of Council are invited to participate.

III. Other

Mr. Sterner stated that the PA Economy League is lobbying for pension reform. He questioned if the Administration is also lobbying for reform. Ms. Snyder stated that the Administration and the Reading Chamber of Commerce are lobbying very actively.

The meeting adjourned at 6:47 pm.

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

BILL NO. _____ 2014

AN ORDINANCE AMENDING THE CHARTERBOARD ORDINANCE SECTION 23-601 OF THE CITY OF READING CODIFIED ORDINANCES TO ADD A FILING FEE, TO REPLACE THE INVESTIGATORY PROCESS WITH AN EVIDENTIARY HEARING OFFICER, AND TO REQUIRE MANDATORY NON-BINDING MEDIATION

WHEREAS, the City of Reading's Charter Board was formed with the intention of providing a process for adjudicating disputes over alleged Charter violations as an alternative to costly litigation in the state courts.

WHEREAS, the City of Reading's Charter Board process has had the opposite effect; rather than reducing costs, it has created another layer of litigation which has increased the costs to the City in Charter-related litigation.

WHEREAS, the Charter Board's investigation process has lead to increased time and costs to the City, and shifts the costs from the individual alleging a Charter violation to the City which must pay the costs related to a lengthy investigation process.

WHEREAS, the inclusion of a filing fee will help reimburse the City for any costs it incurs in administering this program, help limit the filing of frivolous complaints and complaints based on *de minimis* alleged violations, and will provide incentive for parties to attempt to resolve disputes prior to filing a complaint.

WHEREAS, a mediation process will provide an opportunity to attempt an amicable resolution of a Charter shortly after the Complaint is filed which could drastically reduce the high costs of the Charter Board process.

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

SECTION 1. Amending the Charter Board Ordinance a copy of which is attached as Attachment "A."

SECTION 2. This Ordinance shall be effective ten (10) days after adoption pursuant to City of Reading Home Rule Charter Article II Section 219.

Adopted _____, 2014

Council President

Attest:

City Clerk

Submitted to Mayor: _____

Date: _____

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: _____

Date: _____

Vetoed by Mayor: _____

Date: _____

ATTACHMENT “A”

City of Reading
Charter Board Ordinance

23-601. Title; Purpose

- A. Title. The Title of this ordinance shall be the City of Reading Charter Board Ordinance.

- B. Purpose of Ordinance. The purpose of the City of Reading Charter Board Ordinance is to provide, through the institution of the City of Reading Charter Board (“Board”), for the implementation of Amendment I of the Reading City Charter, which is entitled “Enforcement of Charter”.

23- 602. Organization of Charter Board

A. Composition and Structure of Board.

1. Composition.
The Board established under Amendment 1 of the City of Reading Home Rule Charter (“Charter”) shall be composed of five (5) residents of the City of Reading. Board members shall be appointed by the Mayor with the consent of City Council.
2. Terms of Service.
Members of the Board shall serve for terms of five (5) years, except that the members shall continue to serve until their successors are appointed and qualified. The terms of the initial members shall be staggered, with members serving terms of 1, 2, 3, 4, and 5 years respectively.
3. Vacancy.
An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he/she succeeds and is eligible for appointment thereafter according to the terms herein.

4. Election of Chairperson and Vice-Chairperson.
The Board shall elect a chairperson and vice-chairperson upon seating of the members and thereafter annually at a meeting held in July of each year. The vice-chairperson shall act as the chairperson in the absence of the chairperson or in the event of a vacancy in that position.

5. Quorum.
A majority of the members of the Board shall constitute a quorum and the votes of a majority of the members present are required for any action or recommendation of the Board.

6. Staff.
The Board shall appoint a Solicitor, a secretary, and such other staff as may be deemed necessary. The Solicitor, secretary, and such other staff as may be necessarily appointed shall not be members of the Board.

7. Meetings.
The Board shall meet at the call of the chairperson or at the call of a majority of its members.

8. ~~Investigative Officer.~~

~~a. The Board shall appoint an investigative officer (“Investigative Officer”) who shall serve at the pleasure of the Board. The Investigative Officer is charged with determining jurisdiction, conducting preliminary and full investigations, issuing written Findings Reports, prosecuting complaints before evidentiary hearings, and performing such other duties as set forth herein. The Investigative Officer shall conduct his/her work independently and without comment or inquiry from the Board, except as provided in paragraph (d) below.~~

~~b. The Investigative Officer shall be a member in good standing of the Pennsylvania Bar Association and shall have so been for at least five (5) years. The Investigative Officer need not be a resident of the City of Reading and shall not be a Board member. The Investigative Officer is authorized to retain the services of an investigator and other professional staff and/or consultants, and shall only delegate non-discretionary functions.~~

~~e. The Investigative Officer shall not be the current or former Solicitor to the Board and the Investigative Officer shall not serve in the future as Solicitor to the Board on any matter investigated or prosecuted by the Investigative Officer.~~

~~Furthermore, the Investigative Officer shall not seek the advice of the Solicitor to the Board, and the Solicitor to the Board shall not seek the advice of the Investigative Officer, on substantive aspects of any complaint or referral before the Board.~~

- ~~d. In addition to all other responsibilities of the Investigative Officer he/she shall provide to the Board every six months a summary of each complaint received, its procedural status, and if it has been dismissed, the reasons for its dismissal. Said summary shall not contain any identifying information of any person involved as a witness, complainant or subject of the complaint.~~

8. Evidentiary Officer

- a. The Board shall appoint a standing panel of seven (7) attorneys who shall be individually selected to perform the initial review all Charter Board complaints in the position of Evidentiary Officer on a rotating basis.
- b. The Evidentiary Officer is charged with determining jurisdiction, reviewing the Charter Board complaints to determine if the complaint presents sufficient prima facie evidence that a violation of the Charter or Administrative Code has occurred. The Evidentiary Officer shall conduct his/her work independently and without comment or inquiry from the Board, except as provided in paragraph (e) below.
- c. The Evidentiary Officers shall be members in good standing of the Pennsylvania Bar Association and shall have so been for at least five (5) years. An Evidentiary Officer need not be a resident of the City of Reading and shall not be a Board member.
- d. An Evidentiary Officer shall not be the current or former Solicitor to the Board and an Evidentiary Officer shall not serve in the future as Solicitor to the Board on any matter reviewed or prosecuted by the Evidentiary Officer. Furthermore, the Evidentiary Officer shall not seek the advice of the Solicitor to the Board, and the Solicitor to the Board shall not seek the advice of the Evidentiary Officer, on substantive aspects of any complaint or referral before the Board.
- e. In addition to all other responsibilities of an Evidentiary Officers each attorney on the panel of officers shall provide to the Board every six months a summary of each complaint received, its procedural status, and if it has been dismissed, the reasons for its dismissal. Said summary shall not contain any identifying information of any person involved as a witness, complainant or subject of the complaint.

B. Prohibitions.

Due to the nature of their appointment, Board members have a duty to avoid any known conflicts of interest, especially actions or behaviors in violation of the City Charter or its full and impartial enforcement. The prohibitions in this section are in addition to all other duties, responsibilities, and obligations imposed upon Board members.

1. No member may hold or campaign for any other public office.
2. No member may hold office in any political party or political organization or political committee.
3. No member may hold a position of employment with City government or appointment to any other board, authority, or commission formed by the City of Reading.
4. No member may actively participate in or contribute to any political campaign in the City of Reading for a candidate running for the office of Mayor, President of Council, Council Member, or Auditor. This does not abridge the right of a member to vote or attend a debate, speech or similar event that is held primarily for the purpose of communicating a candidate's platform or position on issues of public concern.
5. No member shall receive compensation but shall be reimbursed by the City for documented expenses actually incurred.

C. Mandate to Fund.

City Council shall appropriate sufficient funds for the Board to perform its enforcement, advisory, and educational duties, including expenses for independent counsel, ~~investigative personnel, investigations,~~ hearings, appeals, staff, any other necessary personnel, and professional educational programming.

23- 603. Powers and Duties of Charter Board

A. Charter Enforcement Powers. The Board shall have the following powers and duties with respect to Charter enforcement. It shall:

1. Hear and decide all complaints alleging violations of the Charter and Administrative Code, except that its jurisdiction shall not extend to cases arising under the Ethics Code or the Personnel Code of the City of Reading.

2. Impose penalties and administrative fines and refer matters to law enforcement, regulatory, or other authorities with jurisdiction over these matters.
- ~~3. Initiate preliminary investigative on its own motion, through the Investigative Officer.~~
3. Appoint a panel of seven (7) attorney's to serve as the Evidentiary Officer on a rotating basis.
- ~~4. Appoint an Investigative Officer to conduct investigations and to issue Findings Reports where appropriate.~~
- ~~5.~~4. Hold hearings, issue subpoenas and compel the attendance of witnesses, administer oaths, take testimony, require evidence on any matter ~~under investigation before~~ submitted to the Board by the Evidentiary Officer, and issue orders, including but not limited to adjudications and penalties.
6. 5. Adopt rules and regulations to administer, implement, enforce and interpret the Board Ordinance.
- ~~7.~~ 6. Have all other powers necessary and appropriate to effectuate the purposes set forth herein and in Amendment I of the Charter.

B. Charter Advisory Powers.

The Board shall have the power to issue advisory opinions on matters concerning the interpretation of the Charter and Administrative Code. The enumeration of this power shall in no way diminish any of the foregoing enforcement powers of the Board.

C. Charter Educational Powers.

- (1) The Board shall have the following powers and duties with respect to Charter education. It shall:
- (2) Direct and administer, with professional assistance, the required orientation of all newly elected City officials at the commencement of their initial full term of office.
- (3) Be responsible, proactively and 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.

23-604. Standards for Interpretation of Reading City Charter and Administrative Code

A. Standards for Charter Interpretation: Intent Controls.

- (1) The object of all interpretation and construction of Charter provisions is to ascertain and effectuate the intent of the authors of the Charter.
- (2) When the words of a Charter provision are clear and free from ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.
- (3) When the words of a Charter provision are not explicit, the intent of the authors of the Charter shall be ascertained by considering:
 - (a) The mischief to be remedied.
 - (b) The object to be attained

(c) The circumstances under which it was enacted.

(d) The contemporaneous legislative history.

B. Standards for Administrative Code Interpretation: Intent Controls.

1. The object of all interpretation and construction of Administrative Code provisions is to ascertain and effectuate the intent of the enacting City Council.
2. When the words of an Administrative Code provision are clear and free from ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.
3. When the words of an Administrative Code provision are not explicit, the intent of the enacting City Council shall be ascertained by considering:
 - a) The mischief to be remedied.
 - b) The object to be attained.
 - c) The circumstances under which it was enacted.
 - d) The contemporaneous legislative history.

C. Refinements of Interpretative Standards.

The standards set forth in (A) and (B) above may be refined only in accordance with the Statutory Construction Act, 1 Pa. C.S.A. Sect. 1501, *et seq.*, which is binding for the interpretation of all home rule charters through *Cottone v. Kulis*, 460 A.2d 880 (Pa. Cmwlth. 1983), and for the interpretation of all municipal ordinances through *Ciavarella et ux. Appeal*, 484 A.2d 420 (Pa. Cmwlth. 1984).

23-605. Enforcement

A. Procedure

1. Standing.
 - (a) Any taxpayer, or aggrieved person, may file a complaint about alleged violations of the Charter or Administrative Code. The person signing a complaint shall:

[1] Reasonably believe in the existence of facts upon which the claim is based; and

[2] Reasonably believe that the complaint may be valid under the Charter or Administrative Code.

~~(b) In addition, the Board may initiate preliminary investigations on its own motion, through the Investigative Officer.~~

2. Filing of Complaint.

(a) Complaints must be submitted on forms provided by the Board. The Board shall make available this form upon request. The complaint shall state the name, job or office held by the alleged violator and a description of the facts that are alleged to constitute a violation. It must contain a notarized signature subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities. The Board shall establish a separate post office box through which to receive complaints. This post office box shall be generally accessible by the Investigative Officer and/or the secretary, provided that the secretary is not a Board member.

(b) Filing Fee . All Complaints shall be accompanied with a fee in an amount provided under Chapter 212 of the City of Reading Codified Ordinances.

~~(b) (c) No member of the Board shall review any complaint until after an evidentiary hearing has been requested by the subject of the investigation, complaint, or if no evidentiary hearing is requested, then until the submission to the Board of the Investigative Officer's Findings Report.~~

~~(c) (d) The complainant may withdraw his or her complaint at any time after its submission, and no further action will be taken with regard to the complaint. Such withdrawal shall be in writing and contain a notarized signature. If a preliminary investigation has already been initiated, the subject of the investigation shall immediately be notified of the withdrawal. The individual's withdrawal of a complaint does not preclude further action by the Board on its own motion.~~

3. Determination of Jurisdiction and Sufficiency of Complaint.

a) Each complaint filed with the Board shall immediately be directed to and preliminarily reviewed by ~~the Investigative Officer~~ Evidentiary Officer appointed by the Board to determine whether the complaint falls within the jurisdiction of the Board. The aforesaid determination shall be made within seven (7) days of the filing of the complaint. If the ~~Investigative Officer~~ Evidentiary Officer determines that the complaint does not present prima facie evidence of a violation of a Charter Board Complaint, or that the Charter Board does not have jurisdiction over the matter underlying the complaint, the

complainant will be notified and no further action will be taken with regard to the complaint. If, however the Evidentiary Officer determines that the complaint falls within the jurisdiction of the Board, the Officer shall ~~authorize a preliminary investigation,~~ immediately assign the case for mediation with the Berks County Bar Association pursuant to Section 605(A)(4).

b) Upon a determination that the complaint falls within the jurisdiction of the Board, the Officer shall attempt an informal resolution of the issue within 30 days of the receipt of the complaint. Informal resolution shall consist solely of written notice to the complainant and the subject of the complaint encouraging them to resolve the issue outside of the formal investigative and adjudicative process of the Board.

c) Concurrent with the attempt at informal resolution, the ~~Investigative Officer~~ Evidentiary Officer shall inform both the complainant and the subject of the complaint of their rights and responsibilities under the formal adjudicative process.

d) If the Evidentiary Officer, in his/her discretion, finds that the alleged violation, would, if proved, constitute a “de minimis” infraction, he/she may dismiss the complaint. A de minimis infraction is one that is so insignificant or trifling that enforcement serves merely to exhaust the Board's time and resources. See Bailey v. Zoning Board of Adjustments, 801 A. 2d 492 (Pa. 2002). Furthermore, if the Officer, in his/her discretion, finds that the Board in the instant case cannot provide an adequate or timely remedy, he/she may decline to initiate a preliminary investigation, dismiss the complaint, and advise the complainant of alternative remedies.

Preliminary Investigation- 4. Mediation.

~~a) The preliminary investigation shall be initiated and conducted at the sole discretion of the Officer. If the Administrative Officer, in his/her discretion, finds that the alleged violation, would, if proved, constitute a “de minimis” infraction, he/she may decline to initiate a preliminary investigation and dismiss the complaint. A de minimis infraction is one that is so insignificant or trifling that enforcement serves merely to exhaust the Board's time and resources. See Bailey v. Zoning Board of Adjustments, 801 A. 2d 492 (Pa. 2002).~~

a) A mandatory non-binding mediation shall be held within 30 days of the receipt of a Complaint from the Evidentiary Officer, or a complainant’s appeal of the Evidentiary Officer’s determination not to proceed.

b) At the onset of the preliminary investigation- After determining that a complaint meets the required evidentiary standard, the Evidentiary Officer shall notify both the complainant and the subject of the investigation of the filing of the complaint, the nature of the same and the initiation of a preliminary investigation- the referral of the complaint to a mandatory mediation process.

~~e) The preliminary investigation shall be completed within thirty (30) days of the Officer's finding of jurisdiction.~~

c) Within thirty (30) days of either a complaint referral from the Evidentiary Officer or a complainant's filing of an appeal of the Evidentiary Officer's dismissal of the complaint, the case shall be submitted to the Berks County Bar Association Civil Dispute Resolution Program for mandatory non-binding mediation.

~~d) If, at any time during the preliminary investigation, an extension is necessary and justified, the Officer may request of the Board one fifteen (15) day extension, which shall be granted as of course. The Officer shall notify both the complainant and the subject of the investigation of such extension.~~

~~e) At the conclusion of the preliminary investigation, the Officer shall determine whether there may exist facts to support the complaint. If the inquiry fails to establish such facts, the Officer shall dismiss the complaint and notify both the complainant and the subject of the complaint of the dismissal. If, however, at the conclusion of the preliminary investigation the Officer determines that there may exist facts to support the complaint, the Officer shall authorize a full investigation.~~

d) During the mediation, the parties must participate in demonstrable good faith and make an effort to resolve the issues raised in the complaint.

e) At the conclusion of the mediation, the parties may agree to a settlement of the matter raised in the Complaint. Any settlement must be in writing, and signed by both the Complainant and the subject of the Complaint.

f) If the parties do not agree to settle the Complaint, the Complainant or the subject of the Complaint may file a request for an evidentiary hearing with the Charter Board within fifteen (15) days of the mediation.

~~5. Full Investigation. If preliminary investigation uncovers facts to support the complaint, the Officer shall authorize a full investigation. The complainant and the subject of the investigation shall be notified within three (3) days of the initiation of a full investigation and the subject shall be notified of the identity of the complainant. Until the investigation is concluded or terminated, the Officer will notify both the complainant and the subject of the investigation of the status of the investigation at least every forty five (45) days. Within ninety (90) days of the initiation of the full investigation, the Officer must either terminate the investigation or issue a Findings Report ("Findings Report").~~

~~6. Findings Report.~~

- a) ~~The Findings Report shall set forth the pertinent findings of fact as determined by the Officer. The Officer shall deliver the findings of fact to the complainant and the subject of the investigation.~~
- b) ~~Within twenty (20) days of the issuance of the Report, the subject of the investigation may make a request in writing to the Officer for an evidentiary hearing, and such request shall be granted as of right. When the Officer receives such a request, the Officer shall immediately notify the Board of the request for a hearing, and the names of the parties involved. The Investigative Officer shall then prepare facts in support of the complaint and present them at the evidentiary hearing.~~
- c) ~~If the subject of the investigation does not request an evidentiary hearing within twenty (20) days of the issuance of the Findings Report, the Officer shall immediately notify the Board of the names of the parties involved and shall deliver to the Board the Findings Report.~~

5. Evidentiary Hearing.

- a) Timing. An evidentiary hearing must be held within 45 days of the filing of a request for same.
- b) Procedure
 - 1. The subject of the ~~investigation~~ complaint shall have reasonable access to any evidence intended to be used at a hearing. The subject of the ~~investigation~~ complaint shall have the opportunity to be represented by counsel and to subpoena witnesses, present evidence, cross examine witnesses against him/her, submit argument, and shall be entitled to exercise all rights afforded him/her by the United States Constitution and the Pennsylvania Constitution which apply to this type of hearing.
 - 2. The formal rules of evidence will not apply to hearings; however, they may be used as a guide for determining the evidence admitted at the hearing.
 - 3. Testimony shall be given under oath or affirmation, and witnesses shall be subject to cross-examination.
 - 4. A stenographic record shall be taken of all evidentiary hearings.
 - 5. The ~~Investigative Officer~~ complainant or their attorney will present his/her case followed by the case of the subject of the complaint. Each party may make an opening and closing statement, unless otherwise directed by the Board.

6. Subpoenas may be issued at the request of the parties to the hearing on the approval of the Board. Information subpoenaed shall be relevant and not privileged.
7. The Board shall possess and be afforded all other powers, rights, privileges, and immunities, afforded to quasi-judicial bodies in the Commonwealth of Pennsylvania.

c) Closed Hearing. The hearing shall be closed to the public unless the subject requests an open hearing in writing to the Board at least five (5) days before the hearing.

d) Solicitor. The Board shall be represented by its Solicitor. The Solicitor shall assist the Board in carrying out its functions during the evidentiary hearing, may examine witnesses, documents and things to the same extent as the Board, may make evidentiary rulings and advise the Board concerning same, assist in the preparation and review of the Final Order, and otherwise advise and counsel the Board as necessary.

6. Decision by the Board: Final Order.

a) Following Evidentiary Hearing. At the conclusion of the evidentiary hearing, and in a timely manner, the Board shall deliberate on the evidence to determine whether the subject of the complaint violated the Charter or the Administrative Code. The Board's decision shall be by a majority vote of those members present.

b) Where no Evidentiary Hearing is requested. If the subject of the complaint does not request an evidentiary hearing, the Board shall decide by a majority vote of those members present whether the Findings Report supports a determination that the subject of the complaint violated the Charter or Administrative Code.

c) Final Order. The Final Order of the Board shall contain findings of fact and conclusions of law in accordance with Local Agency Law, 2 Pa. C.S.A. 551-555. A copy of said order shall be delivered immediately to both the complainant and the subject of the complaint by certified United States mail, return receipt requested. The Board shall render its decision and issue a Final Order:

1. within 30 days of the conclusion of the evidentiary hearing, or
2. in the instance where no evidentiary hearing is requested, within sixty (60) days of the issuance of the Findings Report.

7. Right to Appeal.

a) Any person aggrieved by an adjudication of the Board who has a direct interest in such adjudication shall have the right to appeal therefrom to the court vested with jurisdiction of such appeals pursuant to Title 42 (relating to judiciary and judicial procedure). All such appeals shall be conducted in accordance with Local Agency Law, 2 Pa. C.S.A. 751-754.

~~b) In the instance of an appeal from an adjudication of the Board, representation of the Board shall be by its Solicitor.~~ In the instance of an appeal from an adjudication of the Board, the Complainant shall have the right to intervene.

8. Protection of Complainant. No person may be penalized, nor any employee of the City be discharged, suffer change in his/her official rank, grade, or compensation, denied a promotion, or threatened, for a good faith filing of a complaint with the Board, or for providing information or testifying in any Board proceeding.

9. Costs of Charter Enforcement. Any person who prevails in any legal action against the City, its officers or agents to enforce this Charter or the Administrative Code pursuant to it, shall be entitled to recover all reasonable attorney's fees and costs incurred in such action.

B. Violations and Penalties.

1. **Violations.** The violation of any Section of the Charter or Administrative Code, in whole or in part, shall constitute a violation under the jurisdiction of the Board, except that the Board's jurisdiction shall not extend to cases arising under either the Ethics Code or the Personnel Code.

2. **Penalties; Other remedies.**

a) **Penalties.**

1. Factors to be considered. Before the imposition of any penalty (as opposed to restitution or other remedy) the Board shall consider the following factors and address the relevant factors in its Final Order:

- a. The seriousness of the offense,
- b. The substantive effect the offense has on the application of the Charter and its purposes,
- c. Whether the subject of the complaint has had previous decisions entered against him/her by the Board,
- d. The number of violations involved,

- e. Whether the violations were the result of willful or intentional conduct, recklessness, negligence, oversight or mistake,
- f. The consequences of the violation,
- g. Whether or not the conduct of the subject violates any other statute, act or law, and¹
- h. Any other factors relevant in determining the type and severity of the penalty to be imposed.

2. Penalties. Upon the finding of any violation, the following penalties shall be available to the Board for imposition, in addition to and not withstanding restitution and other remedies listed in (b) below:

- a. Admonition, in compliance with existing personnel practices, collective bargaining agreements and/or statutes, a letter to the respondent, the Mayor, the Managing Director, and Director of the Department in which the respondent is employed, if any, and the complainant, if any, indicating that the respondent has been found to have violated the Charter or Administrative Code;
- b. Public Censure, in compliance with existing personnel practices, collective bargaining agreements and/or statutes, notification to the respondent, the Mayor, the Managing Director, the Director of the Department in which the respondent is employed, if any, and the complainant, if any, and the news media indicating that a violation of the Charter or Administrative Code took place and that the Board strongly disapproves of the public official's or public employee's actions;
- c. Suspension, without compensation for a stated period of time not to exceed 30 days, in compliance with existing personnel practices, collective bargaining agreements and/or statutes, with notification to the respondent, the Mayor, the Managing Director, the Director of the Department in which the respondent is employed, if any, and the complainant, if any;
- d. Termination, in compliance with existing personnel practices, collective bargaining agreements and/or statutes, with notification to the respondent, the Mayor, the Managing

¹ Was this subsection removed or was it lost in the re-codification process?

Director, the Director of the Department in which the respondent is employed, if any, and the complainant, if any;

- e. Referral to the appropriate authorities for criminal prosecution in cases where a violation of the Charter or Administrative Code is also a violation of federal or state law;
- f. Imposition of a fine, not to exceed \$1,000 per violation;
- g. Imposition of an administrative fine of not more than \$1,000 to defray the actual cost and expense of investigating any violation.

b) Other remedies. Upon the finding of any violation, the Board may take one or more of the following actions, in addition to and notwithstanding the penalties listed in B(2)(a)(ii) above:

1. Order the subject to make restitution to those incurring damage or injury as a direct result of the actions of the subject that have been adjudicated as a violation of the Administrative Code or Charter;
2. Order the subject to cease and desist from engaging in a particular activity that is in violation of the Administrative Code or Charter;
3. Order the subject to take specified action to bring him/her into compliance with Board directives;
4. Refer the matter for review or with specific recommendation for action to law enforcement, regulatory or other authorities with jurisdiction over these matters;
5. Institute appropriate civil or equitable action to enforce the order and decision of the Board; and
6. Recommend to City Council the forfeiture of the office held by the subject with the City in accordance with Charter Sections 206, 305, and 504.

C. Board Information.

1. Confidentiality of Board Information. All Board proceedings and records relating to ~~an investigation~~ a complaint and any evidentiary review or related investigation, shall be confidential until ~~a final determination is made by the Board~~ the mediation process is completed. Complaints made that are dismissed by the Evidentiary Officer shall remain confidential. ~~The final order shall become a public record at the time the Board renders its decision.~~

~~All other records and proceedings shall remain confidential except:~~

- ~~a) as necessary to effect due process;~~
- ~~b) for the purpose of seeking advice of legal counsel;~~
- ~~c) for the purpose of filing an appeal from a final order;~~
- ~~d) for hearings conducted in public according to Section V(A)(7);~~
- ~~e) for communicating with the Board or its staff, in the course of an investigation or hearing or before a final determination is made by the Board;~~
- ~~f) for consulting with law enforcement officials for the purpose of initiating, participating in, or responding to an investigation, or hearing;~~
- ~~g) for testifying under oath before a governmental body;~~
- ~~h) for information relating to a complaint, investigation, or hearing which is disclosed by the subject of such complaint, investigation, or hearing;~~
- ~~i) for the divulgence by individuals who are interviewees to confidential Board proceedings as to information that was already in their possession or as to their own statements;~~
- ~~j) for the publication or broadcast of information legally obtained by the news media regarding a confidential Board proceeding;~~

2. Board Records.

- a) All Final Orders of the Board shall be kept on public file at the Office of the City Clerk. The City Clerk shall also file copies of all Final Orders of the Board with the Law Library of Berks County Court of Common Pleas.
- b) All confidential records and proceedings of the Board shall be kept on closed file at the Office of the City Clerk.

D. Wrongful use of Charter Board.

- 1. Complaints directed to the Board must be based on fact and a reasonable belief of a Charter violation. Wrongful use of the Board is prohibited and any person engaged in such conduct may be subject to penalties as set forth in Section V(B).
- 2. Wrongful use of the Board is defined as either:

- a) Filing an unfounded, frivolous or false complaint. A complaint is unfounded, frivolous or false if it is filed in a grossly negligent manner without basis in law or fact and was made for a purpose other than reporting a violation of the Charter or Administrative code.

A person has not filed a frivolous complaint if he/she reasonably believes that facts exist to support the claim, and either reasonably believes that under those facts the complaint is valid or acts upon the advice of counsel sought in good faith and given after full disclosure of all relevant facts within his/her knowledge and information; or

- b) Publicly disclosing or causing to be disclosed information regarding the status of proceedings before the Board in violation of Section C, above.

VI. Advisory Opinions

- a) Upon written request of any public official or city employee, or without such request should a majority of the Board deem it in the public interest, the Board may render advisory opinions concerning matters of home rule or enforcement of the City Charter. All advisory opinions shall be issued in writing and may include any redactions necessary to prevent disclosure of the identity of the person who is a subject of the opinion.
- b) An advisory opinion may be used as a defense in any subsequent investigation or prosecution, provided that the official or employee who sought the opinion did so in good faith and only to the extent material facts were not misrepresented in the request for the opinion.
- c) Advisory opinions shall be issued as expeditiously as possible, and in no case later than 30 days following the receipt of the written request.

VII. Educational Duties of the Charter Board

A. Overview.

The educational duties of the Board are two-fold:

- ~~1-~~ It shall direct and administer, with professional assistance, the required orientation of all elected City officials at the commencement of their terms.
- ~~2-~~ It shall, proactively and on an ongoing basis, educate the public and members of City government as to their rights, duties and obligations under the City Charter and Administrative Code.

B. Orientation of Elected City Officials.

1. A basic orientation course shall provide comprehensive information on Home Rule Law, the City Charter, the City Administrative Code, and the City Ethics Code. Other topics to be included in the course are: the impact of the Pennsylvania Constitution and other pertinent legal statutes on City government; a review of the City budget, including all City employees' labor agreements; and Roberts Rules of Order.

This course shall be directed and administered by the Board, with assistance from the Pennsylvania Department of Community and Economic Development, the State and County Bar Associations, the Ethics Board, and any other resources the Board deems appropriate.

2. Any elected official who, in the determination of the Board, completes this course within four months of their initial full term will receive a bonus of \$250.00.

3. City Council shall provide sufficient funds to ensure a thorough and professional orientation.

C. Educating the Public and Members of City Government.

1. Educating the public and members of City government about their rights, duties and obligations promotes involvement and participation for more effective and efficient government

The Board, with the assistance of resources deemed appropriate by the Board, shall conduct these educational programs in various formats.

Educational information can be disseminated in a variety of formats -public meetings, printed materials such as inserts in tax and water bills; handbooks; web site; community newsletter; interactive local television programming.

2. Funds shall be made available to the Board for the ongoing educational program of the public and members of City government.

City Council representation on Boards, Authorities, and Commissions

Housing Board of Appeals - To serve as the Board of Appeals for decisions made regarding the conduct of renters and/or rental licenses as it relates to DCRs and eviction proceedings

Meets as needed usually during the business day

- Currently Marcia Goodman-Hinnershitz

Environmental Advisory Council - has the power to study environmental and sustainability issues at the request of City Council and make recommendations to Council on those issues. The EAC will work with City Council in an advisory capacity in an effort to help Council analyze environmental and sustainability issues and when appropriate issue recommendations on courses of action necessary to protect the health, safety and welfare of the residents of Berks County.

The EAC is currently working on several pieces of legislation regarding environmental issues.

Meets the 4th Tuesday of each month at 5 pm. Meetings last approximately 90 minutes.

- Currently Marcia Goodman-Hinnershitz

Diversity Board - to serve in an advisory capacity to the Mayor and City Council by providing input on policy and processes that promote and facilitate active involvement and participation by diverse cultures such as of race, color, religion, ancestry, national origin, age, sex, familial status, and handicap within the Reading community and within City government

Meets quarterly at 3 pm in City Hall

- Currently vacant

Solid Waste and Recycling Appeals Board - to hear appeals as necessary for citizens aggrieved by citation for solid waste related issues

This Board was never functional.

There are two sets on the Board.

- Currently vacant
- Currently vacant

Business License Appeals Board - to hear appeals as necessary for the revocation of licenses issued to businesses operating within the City of Reading

- Council representation depends on the District in which the business is located and changes based on the appeal.

Local Redevelopment Authority - to advise City Council about the best reuse of the military facility located on Kenhorst Boulevard and monitor the ongoing reuse of the decommissioned site

Meets as needed to administer the BRAC process. Meeting length varies.

Has historically been filled by Council President, District 1, and District 4

- Currently Francis Acosta
- Currently Randy Corcoran
- Currently Stratton Marmarou

Blighted Property Review Committee - To implement provisions of the Urban Redevelopment Law of 1945, as amended by Act 94 of 1978, further amended by Act 113 of 2002, promoting reuse and reinvestment in properties in the City of Reading. The BPRC holds hearings to determine or certify properties as blighted to begin movement through the process to induce owners to make improvements but which may result in the City's taking of the property

Meets the 3rd Thursday of the month at 6 pm. Hearings last approximately 60 minutes.

- Currently Donna Reed

Recreation Commission - to provide a mechanism to adequately and efficiently maintain community recreation services and facilities and to organize, manage and supervise recreational and educational programs, with a primary focus and emphasis on programs for youth, within the political boundaries of the City and the School District. Inter-governmental board between the City and the School District. The Commission employs an Executive Director and staff to oversee programming.

Meets the 2nd Tuesday of the month at 7 pm. Meeting length varies depending on topics for discussion.

There are two seats on the Commission

- Currently Marcia Goodman-Hinnershitz
- Currently Donna Reed

Audit Committee - The Act 47 Recovery Plan Initiative CA 02 requires the City to establish a process for coordinating and responding to external audits. This Committee will provide independent review of the municipality's financial reporting processes, internal and external audits, formal responses to audits and oversight of City management's actions to achieve compliance. The Committee will ensure that City management property develops and adheres

to standard operating procedures for its fiscal affairs, upholds the integrity of independent external audits and the objectivity and comprehensiveness of internal audits

Meets quarterly during the business day. Meetings generally last 90 minutes.

Council is represented by the Finance Committee chair

- Currently Donna Reed

Reading Area Transportation Study (RATS) Coordinating Committee – Metropolitan planning organization for transportation issues in Berks County

Meets monthly during the business day. Meeting length depends on topics for discussion

Council is represented by the Council President and Finance Chair

- Currently Francis Acosta
- Currently Donna Reed (alternate)

Berks County Criminal Justice Advisory Board – discusses ongoing issues in the criminal justice field, best practices, grant opportunities, policy issues, etc. It is comprised of members of various law enforcement agencies, the DA's office, mental health, Judges, County detectives, the Warden, Public Defender, Probation officials, COCA, a few State officials, the Courts, etc.

Meets last Thursday of every other month at 8:30 am.

- Currently Marcia Goodman-Hinnershitz

Capital Improvement Program (CIP) Committee – Administration of the Capital Improvement Program – Review and make recommendations for proposed capital improvements and purchases

Meets during the business day as needed to prepare the CIP budget.

- Currently vacant

Berks Community Action Program - reduce poverty by coordinating local, state, private, and federal resources to assist low-income individuals and families

Meets monthly during the business day. Meeting length depends on topics for discussion

Council is represented by the Council President or his designee

- Currently Marcia Goodman-Hinnershitz