



CITY COUNCIL

Committee of the Whole

Monday, April 28, 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. CCTV proposals re Consent Decree (R. Johnson)**
- II. Executive Session – Interview of Fire Chief Candidate**
- III.**
- IV. Agenda Review**



COMMITTEE of the WHOLE

CITY COUNCIL

MINUTES
April 14, 2014
4:45 P.M.

COUNCIL MEMBERS PRESENT:

D. Sterner, S. Marmarou, D. Reed, C. Daubert, M. Goodman-Hinnershitz

OTHERS PRESENT:

L. Kelleher, S. Katzenmoyer, C. Snyder, A. Shuman

The Committee of the Whole meeting was called to order at 4:55 pm by Councilor Goodman-Hinnershitz.

I. Shuman Development

Mr. Shuman reported that closing on the Big Mill building has occurred. He stated that redevelopment will begin and the building will have 69 market rate apartments with 42,000 square feet of retail.

Mr. Shuman displayed a rendering of his plan for 5th & Penn Sts. He stated that the buildings will be high end office in the upper floors and retail on the first floor. He stated that he will keep the historic nature of the buildings and that the three story addition will have windows which match the historic windows in the other buildings. He stated that he is in discussions with the National Park Service to place the buildings on the National Historic Register. He stated that he is in discussions to place either a restaurant or microbrewery in the former bank branch.

Mr. Shuman stated that he will stabilize the facades of the buildings on Penn St and connect the current courtyard by a pathway to Penn St. He stated that he will expand the retail in this building by extending the retail around the side of the building into the courtyard.

Mr. Shuman explained that this \$9 million project will be mostly private financing and that he has tentative tenants waiting for his approval and timeline. He stated that he has the management and staff to bring this project together quickly and that all the properties will return to the City's tax rolls. He estimates that the buildings will bring the City \$5 million in real estate taxes alone. The project will create 325 jobs. He stated that this will also assist the City with its CRIZ designation as this will be a shovel ready project.

Mr. Younger arrived at this time.

Mr. Shuman stated that there is no residential use in the project as this is not the highest and best use of the property and that residential does not improve the street impact. Mr. Shuman noted his hope to have a large pine tree in the newly created courtyard to use as the holiday tree each year.

Ms. Goodman-Hinnershitz thanked Mr. Shuman for his work on the M & T building and the Abraham Lincoln Hotel.

Mr. Sterner requested a breakdown of the financing. Mr. Shuman explained that \$4 million will be private financing; he will apply for historic tax credits and parking funds (he hopes to have additional parking on Penn St and angled parking on Court St to increase the number of spaces). He stated that there will be no City funding. He stated that in addition to adding these buildings back to the City's tax rolls, they will also bring in earned income taxes and be assessed by DID.

Mr. Sterner questioned when Mr. Shuman could begin work on the project. Mr. Shuman stated that if his project is approved, he can begin immediately and have tenants in the building before the end of 2014. He stated that retail can be added in 2015.

Mr. Daubert noted his vision of that entire block be commercial and not residential.

Ms. Reed stated that the retail on the first floor will give the block a sense of safety and will add to the walkability of the downtown.

Mr. Shuman noted his hope that the block will connect downtown activities and enhance the downtown area.

Ms. Goodman-Hinnershitz requested a timeline regarding awarding the project. Ms. Snyder stated that the selection committee will be meeting on April 16. She stated that select community leaders will also be asked for input on the submissions.

Ms. Goodman-Hinnershitz questioned how many submissions were received. Ms. Snyder stated that there were two – Shuman Development and Our City Reading.

Mr. Shuman showed a rendering of the location of the CNA building as a 27 story high rise. He stated that he is not in discussions with I-Lead at this time.

Ms. Goodman-Hinnershitz questioned how locating a business in downtown Reading compares to locating in Spring Ridge. Mr. Shuman stated that when locating in Reading businesses must also consider parking, if the building is code compliant, and the perception of crime.

Ms. Goodman-Hinnershitz noted her dislike of visiting businesses in Spring Ridge as it is a maze of buildings and suburban sprawl.

Ms. Reed agreed but stated that there is free parking.

Mr. Cituk, Mr. Acosta and Mr. Coleman arrived at this time.

Mr. Shuman left the meeting at this time.

II. Disruptive Conduct Ordinance Amendment

Mr. Coleman stated that the Disruptive Conduct Ordinance amendment is on Council's agenda for final passage this evening. He explained that domestic violence and disability have been added as exceptions and that extra reviews have been added to ensure that there is no discrimination when DCRs are issued. He stated that there is also a new process for reconsideration and that the two appeals remain.

Mr. Spencer arrived at this time.

Mr. Marmarou voiced his support of the DCR process. Mr. Coleman stated that during discussions with Captain Winchester, he stated that he will work with patrol officers to have greater detail on the DCR form and in the reports. He stated

that the DCR process is effective but that the City needed to reduce its risk for lawsuits.

Mr. Marmarou stated that the complainant should also be able to comment on why the police were called.

Ms. Goodman-Hinnershitz stated that the approach to student behavior differs in Kutztown as there are arrests made in Kutztown but not in Reading. She stated that the impact to neighbors is the same in both places.

Mr. Marmarou explained that Kutztown University has its own police force where Albright has security officers only. He stated that these security officers cannot enforce activity taking place off campus.

Mr. Lloyd arrived at this time.

Mr. Coleman emphasized that more information will be collected and the reports will be completed in greater detail. He stated that there is also an amendment before Council to decrease the appeal fee to allow a greater opportunity to appeal the DCRs.

Mr. Coleman left the meeting at this time.

Mr. Murin arrived at this time.

III. Pagoda Foundation

Mr. Olsen and Mr. Johnson arrived at this time.

Ms. Snyder reviewed the report distributed to Council from Maher Duessel. She stated that there are eight findings. She reviewed the findings as follows:

- The Pagoda Pennies Campaign funds were properly deposited into a separate account.
- Contributions to the Pagoda Campaign were tax deductible.
- It was inconclusive if funds were spent on items other than maintenance and renovations. More information is needed to make a final determination.
- The Pagoda Foundation is a non-profit entity but does not have federal tax exempt status at this time.

Ms. Goodman-Hinnershitz expressed the belief that two different timelines were being used in this report. Ms. Snyder agreed.

- More information is needed to determine if Ms. Kauffman was considered a contractor or an employee of the City. There may be payroll issues if she was an employee.
- The City's Pagoda account was closed in March 2012 and the funds turned over to the Pagoda Foundation. The funds have been reserved by the Foundation for renovations and maintenance purposes.
- The report shows that internal policy was not followed for use of the Pagoda funds while they were in the City's possession. Two payments made to Ms. Kauffman before her contract was signed were noted and that the transfer of the contract from the City to the Foundation was not done properly.

Ms. Snyder stated that the check turning the Pagoda funds over to the Foundation was signed by former Managing Director Geffken and it is unclear if he was a member of the Foundation at that time. She noted that this may be an Ethics violation.

- The account used for the Pagoda funds was not approved by Council as required.

Ms. Snyder distributed recommendations from the Administration to move forward with the Pagoda MOU. She stated that several findings are issues and that these actions need to be taken before the MOU is signed. She reviewed the recommendations which include:

- Acknowledgement by Council and the Foundation that there were several policies which were not followed.
- Council censure of those involved in breaking policy.
- The Foundation returns the funds to the City. The Administration will restrict the use of the funds to capital repairs or renovations to the Pagoda and the use of the funds will be reported to Council.
- Administrative Services Director and Auditor will work to set controls to prevent this situation in the future.
- Administrative Services Director will investigate any pending issues from Ms. Kauffman being a City employee versus a contractor.
- Modification of the MOU to include the following:
 - Additional liability insurance

- Revenue sharing from rentals to offset utility and maintenance expenses
- The Foundation should create a viable plan for the long term protection and sustainability of the Pagoda within two years.

Ms. Goodman-Hinnershitz questioned why representatives from Maher Duessel were not present to answer questions. Mr. Younger stated that the firm is located in Harrisburg and was not requested to attend.

To clarify, Mr. Cituk stated that this report is not an audit.

Mr. Sterner noted that this issue has been unresolved for an extensive time. He stated that it has placed the Foundation in a precarious position.

Mr. Acosta stated that Council approved the MOU in December 2013. He stated that at this time, Council has not filed a suit to force the Mayor's signature. He noted his objection to censure and to the return of the funds. He stated that this report is ridiculous and that the Foundation should be taking care of maintenance and renovations. He noted that other organizations with agreements do not share revenue with the City and that the City has larger issues to address. He stated that he read the report and does not agree with all of its findings. He noted that he does not support censuring of any kind in this case.

Ms. Kelleher questioned if the Pagoda Pennies fund was established prior to 2011. Ms. Goodman-Hinnershitz stated that it was.

Ms. Kelleher stated that the procedure to have Council approve the bank accounts was not put into place until 2011 in response to the movement of CD funds to accounts outside the City's control.

Ms. Goodman-Hinnershitz agreed and stated that this is why she questioned the timeline. She stated that many people were involved over the years.

Mr. Acosta reported that this report cost \$9,600.

Mr. Spencer stated that he wanted the Pagoda transfer process to be transparent. He stated that his Administration wanted the issues to be addressed but that they did not steer the findings. He noted his unwillingness to sign the MOU until this

report was completed. He stated that the fund transfer occurred during his tenure and that he wanted the issues addressed.

Mr. Younger and Mr. Cituk reminded all this is a report and not an audit.

Mr. Spencer stated that this is semantics but that the money moved was unauthorized.

Mr. Sterner stated that the funds transferred have not been spent and that the City can specify that the funds be used for renovations and maintenance. He questioned the need for the Foundation to return the funds. Mr. Spencer stated that the transfer was improper.

Mr. Sterner expressed the belief that censure was unnecessary and that the funds are not spent. He questioned how to move forward. Mr. Spencer stated that Council has the Administration's recommendations and it is now up to them.

Mr. Sterner expressed the belief that the report clears the Spencer Administration from wrongdoing but that it took too long. He stated that if he were a member of the Foundation he would be fed up and that it is unfair to put the Foundation in the middle of this battle. He noted the need to move forward.

Mr. Olsen stated that the Foundation has not met in 2014 and that there have been several resignations because of this issue. He stated that he will now call a meeting to determine how the Foundation would like to address the report and move forward. He stated that the funds remain intact and that he was personally unaware of the circumstances of the transfer. He stated that the funds have been earmarked for capital needs at the Pagoda. Mr. Olsen stated that the Foundation has been working with Herbein and all the necessary paperwork has been filed. He noted that it has always been the Foundation's goal to work with the City to develop a master plan for the mountain. He stated that the Foundation's work will not stop and that the Pagoda must be preserved. He stated that the Foundation has tried to work outside the political process.

Mr. Sterner noted his agreement with Mr. Acosta regarding the findings and the censure. He noted his support of the Foundation.

Ms. Reed stated that the outpouring of support during the Pagoda Pennies campaign shows the passion of the people about the Pagoda and that the landmark is owned by all the people.

Mr. Olsen expressed the belief that being censured is insulting and that he is considering stopping all his volunteer work for the City.

Ms. Goodman-Hinnershitz stated that this report is blaming good, committed people who are involved in the Pagoda. She noted the need for the Foundation to sustain and maintain this landmark and that it needs the support of all the stakeholders. She stated that there are many ready to make contributions to the effort but that there are all these political delays. She stated that she is proud of her involvement at the Pagoda and that she agrees that Mr. Olsen and others should not be censured.

Mr. Marmarou stated that he visits the Pagoda often and that there is always a nice crowd there. He stated that volunteers wish more officials would visit the site.

Mr. Spencer stated that censure is not necessary for all involved in the Foundation as not all were involved in the wrongdoing but that censure should be used for those who were involved.

Mr. Sterner stated that Council was not involved.

Ms. Goodman-Hinnershitz expressed the belief that the person who prepared the report should be available to answer questions. Mr. Spencer stated that the findings need to be addressed. He stated that he served on Council during this time period and that Council was not receiving any information.

Mr. Sterner stated that this is not the biggest issue the City is facing. He questioned who needed to address the findings. Mr. Spencer stated that this is noted in the Administration's recommendations memo.

Mr. Marmarou noted the need to review the findings. He questioned prosecution of the guilty parties. Mr. Acosta stated that the Administration will need to make this determination.

Mr. Olsen expressed the belief that the Foundation will add any City procedures to its policies if they are made known.

Ms. Goodman-Hinnershitz questioned if Mr. Spencer had issue with her being a member of the Foundation. Mr. Spencer stated that he did not.

Ms. Goodman-Hinnershitz questioned if there would be future issues with the Foundation if she were a member. Mr. Spencer stated that there would not.

IV. Agenda Review

Council reviewed this evening's agenda including:

- Resolution cancelling the CDBG Centre Park Signage

Ms. Snyder stated that the project was completed with private funds and that the CDBG funding was not needed.

- Resolution transferring CDBG funds from the Slum and Blight Demolition Activity to create the Emergency Demolition Urgent Needs Activity

Ms. Snyder stated that this is a new category which will reduce environmental studies and to reduce the amount of time needed for emergency demolitions.

- Resolution authorizing the refurbishment of two ambulances

Ms. Snyder stated that the funds will completely rebuild two ambulances and that they will have the same life expectancy as new vehicles.

Mr. Acosta questioned the interest on the funding. Ms. Snyder stated that it is \$10,000 over a five year period.

- Resolution authorizing the funding and purchase of IT equipment

Ms. Snyder stated that this is for \$3.6 million for the IT refresh discussed during the 2014 budget process. She stated that the bank has requested a Council resolution and that the financing will be for a three year period.

Ms. Goodman-Hinnershitz questioned procedure and allowing Mr. Bembenick and Mr. Tangredi to enter into the contract. She questioned who normally signs contracts. Mr. Acosta stated that if the resolution is passed by Council, Mr. Bembenick and Mr. Tangredi have permission to enter into the contract.

Ms. Snyder stated that this is for the financing only and that Mr. Bembenick would be involved in any financing.

- Contract award for Bituminous Materials

Ms. Snyder stated that this is for materials for street paving.

Mr. Marmarou questioned if time elapsed between patch and permanent repair for street cuts. Mr. Johnson stated that there was.

- Contract award for the Comprehensive Plan

Ms. Snyder stated that the City has a grant for up to \$80,000 for this project.

- Ordinance amending the Solid Waste and Recycling Fund 56 Budgets

Ms. Snyder stated that the Administration discovered the need for a substantial adjustment to the Maximus recommendations after the budget process. She stated that this additional \$30,000 was considered in the new rates for 2014.

- Ordinance amending the Recreation Commission Agreement of Cooperation

Ms. Snyder stated that this amendment changes the meetings to bimonthly and the reorganization to February of each year.

- Ordinance dissolving the Water Authority

Mr. Acosta stated that this will be tabled to allow additional time for Council to discuss the issue with its attorney.

- PennDOT easement and sale of property in Perry Township

Ms. Snyder stated that these ordinances have been pending while the City tried to get a higher purchase price. She stated that there has been an increase to \$16,000.

Ms. Kelleher noted the need to add a resolution to the agenda which will officially notify the Water Authority of Council's intent to dissolve the Authority and ordering that it immediately cease any and all negotiations.

Mr. Acosta noted the need for all to review the resolution. He stated that he has learned that the FOP has been contacted about a meeting with the Administration and that Mr. Smith from Human Resources has told them that Council is creating a deficit and that 30 police officers will be fired. Ms. Snyder stated that an FOP representative wanted to meet with her about this today but that he was called out on an emergency.

Mr. Acosta noted the need for Council to meet with FOP representatives also. Ms. Snyder stated that she will address this issue with Mr. Smith immediately.

Ms. Goodman-Hinnershitz stated that there are many rumors and they are spreading fear. She noted the need to address the rumors immediately when they are learned.

V. Other Matters

Mr. Spencer reminded all present of the need to communicate with himself or Ms. Snyder and not directly with Department Directors or other staff.

Mr. Acosta stated that he will cease this communication but only if the Mayor will respond. He stated that he has been trying to reach the Mayor for two weeks without success.

Ms. Goodman-Hinnershitz stated that she has tried to reach Mr. Spencer by email and has also had no response. She questioned the best way to communicate. Mr. Spencer suggested that Ms. Goodman-Hinnershitz reach out to Mr. Lloyd or Ms. Snyder.

The meeting adjourned at 6:15 pm.

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