



CITY COUNCIL

Committee of the Whole

Monday, June 23, 2014

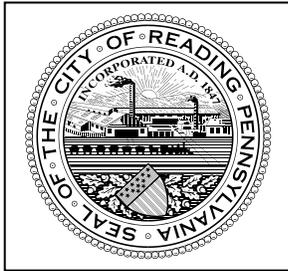
5:00 pm

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. Redesign Reading Update – B. Kelly**
- II. Act 111 Amendment & Support Resolution (attached)**
- III. Executive Session re Personnel Matters - Managing Director**
- IV. Other Matters**
- V. Agenda Review**



COMMITTEE of the WHOLE

CITY COUNCIL

MINUTES
June 9, 2014
5:00 P.M.

COUNCIL MEMBERS PRESENT:

D. Sterner, S. Marmarou, D. Reed, J. Waltman

OTHERS PRESENT:

L. Kelleher, S. Katzenmoyer, T. Butler, D. Cituk, C. Younger, C. Snyder

The Committee of the Whole meeting was called to order at 5:03 pm by Council Vice President Waltman.

I. Housing Ordinance Amendment

Ms. Butler distributed a Standard Operating Procedure to gain entry to properties when the owner or tenant will not allow access to the inspector.

Mr. Natale arrived at this time.

Ms. Butler explained that after three attempts to gain entry have failed, Property Maintenance and Law apply for an administrative search warrant from the MDJ. She stated that if the warrant is granted, the property is posted and both the owner and tenants are notified of the date and time the warrant will be served. She explained that if access is denied after the issuance of the search warrant, the new procedure will be to file for an injunction so that the court orders the owner and/or tenant to allow access. If this order is ignored, Law will go back to court to ask for the court to find the owner/tenant in contempt and penalize them. She stated that the only goal through this process is to inspect the property.

Ms. Butler stated that forcible entry is allowed as soon as the administrative search warrant is issued but that the City refrains from using it unless there is reason to believe that there are dangerous conditions in the building.

Mr. Marmarou questioned if this warrant was different from an arrest warrant. Ms. Butler stated that it is very different.

Mr. Marmarou questioned the amount of time this process would take. Ms. Butler stated that adding these steps would increase the time of the process at the front end rather than using force and having a lawsuit at the back end. She stated that either way, there are legal processes.

Mr. Marmarou stated that Albright students could move into a property in September and this process could take until the end of the semester or longer. Mr. Natale stated that the student housing process would not change.

Mr. Marmarou stated that all these processes take too long. Ms. Butler stated that citizens have a right to due process.

Mr. Marmarou stated that there is a situation where tenants were evicted but did not move out. Mr. Natale explained that the tenants appealed the eviction in court and they cannot be removed during the appeal process.

Mr. Spencer arrived at this time.

Mr. Marmarou questioned the process used in other college towns. Ms. Butler stated that other municipalities use forcible entry and then have lawsuits filed against them.

Mr. Marmarou questioned how often this process will need to be used. Ms. Butler stated that there are several property owners who challenge the City each time they are able. She stated that there are several already waiting to test this process. She reminded all that the properties cannot be inspected while it is in the process.

Mr. Murin arrived at this time.

Mr. Spencer questioned if the tenants remained in the properties during the appeal. He stated that unsafe conditions may exist if the property cannot be inspected. Mr. Younger stated that they may remain during the legal process.

Mr. Sterner stated that the legal process is lengthy. He questioned if timelines can be requested from the judge as dangerous conditions may exist. He questioned if the inspectors always tried three times before requesting a warrant. Mr. Natale stated that they try three times unless they suspect there are dangerous conditions.

Mr. Sterner questioned how long it takes to try three times. Mr. Natale stated that Property Maintenance works closely with the Police with search warrants. He stated that the District Attorney has approved removing people in unsafe conditions and stated that in this case people can be removed in several days.

Ms. Reed questioned how this process compares to other PA cities. Mr. Natale stated that he participates in a statewide organization and that Reading is ahead of others with inspections and code enforcement. He stated that Allentown generally follows Reading's lead.

Ms. Reed questioned if the number of properties needing inspection was similar. Mr. Natale stated that Allentown's number is very similar to Reading. He stated that many other municipalities work with the utility companies to have the utilities shut off when a property is deemed unsafe.

Mr. Waltman questioned if there was a way the City could recoup these court costs. Ms. Butler stated that the City can request restitution at the hearing to enforce the injunction.

Mr. Waltman stated that working with the utility companies to shut off the utilities when a property is deemed unsafe is excellent. He expressed the belief that the City will be held liable if there is a problem at a property and it cannot gain access. He suggested that those who refuse entry lose their business license and housing permit. He stated that each appeal assures that there will be no inspection.

Mr. Waltman questioned the number of warrants and appeals made annually. Mr. Natale stated that there are three property owners who continually appeal. He stated that most others comply when the Police accompany Property Maintenance when a warrant has been issued.

Mr. Acosta arrived at this time.

Mr. Spencer questioned how a property was deemed unsafe. Mr. Natale stated that these properties usually involve Building Trades and/or the Fire Marshal office.

Mr. Spencer noted the need to err on the side of safety. He questioned if a property can be assumed unsafe if it has not been inspected. Ms. Butler stated that tenant complaints help gain entry but that other tenants refuse access.

Mr. Waltman stated that when the property owner goes through the permit process he should need to sign to agree to the City's terms and conditions including inspections. He stated that if there is no compliance that all permits should be at risk. Ms. Butler stated that PA Act 90 does allow all permits to be revoked.

Mr. Marmarou noted the need for landlords to include the need for tenants to allow the inspection in their lease.

Mr. Natale explained that this process must be followed for a single unit inside a multi-unit property if one tenant does not allow the inspection.

Mr. Waltman noted the need for all housing rules to be handed out in a packet during the housing permit process. Mr. Natale stated that he often gets calls asking for clarification and additional information.

Ms. Butler stated that in answer to the question about other municipality's process, most stop at the administrative search warrant level and force entry. She stated that Reading is taking the extra steps to avoid forced entry.

Mr. Sterner questioned if there was a way to speed up the process. Ms. Butler stated that the City tried having a housing court established but it was refused. She stated that the process must follow the normal court schedule allowing for due process.

Mr. Sterner suggested that Reading try again to have a housing court established. Mr. Natale cautioned that if this occurs there may be a limited selection of judges.

Ms. Snyder questioned if additional modifications to the legislation were needed. She stated that the amendment also eliminates the need for property owners to submit tenant lists. She stated that this legislation has been tabled since April.

Mr. Sterner questioned if the City still requested the name of the local building manager for out of County owners. Ms. Butler stated that this requirement was eliminated in a prior amendment. Mr. Natale stated that all contact is made with the property owner.

Mr. Waltman suggested that Codes know the building manager. Mr. Natale stated that IT has been doing tremendous work to assist Property Maintenance. He stated that his

hope is that all forms will be available online and that building managers can get copies of all notices. He stated that PA requires building managers to be real estate brokers but that there are several in Reading who are not.

Mr. Sterner questioned if Property Maintenance knew the owners of rental properties. Ms. Butler stated that the Vacant Property registration legislation will assist in finding owners of vacant properties.

Mr. Sterner stated that not all problem properties are vacant. Mr. Natale stated that Property Maintenance uses County records.

Mr. Waltman stated that this legislation is eligible for vote this evening.

Ms. Butler and Mr. Natale left the meeting at this time.

II. Agenda Review

Council reviewed this evening's agenda including the following:

- Resolution authorizing the MOU with RAWA for curbside collection fee billing

Mr. Waltman requested that this resolution be tabled this evening.

- Commendation urging Meatless Monday

Ms. Kelleher stated that this will be issued on June 23 as Mr. Daubert will not be attending the meeting this evening.

Ms. Reed stated that she has received many negative comments about this from the public.

III. Other Matters

- Egelman's Park baseball field

Mr. Marmarou stated that he knows of a high profile citizen who would like to develop this field like the fields in Bern Township.

Mr. Acosta stated that any group using this field cannot impose on the MOU with the Recreation Commission.

Ms. Reed suggested that Mr. Marmarou check with the County to understand the pros and cons of the operation of this facility.

Mr. Marmarou questioned a presentation to Council. Ms. Snyder and Ms. Reed suggested that the presentation be made to the Recreation Commission.

- Override of Veto of Ordinance 46-2014

Mr. Spencer questioned the cost to dissolve RAWA. Mr. Waltman stated that it can be anywhere from zero to \$7 million depending on the transition. He stated that it is in the current member's best interest to resign. He stated that this is not a specific amount but a tangible one. He noted Council's goal to keep costs low.

Mr. Spencer questioned the rationale of dissolving RAWA. Mr. Waltman noted the need to protect this City asset.

Mr. Spencer stated that Council makes all appointments to RAWA. Mr. Waltman stated that this is true but that appointees then contradict Council's views. He noted the need to strengthen City control and oversight.

Mr. Spencer questioned what Council wanted. Mr. Waltman stated that he would explain in two weeks. He stated that not all issues need to be discussed.

Mr. Spencer questioned why Council needed to protect this asset. He stated that Council approves all appointments and approves all debt. Mr. Waltman stated that there cannot be debt overload. He stated that not all debt is or was approved by Council and that Council must do better in its due diligence. He stated that this system is not perfect.

Mr. Spencer questioned if RAWA needed to be protected from the City. Mr. Waltman noted the need for better integration between the City and RAWA. He expressed the belief that RAWA is too autonomous. He compared RAWA with the airport and stated that this City asset was eroded over time.

Mr. Spencer stated that the County was asked to do more with the airport and so the County wanted more control. Mr. Waltman stated that this can also happen with RAWA. He stated that the City water system is very valuable and that RAWA is not responsive when information is requested.

Mr. Spencer questioned who appointed RAWA members. Mr. Waltman stated that it was Council.

There was discussion between Mr. Spencer and Mr. Waltman about the protections needed.

Mr. Sterner stated that this entire fiasco could have been avoided if an RFP was released earlier in the process. He noted the need to review all possible offers. Mr. Spencer stated that he made it clear at the beginning of the process that he wished to work with RAWA first.

Mr. Spencer questioned what the RFP value would be based on. Ms. Reed noted the need for a valuation of the system. Mr. Waltman stated that this valuation was part of the Council process. Mr. Spencer stated that the valuation was used as an ultimatum by Council. He stated that he has a copy of this paperwork.

Mr. Spencer questioned the value of the system. Mr. Sterner stated that at this point it doesn't matter.

Mr. Spencer stated that he wanted to get the valuation of the system and negotiate with RAWA before going to a full RFP. He stated that he has been told that he can negotiate with RAWA because they have a current agreement with the City. He stated that amounts from an RFP don't hold up if there is no valuation.

Mr. Waltman noted the need for the City to get the best value through an open market process. He stated that the RFP responses could be three times the valuation. He stated that Council was doing its due diligence when the process broke down.

Mr. Spencer again noted the need for the valuation of the system. Mr. Waltman suggested that the valuation be gotten. He stated that each side is waiting on the other and there is no progress. He stated that the Mayor cannot move forward without Council approval and Council cannot issue an RFP. He noted the need to work together on the 2015 budget.

Mr. Waltman stated that Council cannot issue an RFP. Mr. Spencer stated that the Administration is prepared to present a valuation to Council.

Mr. Sterner questioned hearing offers from others besides RAWA. Mr. Spencer stated that an RFP may need to be issued if RAWA cannot meet the valuation.

Mr. Waltman noted the need not to use RAWA as a benchmark or a valuation.

Ms. Reed noted that the discussion is going in circles.

Mr. Spencer questioned the conflict present in order for Council to hire outside legal counsel. Mr. Waltman stated that this is a legal matter and he will not discuss it outside executive session.

Mr. Sterner stated that the current conversation proves that there is conflict. Mr. Spencer noted the need for Mr. Sterner to be better informed of the PA Municipalities Authorities Act. He stated that this is not a defined conflict. He stated that Council did not RFP to hire their legal counsel.

Mr. Waltman again stated that this is a legal issue and should be discussed in executive session. He likened this evening's questions to Jeopardy.

Mr. Spencer stated that the City Solicitor has opined that there is no conflict. Ms. Reed stated that the City Solicitor serves both the Administration and Council. She stated that he has sided with the Administration from the outset of this issue and that as long as one solicitor serves two bodies the conflicts will continue. She took offense to the insults Mr. Spencer made of Mr. Sterner.

Mr. Waltman noted the need to find remedies. He stated that in the interim there is no RFP. He noted the need to begin focus on the 2015 budget, the Act 47 amendment, the Penn St project, etc. He also noted the need to address Act 111.

Mr. Spencer, Mr. Murin, and Mr. Cituk left the meeting at this time.

IV. RAWA Appointments

Mr. Waltman stated that the Mayor announced that he appoints members of the Water Authority. He stated that this opinion was based on a lawsuit in Harrisburg. He noted his understanding that the Harrisburg mayor is a part of Council. He stated that this is not the case in Reading and that City Council is the governing body in Reading. He stated that any challenge to Council making RAWA appointments must have a better legal standing.

Ms. Reed stated that yet another lawsuit will again increase the City's legal fees.

Mr. Acosta stated that he is tired of the Administration finding new ways to try to take credibility away from Council and their process.

Ms. Reed stated that the residents that she has spoken to can see through the Mayor's posturing.

Mr. Acosta stated that Council has been opposed to a member of the Administration serving on RAWA and should not put itself in the same position.

Mr. Marmarou stated that if a new authority is formed, Council has been named as members in the legislation. Mr. Acosta stated that Council names appear in the legislation for incorporation purposes only and that they will not be members. Mr. Younger agreed.

Mr. Waltman stated that the ball is in RAWA's court.

Mr. Spatz from the Reading Eagle was permitted to speak.

Mr. Spatz stated that RAWA was originally formed so that the City did not have to follow PUC regulations. He questioned when the PUC would begin to regulate it again if City officials serve on the board. Mr. Waltman stated that this is a fine line. He stated that if the new authority is launched, Council would need to nominate five individuals immediately as it did with CRIZ. Mr. Acosta agreed and stated that Council will appoint individuals and not serve as the authority.

Mr. Acosta noted the need for all to continue to explain that the water system is not being sold. Ms. Reed stated that this has become an urban legend and has been difficult to quash.

Mr. Marmarou stated that residents are confused about rate increases. He stated that water rate increases would increase the water charge only and not the entire bill.

Mr. Acosta stated that RAWA's \$50 million proposal would increase rates by 30%-40% and its \$200 million proposal would increase rates by 25%. He stated that this indicates that RAWA is not financially stable and that people are being given misinformation.

Mr. Waltman stated that those concerned with rate increases should be told that since there is no process in place to move forward, there will be no increase in 2014.

Mr. Spatz stated that he is currently trying to confirm with RAWA about the rate increase and to which charges it would apply and that all RAWA customers would pay the increase, not only City residents.

Mr. Acosta stated that there is also confusion with RAWA as their proposals are not all up-front lump sums as requested. He stated that they include a lump sum and incremental payments.

Mr. Waltman noted the need for Council not to get cornered by RAWA's threats.

Ms. Goodman-Hinnershitz arrived at this time.

Ms. Reed noted the increase in public relations funds being spent by RAWA. Mr. Acosta expressed the belief that there will be additional information brought forth by RAWA if the veto is overridden this evening.

Mr. Spatz questioned Mr. Acosta's definition of privatize. Mr. Acosta stated that it is selling to a private organization.

Mr. Spatz stated that there are many definitions of privatize. He noted the need for Council to better define it to the public. Ms. Goodman-Hinnershitz noted the need to be very clear with the public. She stated that she defines it as outside public control.

Mr. Waltman stated that there is too much turmoil. He stated that increasing revenue does not treat the underlying issues. He stated that accepting a lump sum for a lengthy time frame does not leave future options.

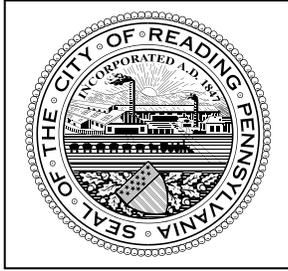
Ms. Goodman-Hinnershitz agreed with Mr. Waltman. She expressed the belief that City assets are vulnerable to private leverage.

Mr. Waltman stated that he has grown even more protective through this process.

Ms. Reed expressed the belief that the extreme reactions are red flags.

The meeting adjourned at 6:37 pm.

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



COMMITTEE of the WHOLE

CITY COUNCIL

MINUTES
June 16, 2014
5:00 P.M.

COUNCIL MEMBERS PRESENT:

D. Sterner, S. Marmarou, J. Waltman, M. Goodman-Hinnershitz

OTHERS PRESENT:

L. Kelleher, S. Katzenmoyer, C. Younger, C. Snyder, A. Shuman, D. Kersley, J. Varghese, A. Boscov, G. Donnelly, V. Spencer

The Committee of the Whole meeting was called to order at 4:32 pm by Council Vice President Waltman.

I. Penn Street Properties

- Presentation by Our City Reading

Mr. Boscov stated that Our City Reading has been working to improve the City for the past ten years. He stated that much of the work is self funded. He stated that 575 homes have been rehabilitated, and projects at the Goggleworks, the Goggleworks apartments (which are 100% full), the IMAX, the Sovereign Plaza (which employs 620 people), the Hotel, Sun Rich Foods, Hydrojet, KVP, and Quaker Maid Meats have been completed.

Ms. Reed arrived at this time.

Mr. Boscov stated that he continues to work on restaurant row and that Panevino is doing well. He stated that the Goggleworks Two project will consist of 25 artist apartments and that buildings are expensive to restore. He stated that the 3rd and Walnut project will consist of five units.

Mr. Boscov stated that the 5th & Penn project will be a difficult project. He stated that the tall building will contain a business incubator and offices. He stated that he does not propose transfer of ownership of the properties and the City will receive all rent payments. He suggested that the former bank branch remain a bank or become a restaurant. He stated that he is unsure if the other buildings must be demolished but that he hopes to save them. He stated that Our City Reading is not out to make a profit but that he is ready for the challenge.

Mr. Boscov stated that \$1 million of the Section 108 loan will be paid back in 2014 and that he would ask for a 5% commission while the project is under construction.

Mr. Boscov stated that he is working on many other projects and will not be upset if he is not chosen for this project. He stated that Reading has been very good to him and his family and that he will continue to work to improve the City. He explained that the City has done some work to these buildings to restore heat, air conditioning and the roof.

Ms. Goodman-Hinnershitz thanked Mr. Boscov for his work to improve Reading. She stated that this project is vital to the downtown and that much will need to be brought together to complete the project.

Ms. Reed expressed her appreciation to Mr. Boscov for his work. She questioned if this project was sustainable. She stated that many are fleeing Reading's downtown because of a lack of confidence. Mr. Boscov noted the need to attract people and businesses back. He suggested that the best way to do this was with restaurants. He stated that evening parking is not problematic.

Mr. Agudo arrived at this time.

Ms. Reed noted the decline of the middle class in Reading. She questioned how to restore consumer confidence. Mr. Boscov suggested that shopping would be the last element to come back. He suggested that restaurants and housing (not low income) is the quickest way to restore the downtown. He also noted the need for recreational activities. He stated that there was no magic way to bring people back.

Mr. Kromer arrived at this time.

Mr. Boscov stated that when there are events downtown you cannot get a seat at the restaurants. He noted the need for activity after 5 pm. He expressed the belief that fears will be reduced when activity and occupancy increase.

Ms. Goodman-Hinnershitz stated that she works downtown and frequents the downtown businesses. She noted that most downtown workers stay in their buildings. She noted the need for a feasibility study of what workers want. She expressed the belief that the long lines of young people at Sneaker Villa are encouraging and noted the need to market downtown to the young and new populations. Mr. Boscov agreed with the need to market to the young people. He stated that he is also working to increase lighting on Penn St so that people feel more comfortable. He noted the need to fill the empty spaces.

Mr. Waltman stated that all know his vision for the downtown. He noted the need to leverage people to return. He questioned if the City would set the rates for the project as it will retain ownership. Mr. Boscov stated that it will set the rates. He suggested starting with a low rate and increasing them after the buildings are full. He stated that he will not be requesting funding from the City. He expressed the belief that the City needs mobility to survive.

Mr. Johnson arrived at this time.

Mr. Boscov noted the need to make the City attractive and fun. He stated that if the City is chic and inexpensive businesses will return.

Chris Zale arrived at this time.

Mr. Sterner questioned when the project could begin. Mr. Boscov stated that he could start the project in three months.

Mr. Marmarou stated that many Berks Countians cite fear as a reason for not coming to Reading. He expressed the belief that if more people used the downtown the fears would diminish. Ms. Goodman-Hinnershitz agreed and noted the need to reduce the perception of fear in the County.

Mr. Boscov thanked Council for the opportunity to appear and again noted that he is working on many other projects and will not be upset if he is not chosen for this project. He also stated that he is not adverse to Shuman being awarded the project.

- Presentation by Shuman Development Group

Mr. Shuman highlighted several projects including:

- Hiester's Lane – all work done with private funding
- Reading Outlet Center – all spaces full with some national chains
- Exide, Baer, Berkshire and M & T buildings – all downtown spaces and all spaces full
- Big Mill – 70 residential units will be complete by the end of 2014

Mr. Shuman expressed the belief that if spaces are designed to give businesses what they need businesses will fill the spaces.

Mr. Shuman stated that for the 5th and Penn project he proposes a restaurant or brew pub for the former bank branch. He stated that he would keep the facades of the other buildings if he is able. If not, he would have molds made of the façade details so that new construction would replicate the current facades. He stated that the tall building would be office space and that there would be national retail shopping. He noted the need to expand the retail in the downtown.

Mr. Sterner questioned parking. Mr. Shuman stated that he would propose a TIF to have parking and sidewalks improved in this block. He suggested angled parking in the rear of the properties on Court St. He stated that his proposal also gives access to parking at the M & T lot and the Lincoln.

Mr. Shuman stated that this is a \$12 million project that can be a shovel-ready CRIZ project as requested by the CRIZ board.

Ms. Reed questioned why Mr. Shuman is successful with City projects when others are not. Mr. Shuman stated that he learned the hard way that to fill properties they must contain what the businesses want. He stated that they also cannot be too large of a space. He expressed the belief that if you fill the small spaces, the larger businesses will come in.

Mr. Waltman noted the need to remove the bus shelters and open the spaces. He questioned how this project would succeed if CRIZ is not awarded to Reading. Mr. Shuman expressed the belief that CRIZ would be awarded; it was just a matter of when.

Ms. Goodman-Hinnershitz questioned how the use of the former CNA building would impact his project. Mr. Shuman expressed concern about the building housing a school as the buses would tie up traffic on Court St. He stated that a school is not the best use

for the building but that there are already other businesses on Penn St that are worse than a school.

The meeting adjourned at 5:21 pm.

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

Act 111 Reform – Policemen and Firemen Collective Bargaining Act
Sample Resolution in Support of Senate Bill 1111 and Act 111 Reform
(please modify to fit your municipality's needs)

A Resolution of the (name of municipality) , Commonwealth of Pennsylvania, supporting amendments to Act 111 of 1968, the Policemen and Firemen Collective Bargaining Act, to provide for a more transparent, fair and balanced arbitration process for municipal police and fire.

WHEREAS, Act 111 of 1968, referred to the Policemen and Firemen Collective Bargaining Act, or simply as Act 111, provides binding interest arbitration to police and fire union personnel in exchange for not being allowed to strike; and

WHEREAS, Act 111, when first enacted in 1968, provided an avenue for enhanced benefits to public safety union personnel to make up for a lower public pay scale; and

WHEREAS, over the last 45 years, both pay and benefits for public safety personnel have increased to the point where they are at unsustainable levels; and

WHEREAS, municipal taxpayers shoulder the burden of public safety expenses through payment of the real property and earned income taxes; and

WHEREAS, in some municipalities there is not enough tax revenue to cover the cost of public safety expenses let alone all other service expenses; and

WHEREAS, Act 111 has not been evaluated or amended by the Pennsylvania General Assembly since its inception in 1968; and

WHEREAS, Senate Bill 1111, introduced by Senator John Eichelberger (R – Blair) and House Bill 1845, introduced by Representative Rob Kauffman (R – Franklin) seek to amend Act 111 in a fair and meaningful manner without eliminating the rights of public safety personnel to collectively bargain; and

WHEREAS, the passage of Senate Bill 1111 or House Bill 1845 will make the current Act 111 collective bargaining process more transparent, fair, and balanced for municipalities, police and fire union personnel, and taxpayers; therefore be it

RESOLVED, that the (name of municipality) supports meaningful and common sense reforms to Act 111 that will result in an affordable and stable public safety workforce; and be it further

RESOLVED, that the (name of municipality) supports the passage of Senate Bill 1111 and House Bill 1845 during this legislative session.

After local adoption, please transmit copies of this resolution to your House and Senate members, Governor Tom Corbett, and the Pennsylvania Municipal League

PRINTER'S NO. 1539

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1111 Session of

2013

INTRODUCED BY EICHELBERGER, WHITE, WAUGH, FOLMER AND BROWNE,
NOVEMBER 8, 2013

REFERRED TO LOCAL GOVERNMENT, NOVEMBER 8, 2013

AN ACT

Amending the act of June 24, 1968 (P.L.237, No.111), entitled "An act specifically authorizing collective bargaining between policemen and firemen and their public employers; providing for arbitration in order to settle disputes, and requiring compliance with collective bargaining agreements and findings of arbitrators," further providing for right to collectively bargain, for duty to exert reasonable efforts, for commencement of collective bargaining, for board of arbitration, for notice, for powers and procedures, for determination of board of arbitration, for costs and expenses, for applicability, for severability, for repeals and for effective date; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, are amended to read:

Section 1. Right to collectively bargain.

Policemen or firemen employed by a political subdivision of the Commonwealth or by the Commonwealth shall, through labor organizations or other representatives designated by [fifty percent] 50% or more of such policemen or firemen, have the right to bargain collectively with their public employers concerning the terms and conditions of their employment, which are not otherwise established or prohibited under Federal or State law, including compensation, hours, working conditions, retirement, pensions and other benefits, and shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this act.

Section 2. Duty to exert reasonable efforts.

It shall be the duty of public employers and their policemen and firemen [employees] employees to exert every reasonable

effort to settle all disputes by engaging in collective bargaining in good faith and by entering into settlements by way of written agreements and maintaining the same. Any party may assert an unfair labor practice charge for a refusal to bargain in good faith or a failure to comply with the time periods provided under this act in accordance with the act of June 1 , 1937 (P.L.1168, No.294), known as the Pennsylvania Labor Relations Act, for which the Pennsylvania Labor Relations Board shall have jurisdiction.

Section 3. Commencement of collective bargaining.

Collective bargaining shall begin at least [six] ten months before the start of the fiscal year of the political subdivision or of the Commonwealth, as the case may be, and any request for arbitration, as [hereinafter] provided in this act, shall be made at least [one hundred ten] 180 days before the start of [said] the fiscal year.

Section 4. Board of arbitration.

(a) Right to request.--

(1) If in any case of a dispute between a public employer and its policemen or firemen [employees] employees 20130SB1111PN1539 - 2 -

the collective bargaining process reaches an impasse and stalemate, or if the appropriate lawmaking body does not approve the agreement reached by collective bargaining, with the result that [said] the employers and [employees] employees are unable to effect a settlement, then either party to the dispute, after written notice to the other party containing specifications of the issue or issues in dispute, may request the appointment of a board of arbitration.

(2) For purposes of this section, an impasse or stalemate shall be deemed to occur in the collective bargaining process if the parties do not reach a settlement of the issue or issues in dispute by way of a written agreement within [thirty] 60 days after collective bargaining proceedings have been initiated.

(3) In the case of disputes involving political subdivisions of the Commonwealth, the agreement shall be deemed not approved within the meaning of this section if it is not approved by the appropriate lawmaking body within one month after the agreement is reached by way of collective bargaining.

(4) In the case of disputes involving the Commonwealth, the agreement shall be deemed not approved within the meaning of this section if it is not approved by the Legislature within [six months] 180 days after the agreement is reached by way of collective bargaining.

(b) Composition.--

(1) The board of arbitration shall be composed of three persons, one appointed by the public employer, one appointed by the body of policemen or firemen involved, and a neutral third [member] arbitrator to be agreed upon by the public
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employer and such policemen or firemen. The members of the board representing the public employer and the policemen or firemen shall be named within five days from the date of the request for the appointment of such board.

(2) If, after a period of ten days from the date of the appointment of the two arbitrators appointed by the public employer and by the policemen or firemen, the neutral third arbitrator has not been selected by them, then, within five days, either arbitrator may request the American Arbitration Association, or its successor in function, to furnish a list of [three] seven members of [said] the association who are residents of Pennsylvania from which the neutral third arbitrator shall be selected. [The arbitrator appointed by the public employer shall eliminate one name from the list within five days after publication of the list, following which the arbitrator appointed by the policemen or firemen shall eliminate one name from the list within five days thereafter.] In the case of disputes involving political subdivisions of this Commonwealth, the American Arbitration Association, or its successor in function, shall provide a list that contains, if feasible and practical, at least one name of a resident of the political subdivision in which the public employer is located.

(3) Beginning with the selection of arbitrators which occurs between a public employer and policemen or firemen employed on or after January 1, 2014, the toss of a coin shall determine which party shall be the first to eliminate a name from the list provided in paragraph (2). Each arbitrator shall then engage in alternate eliminations of names from the list until only one name remains on the list. The individual
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whose name remains on the list shall be the neutral third arbitrator and shall act as chairman of the board of arbitration.

(4) The board of arbitration thus established shall commence the arbitration proceedings within ten days after the neutral third arbitrator is selected and shall make its determination within [thirty] 60 days after the appointment of the neutral third arbitrator.

Section 5. Notice.

Notice by the policemen or firemen involved under section 4 shall, in the case of disputes involving the Commonwealth, be served upon the Secretary of the Commonwealth and, in the case of disputes involving political subdivisions of the Commonwealth, shall be served upon the head of the governing body of the local governmental unit involved.

Section 6. Powers and procedures.

(a) Witnesses and evidence.--Each of the arbitrators selected in accordance with section 4 [hereof] shall have the power to administer oaths and compel the attendance of witnesses and physical evidence by subpoena.

(b) Meetings and records.--

(1) Except as otherwise provided under paragraph (2), any hearing at which evidence of record is presented by any party or witness under this act shall be open to the public and all documents and evidence of record submitted by any party at such public hearing shall be public records subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. A stenographic recording shall be made of any such hearing .

(2) Paragraph (1) shall not apply to a bargaining

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session between the parties conducted before the hearing or an executive session or other meeting between the arbitrators conducted after the hearing.

Section 7. Determination of board of arbitration.

(a) Finality and comprehensiveness.--The determination of the majority of the board of arbitration thus established shall be final on the issue or issues in dispute and shall be binding upon the public employer and the policemen or firemen involved. Such determination shall be in writing and contain specific findings of fact and conclusions of law with regard to each of the issues presented to the board by the parties. Such issues shall include a complete, accurate and detailed analysis, based on the evidence presented at the hearing, as evaluated and studied in any subsequent executive sessions, of the cost of the award to the political subdivision and the impact it will have on the finances and services provided by the political subdivision; the relationship between projected revenues of the political subdivision and the ability of the political subdivision to pay all the costs of the award, including any cost increases which may result from pre-existing terms and conditions of employment which are allowed to continue under the award; and the impact of the award on the future financial stability of the political subdivision. The determination shall be a public record and a copy thereof shall be forwarded to both

parties to the dispute. No appeal [therefrom] shall be allowed to any court[.] if the determination complies with this section, unless the board of arbitration exceeded its powers or jurisdiction, the proceedings were irregular, the determination requires an unconstitutional act or the determination would result in the deprivation of a constitutional right.

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(a.1) Mandate.--[Such] The determination under subsection (a) shall constitute a mandate to the head of the political subdivision which is the employer, or to the appropriate officer of the Commonwealth if the Commonwealth is the employer, with respect to matters which can be remedied by administrative action, and to the lawmaking body of such political subdivision or of the Commonwealth with respect to matters which require legislative action, to take the action necessary to carry out the determination of the board of arbitration.

(b) Effect.--With respect to matters which require legislative action for implementation, such legislation shall be enacted, in the case of the Commonwealth, within six months following publication of the findings, and, in the case of a political subdivision of the Commonwealth, within one month following publication of the findings. The effective date of any such legislation shall be the first day of the fiscal year following the fiscal year during which the legislation is thus enacted.

(c) References to determination.--A determination of the board may alternatively be referred to as an award or settlement. Such reference shall not affect the applicability of this act.

(d) Issues excluded.--No determination may award or otherwise grant postretirement health or pension benefits which are not required or authorized under Federal or State law, nor any other term or condition of employment that is specifically exempted from collective bargaining under Federal or State law. No determination may award or grant any pension benefit or provision that has been found to be unauthorized, unlawful or excessive by the Department of the Auditor General or any court

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of law.

Section 8. [The compensation, if any, of the arbitrator appointed by the policemen or firemen shall be paid by them. The compensation of the other two arbitrators, as well as all stenographic and other expenses incurred by the arbitration panel in connection with the arbitration proceedings, shall be paid by the political subdivision or by the Commonwealth, as the case may be.] Costs and expenses.

(a) General rule.--Except as provided for in subsection (b), the public employer and the policemen or firemen who are engaged in the collective bargaining shall bear the costs of their respective appointed arbitrators, witnesses, including any actuary or expert witness, and attorneys in any arbitration proceeding.

(b) Other expenses.--The reasonable fees and costs associated with the neutral third arbitrator and the stenographic and other expenses incurred by the board of arbitration as a result of the arbitration proceedings shall be divided. One-half of such fees and costs shall be paid by the public employer and one-half shall be paid by the policemen and firemen who are engaged in the collective bargaining.

Section 9. Applicability.

The provisions of this act shall be applicable to every political subdivision of this Commonwealth notwithstanding the fact that any such political subdivision, either before or after the passage of this act, has adopted or adopts a home rule charter.

Section 10. Severability.

If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of 20130SB1111PN1539 - 8 -

this act and the application of such provision to other persons or circumstances, shall not be affected [thereby], and to this end the provisions of this act are declared to be severable.

Section 11. Repeals.

All acts or parts of acts inconsistent herewith are hereby repealed.

Section 12. Effective date .

This act shall take effect immediately.

Section 2. This act shall take effect in 60 days.

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