



CITY COUNCIL

Committee of the Whole

Monday, September 8, 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

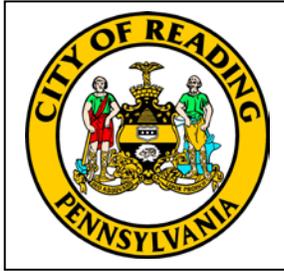
1. Charter Board's Proposed Amendment re Mediation

II. Liberty Museum Agreement

III. Executive Session - Managing Director

V. Other Matters

VI. Agenda Review



COMMITTEE of the WHOLE

CITY COUNCIL

MINUTES
August 25, 2014
5:00 P.M.

COUNCIL MEMBERS PRESENT:

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

OTHERS PRESENT:

L. Kelleher, S. Katzenmoyer, D. Cituk, R. Johnson, C. Younger, C. Snyder, V. Spencer, F. Denbowski, L. Olsen, T. Butler

The Committee of the Whole meeting was called to order at 5:05 pm by Mr. Waltman.

I. ADA Transition Plan

Mr. Olsen and Ms. Butler displayed maps and distributed a draft copy of the ADA Transition Plan.

Ms. Butler stated that the City must be accessible to all and that this includes all public buildings and the means to travel throughout the City. She stated that the Law office, Public Works, IT, Great Valley and Mr. Olsen have been working on the plan for over a year. She stated that the Plan is 90% complete and requested Council comments. She stated that the Plan has been reviewed with Abilities in Motion and that their comments were very helpful. She stated that Council will be passing the final Plan by resolution in the near future. She suggested that the draft Plan be placed on the City's website for additional public review and comment.

Ms. Reed arrived at this time.

Mr. Olsen reviewed the draft Plan. He stated that the Plan addresses City facilities and the means to bring them into ADA compliance. He stated that the Liberty Fire Museum and the Pagoda are special circumstances and require much work.

Mr. Olsen stated that the curb cuts needed to complete the ramps on the sidewalks will cost approximately \$4.1 million and includes 758 curb cuts. He explained that the estimated costs for all the work is \$7.1 million and will be budgeted at \$356,794 per year for 20 years. He stated that there is a 4% escalation per year assumed.

Mr. Olsen stated that he has reached out to the Reading School District to coordinate curb cuts at school buildings with other projects that the District may be planning.

Ms. Butler explained that the Plan also includes a grievance procedure for citizens who need access and do not have it. She stated that this will guide adjustments to the Plan.

Mr. Sterner questioned approval of the plan. Mr. Olsen stated that Council will approve the plan showing how the City will work to make facilities and travel accessible.

Mr. Sterner questioned if there would be penalties if the City did not follow the plan and complete the work. Ms. Butler stated that the plan is a flexible document and can be changed. She suggested that the only problem would be if there was no progress and many complaints were filed. Mr. Olsen stated that many curb cuts are complete.

Ms. Butler explained that there are no set timelines given for compliance. She stated that this approach works best for the City's finances. She stated that the draft Plan covers 20 years to decrease the impact on the City's budget.

Mr. Marmarou questioned who was responsible for the curb cuts, the property owner as owner of the sidewalk or the City. Ms. Butler stated that it is the City's responsibility.

Mr. Marmarou expressed the belief that as the property owner owns and is responsible for the sidewalks, property owners should pay.

Ms. Reed agreed and suggested that they share the expense. She stated that many property owners have paid to install curb cuts and requested additional research on this issue. Ms. Butler stated that she did research the issue and will provide the information to Council.

Ms. Reed agreed with the need for an accessible City. She noted the need to ensure the curb cuts are the City's responsibility before spending funds. Ms. Butler stated that the City has already paid for many curb cuts. She stated that the curb cuts were prioritized with residential the lowest priority. She stated that the residential curb cuts remain unfinished.

Ms. Reed stated that many property owners have already paid for this work at their homes. She stated that it will be very difficult to explain to them that the City will be paying for others.

Ms. Goodman-Hinnershitz questioned how the City would force compliance if this is the responsibility of the property owner.

Ms. Butler stated that she has been working on this project for 18 months and this research is complete. She stated that the City is responsible for the curb cuts.

Mr. Waltman questioned if the curb cuts are made must the City maintain them once they are installed. Mr. Johnson stated that it must.

Ms. Snyder stated that if a corner property owner replaces their sidewalk it must include the curb cuts. Ms. Reed stated that this is a disparity. Some property owners are paying and some are not.

Ms. Butler stated that curb cuts must also be made at any alleyways between blocks.

Mr. Johnson explained that property owners must sometimes pay for improvements to other parts of the sidewalk when curb cuts are installed. He stated that the City pays for the curb cuts and it is sometimes a shared expense.

Mr. Waltman stated that Council needs to review the legal language.

Mr. Cituk stated that CDBG funds were used for curb cuts in eligible areas. He expressed agreement with the 20 year plan.

Mr. Marmarou stated that Albright College received complaints about campus not having curb cuts. He stated that the College worked with the City to complete them.

Ms. Goodman-Hinnershitz stated that much of East Reading is complete as it qualifies for CDBG funding. She suggested that property owners not pay.

Mr. Waltman expressed the belief that the per curb cut cost seems high. Mr. Johnson stated that this is an average as each curb is different. He stated that a four corner intersection will cost \$16,000 to complete and that if additional work (height, several ramps at one corner, etc) is needed the cost is higher.

Mr. Waltman stated that he worries that the City will get behind schedule during this multi year process. He suggesting discussing procuring all the funding now to get the projects completed sooner. He suggested a 10 year schedule as the costs will continue to rise over the 20 year period.

Ms. Snyder stated that she will analyze this option. She also stated that the ADA regulations are upgraded periodically and that may further increase costs.

Mr. Spencer stated that CDBG funds were used in the past as able. He stated that the City cannot stop making progress and that this is a big project and will take time.

Mr. Marmarou questioned if others have reviewed the draft Plan. Mr. Olsen stated that they have. Mr. Olsen stated that Abilities in Motion are glad the City is devising a plan but that getting the City fully accessible will take too long.

Mr. Marmarou noted the need for the City to make progress. Mr. Spencer stated that the City must continue to show they are making progress.

Mr. Johnson stated that there is no ADA enforcement. He stated that legal issues will arise if citizens or disabled organizations sue the City. He stated that Lancaster is currently involved in a lawsuit.

Mr. Waltman stated that he sees many wheelchairs in the streets. He stated that if the City is fully compliant this is an excellent marketing strategy.

Mr. Johnson stated that the curb cut schedule can be modified if the City learns of a resident who needs specific improvements.

Mr. Marmarou noted the need for residents to understand the Plan and the timeline.

Ms. Goodman-Hinnershitz suggested that curb cuts around senior housing and senior centers be addressed first.

Ms. Butler requested that Council review the draft Plan and provide comment. She questioned if Council agreed with placing the draft Plan on the website for public comment.

Mr. Waltman suggested waiting two weeks to place it on the website to allow Ms. Snyder to analyze funding.

Ms. Reed questioned if every municipality is facing this issue. Ms. Butler stated that it is.

Mr. Sterner expressed the belief that the draft Plan be placed on the website now. He stated that changes can be made based on comment and if the timeline is reduced, people should not have issue with that. Mr. Waltman agreed.

Mr. Johnson, Ms. Butler, and Mr. Olsen left the meeting at this time.

II. Charter Board Budget Transfer Request and Amendment to Mediate Complaints

Ms. Kelleher stated that the Charter Board has estimated that it will need an additional \$95,000 for the 2014 budget year. She stated that the breakdown of cost per complaint and advisory opinion is attached to the agenda.

Mr. Daubert suggested that the process be corrected before funds are transferred. Ms. Kelleher stated that the Charter Board's suggested mediation process amendment is also attached to the agenda.

Ms. Goodman-Hinnershitz stated that she will review the language as she was involved in this project in the past.

Ms. Kelleher stated that the Charter Board suggests using the Investigative Officer to mediate as they are familiar with the Charter and the process and it would provide consistency in enforcement. She stated that the amendment allows 30 days for the completion of the mediation process.

Mr. Waltman suggested this issue be reviewed by Committee. He expressed the belief that the lawyers must be removed from the process and that the Charter Board be used for advisory opinions only. He suggested that residents take the complaints straight to the Court system.

Ms. Katzenmoyer stated that there are invoices waiting to be paid for services that were already rendered. Mr. Waltman stated that the invoices will be paid. He stated that an ordinance should be placed on the next Council agenda.

Mr. Sterner questioned if the mediation process would be another referendum question. Ms. Kelleher stated that it would not.

Mr. Waltman stated that there will always be one or two lengthy complaints.

Ms. Kelleher stated that all complaints filed against Council that were not dismissed were mediated.

Mr. Spencer questioned why all complaints were not pursued through mediation. Ms. Kelleher stated that there was no formal process in the past. She suggested that Council review the Charter Board's suggested amendment and stated that the amendment does not need to be a referendum question.

Ms. Goodman-Hinnershitz stated that blaming the Charter Board for the costs is like blaming the victim of a crime. She stated that it is not the Charter Board's fault that Charter violations occur. She stated that the process needs improvement.

III. Executive Session

Council entered executive session at 5:59 pm to discuss personnel matters. Council exited executive session at 6:43 pm.

IV. Agenda Review

Council reviewed this evening's agenda including the following:

- Potential Override of Veto of Bill 61-2014 – the amendment of the Water Lease Agreement

Mr. Waltman stated that action on this item will be moved up on the agenda if Mr. Acosta is present via telephone.

Mr. Daubert stated that he supported Bill 61-20014. He stated that \$8 million is better than \$4 million but questioned if that was the best that could be done.

Mr. Waltman explained that there is a baseline of \$10 million from the water system valuation. He stated that throughout negotiations, the Water Authority understood that if the City needed more it would begin discussions. He stated that any amount

higher than \$8 million will result in water rate increases. He stated that the \$8 million addresses the Act 73 issue but that the capacity to ask for increases remains.

Mr. Daubert expressed the belief that the \$8 million leaves a deficit situation for the City. He stated that service cuts will be felt deeply and he expressed the belief that raising water rates rather than property taxes makes more sense as rate increases are borne by more people.

Mr. Waltman stated that he agrees with Mr. Daubert regarding water rate increases versus tax increases. He stated that the \$8 million was agreed upon to prevent water rate increases at this time. He stated that the authorities were initially contacted to increase its assistance to the City to prevent a 25% property tax increase proposed in the current Recovery Plan. He reminded all that the amendment to the lease agreement also provides better Council oversight of the Water Authority.

Mr. Daubert stated that his first budget review will begin shortly. He questioned if the City can balance the budget deficit.

Mr. Waltman stated that Council is presented budgets which undergo adjustments each year. He stated that Council will follow that same process this year. He stated that he has real concerns over the next five years.

Mr. Daubert expressed the belief that \$6 million is a large deficit.

Mr. Sterner stated that the Water Authority cannot be used to solve the City's financial issues.

Mr. Waltman stated that during negotiations, Council asked the Water Authority to analyze how additional funds to the City would affect rate increases.

Mr. Spencer noted his disagreement with the amendment to the Lease Agreement. He questioned if he will be able to make comment at the regular meeting. Mr. Waltman stated that he will be able to make comment.

Mr. Waltman reminded all that there is still access to additional funds if they comply with Act 73.

Mr. Spencer questioned the purpose of the amendment to the Lease Agreement if negotiations will continue. Mr. Waltman stated that a primary concern of the

amendment is the oversight of the Water Authority. He stated that negotiations for additional funds also occurred under the former Lease Agreement.

Ms. Goodman-Hinnershitz stated that Council will also be voting this evening to increase the membership of the Water Authority from five to seven. She reminded all that Council appoints the members but then has no further oversight.

Mr. Spencer questioned the additional oversight included in the amendment. Ms. Goodman-Hinnershitz stated that there is additional financial oversight and legal issues. She suggested that training be held for all authority members in the future.

- Introduction of Ordinance amending the Purchasing Policies

Ms. Snyder stated that this amendment would change the purchasing coordinator's involvement in committees as optional instead of mandatory. She stated that this will be most helpful for very technical purchases.

VI. Other Matters

Mr. Marmarou stated that Bethlehem requires landlords to submit tenant lists. He suggested that Reading reconsider adding this requirement back into its housing regulations. He stated that he does not remember voting to remove it.

Mr. Marmarou stated that Albright students moved back to campus and it was a horrible weekend. He stated that there were 30+ students in one block and that there are now six student homes in the 1500 block of N 14th St and new student homes in the 1500 block of Linden St.

Ms. Snyder questioned if the police were called. Ms. Kelleher stated that they were not. Mr. Marmarou stated that residents are fed up with this behavior and are tired of calling police.

Ms. Goodman-Hinnershitz stated that there are few police reports from this neighborhood. She noted the need for residents to report incidences as they are occurring.

The meeting adjourned at approximately 7:02 pm.

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

Charter Board Legal Expense Breakdown 2012 through June 2014

Investigations:

- 31 - \$10,730.90
- 32 - \$183,755.81
- 33 - \$5,669.50
- 34 - \$114,489.18
- 35 - \$2,938.75
- 36 - \$5,700
- 37 - \$444.50
- 38 - \$10,043.79
- 39 - \$13,789.28
- 40 - \$3,680.42
- 41 - \$3,748.64
- 42 - \$2,312.63
- 43 - \$7,284.10
- 44 - \$1,875.50

\$181,015.44

Advisory Opinions:

- #28 – Media and Communication Policy - \$1,914
- #29 - \$2,589
- #30 – Purchasing Policy - \$2,029.95
- #31 – Retaining Counsel - \$1,785
- #32 – Trash billing by RAWA - \$777
- #33 – Must Council appoint to CRC via resolution - \$4,462
- #34 – All CRC questions on ballot - \$7,853
- #35 – Vacancy of Mayor and Auditor - \$5,736
- #36 – Citizen’s Right to be Heard - \$3,520

\$30,665.95

Issue	Charter Board Approved by Referendum	Approved by Ordinance
Jurisdiction	X	
hear and decide all cases alleging violations of the Charter or Administrative Code, except that its jurisdiction shall not extend to any case arising under the Ethics Code or the Personnel Code		
issue binding opinions, impose penalties and administrative fines, refer cases for prosecution, and conduct investigations on its own initiative and on referral or complaint	X	
City Council shall appropriate sufficient funds to enable the Board to perform the duties assigned to it, including expenses for independent counsel and other necessary staff	X	
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.		X
Process		
Within 12 months of the effective date of this Amendment City Council shall, by ordinance, adopt regulations implementing this Section. Such ordinance shall provide penalties and other enforcement mechanisms, as well as procedures by which the Charter Board shall operate in accordance with Local Agency and other applicable law.	X	
Have all other powers necessary and appropriate to effectuate the purposes set forth herein and in Amendment I of the Charter.		X

Issue	Approved by Referendum	Approved by Ordinance
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.		X
Investigative Officer, member of Bar Association		X
Determination of Jurisdiction.		
Each complaint filed with the Board shall immediately be directed to and preliminarily reviewed by the Investigative Officer appointed by the Board to determine whether the complaint falls within the jurisdiction of the Board		X
Informal Resolution		
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 the formal investigative and adjudicative process of the Board.		X
Concurrent with the attempt at informal resolution, the Investigative Officer shall inform both the complainant and the subject of the complaint of their rights and responsibilities under the formal adjudicative process.		X
Appeal		
Any person aggrieved by an adjudication of the Board who has a direct interest in such adjudication shall have the right to appeal		X
In the instance of an appeal from an adjudication of the Board, representation of the Board shall be by its Solicitor		X

Issue

Approved by Referendum

Approved by Ordinance

Confidentiality

All Board proceedings and records relating to an investigation shall be confidential until a final determination is made by the Board. The final order shall become a public record at the time the Board renders its decision and issues a Final Order. (*Amendment as per Bill No. 16-2013.*)

X

From: Eric B. Smith [mailto:esmith@highswartz.com]
Sent: Monday, March 24, 2014 12:24 PM
To: Linda Kelleher
Cc: 'Susan Gibson'
Subject: Proposed Charter Board Amendment
Importance: High

Dear Linda:

Thank you for talking on Friday.

Attached is the Board's proposed amendment to the Charter Board Ordinance (46-2005) which provides for a robust and formalized mediation process within the existing Charter Board framework. Also attached is a letter to each Council person. Could you disseminate the letter and the proposed amendment to all council members and perhaps you and I could talk this afternoon?

A few points about the proposed amendment:

- 1) The Board felt that operating within the existing framework, and giving a real process to the existing 'informal resolution process,' made sense. The amendment is crafted around the existing 'informal resolution process' framework, but is greatly expanded into a formal mediation process with real methods, real grounds for resolution and final approval by the Board, so that the matters are "final" when and if resolved.
- 2) The Board made the result of the mediation, after approval if resolution occurred, immediately public and not confidential – the Board did this because an approved total resolution would be final and not appealable.
- 3) The Board ensured that the complainant remained protected and could elect not to mediate under very limited circumstances, but, if the complainant generally refused to mediate, the complaint would be dismissed. We felt that this mediation process needed reasonable teeth to make it effective.
- 4) Even if the complainant elected not to mediate under the listed very limited circumstances, the Investigative Officer would still attempt an 'informal resolution' with the subject only. The Board felt that such an effort may bring about resolution even if the complainant did not participate.
- 5) The Board's proposed amendment has a 30 day limit to the mediation process, so it is quick, effective, and not drawn out – i.e. cost effective.
- 6) The Board's proposal also has the preliminary investigation timeline and the mediation window running concurrently, again, so the process is streamlined, not drawn out and cost effective.

There are other items within the attached proposed amendment (such as reporting to the Board, scheduling, reporting), which I would be glad to discuss with you as well.

A few comments about proposed amendments offered by others:

- 1) As the Charter Board is vested by the Charter (not just an ordinance) with exclusive jurisdiction over Charter disputes, the Board has concern that placing Charter disputes before a panel of mediators not under the jurisdiction of the Board may violate the Charter;
- 2) The Board is concerned that placing Charter disputes before a panel of mediators unfamiliar with the Charter, existing precedent from other investigations, and Advisory Opinions, may yield inconsistent results and may cause “false” resolutions – that is, if a matter is resolved before a mediator, but remains not compliant with the Charter, further action could occur – either another complaint, or action by the Board on its own motion;
- 3) The Board is concerned that confidentiality of both the complainant and the subject could occur by handing the mediation process off to a panel of third party mediators unfamiliar with the Charter Board Ordinance, the Charter and the related confidentiality provisions.

Thank you Linda, and I will call you this afternoon.

Eric B. Smith
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March 24, 2014

Via email c/o Linda Kelleher
(linda.kelleher@readingpa.org)

Francis Acosta, Council President
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Jeffrey S. Waltman, Sr.
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Reading, PA 19601

Dennis M. Sterner
815 Washington St.
Reading, PA 19601

Re: Amendment - Charter Board Ordinance 46-2005

Dear Councilors:

I am the solicitor for the City of Reading Charter Board. Some of you may be aware that the Board has been crafting an amendment to the Charter Board Ordinance 46-2005. The Board's proposed amendment utilizes the existing framework of the Charter Board Ordinance with a vastly expanded and functional mediation provision added to it.

A few points about the proposed amendment:

- 1) The Board felt that operating within the existing framework, and giving a real process to the existing 'informal resolution process,' made sense. The amendment is crafted around the existing 'informal resolution process' framework, but is greatly expanded into a formal mediation process with real methods, allowing for real grounds for resolution and final Board approval, so that the matters are "final" when and if resolved.

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March 24, 2014

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- 2) The Board made the result of the mediation, after Board approval if resolution occurred, immediately public and not confidential – the Board proposes this because an approved total resolution would be “final” and not appealable.
- 3) The Board’s proposal ensures that the complainant remains protected, allowing the complainant to elect not to mediate under very limited circumstances, but, if the complainant generally refuses to mediate, the complaint would be dismissed. We felt that this mediation process needed reasonable “teeth” to make it effective, and dismissal for refusing to mediate seems appropriate.
- 4) Even if the complainant elected not to mediate under the enumerated limited circumstances, the Investigative Officer will still attempt an ‘informal resolution’ with the subject only. The Board felt that such an effort may bring about resolution even if the complainant did not participate.
- 5) The Board’s proposed amendment has a 30 day limit to the mediation process, so it is quick, effective, and not drawn out – i.e. cost effective.
- 6) The Board’s proposal also has the preliminary investigation timeline and the mediation window running concurrently, again, so the process is streamlined, not drawn out and cost effective.

There are other items within the attached proposed amendment (such as reporting to the Board, scheduling, reporting), which I would be glad to discuss with you as well.

I offer these comments about the proposed amendments offered by others which Council may be considering:

- 1) As the Charter Board is vested by the Charter (not only ordinance 46-2005) with exclusive jurisdiction over Charter disputes, the Board has concern that placing Charter disputes before a panel of mediators not under the jurisdiction of the Board may violate the Charter;
- 2) The Board is concerned that placing Charter disputes before a panel of mediators unfamiliar with the Charter, existing precedent from other investigations, and Advisory Opinions, may yield inconsistent results and may cause “false” resolutions – that is, if a matter is resolved before a third party mediator, but remains not compliant with the

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March 24, 2014

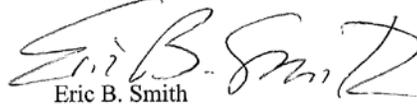
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Charter, further enforcement action could occur – either another complaint, an Advisory Opinion or action by the Board on its own motion;

- 3) The Board is concerned that confidentiality as to both the complainant and the subject could be compromised occur by handing the mediation process off to a panel of third party mediators unfamiliar with the Charter Board Ordinance, the Charter and the related confidentiality provisions.

The Board asks that you consider this proposed amendment to the Charter Board Ordinance. If discussions or dialogue would be helpful in crafting such a proposed amendment, or to discuss any aspect of the enclosed, please contact me.

Very truly yours,



Eric B. Smith

EBS/krm
Enclosure

cc: Linda A. Kelleher CMC, City Clerk (via email)
City of Reading Charter Board (via email)

BILL NO. _____-2014
AN ORDINANCE

**AMENDING THE CHARTER BOARD ORDINANCE, 46-2005:
SECTION V, ENFORCEMENT, PART A, PROCEDURE, SUB-PART 2, FILING OF
COMPLAINT, REGARDING REVIEW OF CHARTER BOARD COMPLAINTS BY
BOARD MEMBERS; AND SECTION V, ENFORCEMENT, PART A, PROCEDURE,
SUB-PART 3, DETERMINATION OF JURISDICTION, REGARDING INFORMAL
RESOLUTION OF CHARTER BOARD COMPLAINTS.**

**THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:
SECTION 1.**

Section V, Enforcement, Part A, Procedure, Sub-Part 2, Filing of Complaint, regarding review of Charter Board complaints by Board members as stated below:

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) *Unless in conjunction with a mediation report submitted to the Board by the Investigative Officer following a mediation between the complainant and subject or an informal resolution conference with the subject conducted in accordance with this Ordinance, no* No member of the Board shall review any complaint until after an evidentiary hearing has been requested by the subject of the investigation, or if no evidentiary hearing is requested, then until the submission to the Board of the Investigative Officer's Findings Report.

c) 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.

SECTION 2.

Amending the Charter Board Ordinance, 46-2005, Section V., Enforcement, Part A, Procedure, Sub-part 3, Determination of Jurisdiction, regarding informal resolution of Charter Board complaints as stated below:

3. Determination of Jurisdiction.

a) Each complaint filed with the Board shall immediately be directed to and preliminarily reviewed by the Investigative 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 determines that the 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 Investigative Officer determines that the complaint falls within the jurisdiction of the Board, the Investigative Officer shall authorize a preliminary investigation.

b) **Mediation.** Upon a determination that the complaint falls within the jurisdiction of the Board, the Investigative Officer shall **conduct** attempt a **mediation** informal resolution of the issue **issues raised within the complaint** within 30 days of the receipt of the complaint. **The mediation** Informal resolution shall consist solely of written notice to the complainant and the subject of the complaint encouraging them to resolve the issue outside the formal investigative and adjudicative process of the Board. **of the following procedures:**

1. Scheduling and Procedure:

(a) The Investigative Officer shall schedule a mediation between the complainant and the subject for the purpose of mediating some or all of the issues raised in the complaint with the Investigative Officer serving as the mediator and with notice of such mediation being provided in writing to both the complainant and the subject;

(b) The Investigative Officer's notice scheduling the mediation shall set forth in summary the essential issues raised in the complaint, however, the summary contained within the notice shall not limit the issues to be mediated;

(c) At the mediation the Investigative Officer shall initially confer separately with the complainant and the subject, explain that any resolution must be compliant with the Charter, Administrative Code and Pennsylvania law, conduct a joint conference, conclude the mediation and, should the matter resolve, prepare a mediation report as provided herein;

(d) The mediation shall last not less than one hour, however, there is no obligation by the complainant or subject to continue to mediate longer than three hours;

2. Attendance.

(a) The complainant and the subject shall attend the mediation, and the mediation shall commence and conclude, and resolve or not resolve, within thirty (30) days of receipt of the complaint, however, it is not mandatory that either the complainant or the subject reach a resolution during the mediation, and the Investigative Officer shall not require that the complainant and subject resolve the matter;

(b) Should the complainant refuse to attend the mediation, the complaint shall be dismissed, without prejudice, however, should the complainant state in a writing delivered in advance of the mediation to the Investigative Officer that the complainant declines to attend the mediation a) because complainant lacks representation by counsel, b) due to concern for complainant's employment, City services or other potential negative conduct done or caused, or that could be done or caused, as a result of the filing of the complaint, or c) due to concern that any of the conduct stated in Sub-part 10 of this Section V, Part A, regarding protection of a complainant, may occur or has occurred, then complainant's non-appearance at mediation shall be excused and the matter shall continue to proceed in accordance with this Ordinance;

(c) In the event that complainant declines to attend the mediation as provided in this paragraph (b), the Investigative Officer shall meet with the subject on the date designated for the mediation and attempt an informal resolution of some or all of the issues raised in the complaint and all time periods, reporting requirements and jurisdictional limitations of the

Investigative Officer stated in this sub-part 3, paragraph b), shall apply;

(d) Should the subject refuse to attend the mediation, the matter shall continue to proceed in accordance with this Ordinance;

3. Resolution, Report of the Investigative Officer, Board Approval.

(a) Should the matter resolve as a result of the mediation, the mediated resolution shall be reduced to a written mediation report prepared by the Investigative Officer, signed by the complainant, subject and Investigative Officer and presented by the Investigative Officer, with a copy of the complaint, immediately to the Board for review and approval, however, should the matter not resolve in its entirety the mediation report shall not state any particulars, names or identifying information of the parties;

(b) In the event that complainant declines to attend the mediation and should the subject and the Investigative Officer reach an informal resolution of some or all of the issues raised in the complaint then the issues resolved shall be reduced to a writing prepared by the Investigative Officer and signed by the Investigative Officer and subject and presented by the Investigative Officer, with a copy of the complaint, immediately to the Board for review and approval, however, should the matter not resolve in its entirety the mediation report shall not state any particulars, names or identifying information of the parties;

(c) In the event that the mediated resolution, or the informal resolution with the subject, resolves the entire complaint, upon the Board's approval of the mediated resolution or informal resolution, the Board shall issue a final order and the complaint shall be marked as settled, however, there shall be no release or settlement agreement other than the Investigative Officer's mediation report or report of the informal resolution;

(d) In the event that the mediated resolution or the informal resolution with the subject does not resolve the entire complaint, upon the Board's approval of the

mediated resolution or informal resolution, the issues resolved and approved shall be considered stipulated as resolved in accordance with the Investigative Officer's report, and the remaining issues in the matter shall continue to proceed in accordance with this Ordinance;

(e) With respect to all complaints, not later than forty-five (45) days after the receipt of a complaint, the Investigative Officer shall provide a written mediation status report to the Board with respect to each complaint stating a) the status of the mediation, b) if any resolution has been reached, a specific report of the matters resolved and a summary statement on how each resolved matter is compliant with Charter, Administrative Code and Pennsylvania law, c) which parties attended, if counsel were present, and if any party declined to attend, d) any other pertinent information, and e) if the matter did not resolve or did not resolve in its entirety the Investigative Officer's mediation status report shall not state any particulars, names or identifying information of the parties.

4. Effect of Board Approval.

(a) Should a matter resolve in its entirety as a result of mediation, or an informal resolution with the subject, under this sub-part 3, paragraph b), the matter shall be considered final upon issuance of the Board's final order approving the mediated resolution which final order shall not be confidential, but in all other respects, the general confidentiality provisions of the Ordinance shall apply to the matter;

(b) Should the Board not approve the mediated resolution, or the informal resolution with the subject, the matter shall continue to proceed in accordance with the Ordinance, however nothing shall prevent the Investigative Officer and the subject from entering into a stipulated administrative settlement after the issuance of a findings report and a demand for evidentiary hearing by the subject;

5. General Matters.

(a) Notwithstanding any other provision of the Ordinance, the Investigative Officer is permitted to identify the complainant to the subject upon complainant's attendance at the mediation or earlier

upon the written agreement of the complainant;

(b) All time periods within this Ordinance shall continue during, and operate concurrently with, the thirty (30) day mediation period provided for in this Subpart 3;

(c) After thirty (30) days from receipt of the complaint, the Investigative Officer is without jurisdiction to further mediate between the complainant and subject and the matter shall continue to proceed in accordance with the Ordinance;

(d) Any resolution reached under this paragraph (b) shall be compliant with the Charter, Administrative Code and Pennsylvania law;

(e) Knowledge by the Board of the identify of the complainant or subject is permitted, provided that the identity of the complainant or subject is revealed to the Board only through a mediation report, mediation status report or a report of the informal resolution conference with the subject;

(f) Nothing in this sub-part 3, paragraph b) shall preclude the Board from taking any action permitted by the Charter, the Administrative Code, this Ordinance or Pennsylvania law with respect to the mediation, any resolution, and the issues raised in a complaint.

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

SECTION 3: All relevant ordinances, regulations and policies of the City of Reading, Pennsylvania, not amended per the attached shall remain in full force and effect.

SECTION 4: If any section, subsection, paragraph, sentence or clause of this ordinance is held for any reason to be invalid such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 5: This Ordinance shall become effective in ten (10) days after passage.

Enacted _____, 2014

Council President

City Clerk

Submitted to Mayor: _____

Date: _____

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: _____

Date: _____

Vetoed by Mayor: _____

Date: _____