



# *CITY COUNCIL*

## ***Committee of the Whole***

**Monday, February 9, 2015**

**5:30 pm**

**Agenda**

***Meeting Postponed – new date Tuesday, February 17, 2015***

*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. Statewide Preservation Plan – A. Johnson**
- II. Refinance RAWA 2007 Bond (not guaranteed by City) – D. Rauch**
- III. Minority Procurement Board – F. Denbowski**
- IV. Agenda Review**
- V. Other Matters**



***COMMITTEE of the WHOLE***  
***CITY COUNCIL***

**MINUTES**  
**January 26, 2015**  
**6:30 P.M.**

**COUNCIL MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

L. Kelleher, C. Snyder, C. Younger, D. Cituk, R. Johnson, A. Morriss

The Committee of the Whole meeting was called to order at approximately 6:30 pm by Mr. Acosta.

**I. Towing Update**

Mr. Acosta stated that the confidential meeting report from the meeting with the Parking Authority representatives was distributed last Thursday. Any questions should be directed to Mr. Acosta, Ms. Reed or Mr. Waltman.

**II. Agenda Review**

Mr. Acosta questioned the delay in the receipt of the agenda memo for Phase 2 of the 6<sup>th</sup> and Canal Project. He stated that information on agenda materials need to be provided

to Council in a timely fashion so they have ample time to review and understand the information.

Mr. Johnson explained that the delay was caused by the negotiations with the two lowest bidders to obtain the best pricing while still meeting the project specifications. He explained that Hill and Associates and the City's legal counsel assisted with the negotiation process. He apologized for the delay. He stated that Rummel, Klepper & Kahl LLC has great experience with consent decree projects in Maryland and in Pennsylvania.

Ms. Snyder stated that Duane Morris has not yet submitted their estimate for the legal work associated with the recycling; therefore the resolution listed on the Consent Agenda is withdrawn.

Ms. Reed and Mr. Acosta questioned the resolution regarding the PA Statewide Historic Preservation Plan and its impact on Reading historic districts. They requested a presentation from HARB at the next COW.

There were no questions on the Ordinances for Final Passage or the two ordinances being introduced.

Mr. Acosta stated that there are four resolutions on the Conditional Use hearings held over the past two weeks.

Mr. Marmarou questioned the conditions on the approval of the Conditional Use application to allow two additional units at 231 South 4<sup>th</sup> Street. Ms. Kelleher read the conditions listed in the decision as follows:

- a. The Applicant shall schedule an inspection by the Building and Trades inspectors who shall perform an inspection to ascertain that the property meets all applicable Building, Trades and Fire Code requirements required by the City's Building and Trades Division and the Fire Department.
- b. The Applicant shall pay the difference in housing permit fees for the years 2006 through 2010 for a total of \$580.
- c. The Applicant shall obtain an occupancy permit.
- d. The Applicant shall install a 4<sup>th</sup> electrical meter to provide separate electrical service for the common areas of the property.

Mr. Acosta stated that he intends to abstain from the vote on 922 A Franklin Street, as he has a personal relationship with the owner. He stated that the owner is also a client

of his at Fulton Bank and that the owner came to the bank to talk to him about the application and the information conveyed by the owner's brother at the hearing.

Mr. Acosta stated that the owner claims that his brother did not convey the correct information at the hearing. He questioned if the resolution could be tabled or if the hearing could be done over.

Mr. Daubert inquired if the resolution was voted down if it would in fact be approved. Mr. Younger expressed the belief that if the resolution was voted down, it would technically be approved.

Mr. Younger stated that the owner's brother was under oath when he testified at the hearing and that Council could only consider the information received at the hearing. Information received after or before the hearing cannot be considered, as it is not part of the record.

The meeting adjourned at approximately 6:55 pm.

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

**BILL NO. \_\_\_\_-2014**  
**AN ORDINANCE**  
**AMENDING CHAPTER 28, PART 7, OF THE CODE OF THE CITY OF READING,**  
**AMENDING THE NUMBER OF MEMBERS OF THE**  
**MINORITY BUSINESS PROCUREMENT ADVISORY BOARD**

**The Council of the City of Reading hereby ordains as follows:**

Section One: Chapter 28, Part 7, of the Code of the City of Reading is amended, reducing the number of members of the Minority Business Procurement Advisory Board from seven to five, and other related amendments, as specified at Exhibit A hereof.

Section Three: This Ordinance shall be effective ten (10) days after adoption pursuant to Sections 219 and 221 of the City of Reading Home Rule Charter.

Adopted \_\_\_\_\_, 2015

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
City Clerk

Sent to Mayor \_\_\_\_\_  
Date: \_\_\_\_\_  
Signed by Mayor \_\_\_\_\_  
Date: \_\_\_\_\_  
Vetoed by Mayor: \_\_\_\_\_  
Date: \_\_\_\_\_  
Over-ridden by Council:  
Date: \_\_\_\_\_

**EXHIBIT A**

BOARDS, COMMISSIONS, COMMITTEES AND COUNCILS  
PART 7

Minority Business Procurement Advisory Board

[Adopted 9-12-2005 by Ord. No. 56-2005 (Ch. 1, Part 5M, of the 2001 Code of Ordinances)]

**§ 23-701. Policy.**

It is the policy of the City, state and federal governments to foster an environment of inclusion in which all businesses are free to participate in business opportunities and to flourish without the impediments of discrimination. Businesses participating in these contracts shall do so on a fair and equitable basis. Vendors on these contracts shall not discriminate against any business because of race, color, religion, national origin, sex, sexual orientation or disability.

**§ 23-702. Definitions.**

For the purpose of this Part, the following terms shall have the following respective definitions:

AGE — — Includes any person 40 and above and shall also include any other person so protected by further amendment to the Federal Age Discrimination in Employment Act.

AGENCY—Any City office, department, board or commission, including but not limited to the Council of the City of Reading. It shall also mean all legal entities which either:

- A. Receive funds, directly or indirectly, from the City, state or federal governments.
- B. Have entered into continuing contractual or cooperative relationships with the City, including quasi-public agencies, hospitals, schools, etc.
- C. Operate under legal authority granted to them by City ordinance.

AGGRIEVED PERSON—Includes such person or persons who believe that they have been injured or will be injured by a discriminatory employment act or practice that has occurred or is about to occur.

CITY CONTRACTS — — All City contracts, whether competitively bid or negotiated, including but not limited to, any construction contract with a total value in excess of \$10,000 which:

- A. Is paid for in whole or in part with City, state or federal funds.
- B. Is financed either wholly or partially by state or federal funds which are administered by the City.
- C. Is funded in whole or in part by Financial Assistance (See § 23-706 below).

DISABLED PERSON — — A person who has a physical or mental impairment which substantially limits one or more of his or her major life activities or has a record of such impairment. "Major life activities" shall mean functions, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

DISADVANTAGED BUSINESS ENTERPRISE or DBE — — Any small business enterprise:

A. Which is at least 51% owned and controlled by one or more socially and economically disadvantaged individuals.

B. In the case of any publicly owned business, one in which at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals, associations or groups; provided, however, that a reputable presumption shall exist that any person that has received more than \$5,000,000 in three consecutive years of contract work from the City is not a DBE, and; provided further, that any previous certification of any such person as a DBE shall be reevaluated pursuant to regulations to be promulgated by the MBEC.

**DISCRIMINATE and DISCRIMINATION** — — Includes any difference in treatment based on race, color, religion, ancestry, national origin, age, sex, familial status, handicap or previous filing of a complaint of discrimination.

**DISPARITY ANALYSIS** — — In the City of Reading, the level of DBEs are underutilized in the performance of various types of contracts.

**FAMILIAL STATUS**— — One or more individuals, who have not obtained the age of 18 years being domiciled with:

- A. A parent or another person having legal custody of such individual or individuals.
- B. The designee of such parent having such custody, with the written permission of such parent or other person.
- C. Any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

**FINANCIAL ASSISTANCE**— — Any grant, loan, incentive or abatement provided by, or with the authority or approval of, the City or a City-related agency, including but not limited to bond financing subsidies, tax increment financing aid, industrial development bonds, use of the power of eminent domain, land or property acquisition, Community Development Block Grant loans or grant, airport revenue bonds, Enterprise Zone designations, and aid from any federal, state or City or other similar agencies.

**INDIVIDUAL** — — A natural person.

**HANDICAP** — — With respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of having such an impairment; or being regarded as having such an impairment.

**MBE** — — Minority business enterprise.

**MCA** — — The Minority Contractors Association.

**MINORITY PERSON** — A person who is a citizen or lawful permanent resident of the United States and who is:

- A. African American (a person having origins in any of the black racial groups in Africa).
- B. Hispanic American (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race).

- C. Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands).
- D. Native American (a person having origins in any of the original peoples of North America).

**NON-JOB-RELATED HANDICAP OR DISABILITY** — — Any handicap or disability which does not substantially interfere with the ability to perform the essential functions of the employment which a handicapped person applies for, is engaged in, or has been engaged in. Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a handicap or disability job-related.

**PERSON**—A corporation, partnership or association, or any combination thereof, as well as a natural person.

**SMALL BUSINESS ENTERPRISE or SBE** — — A business which is independently owned and operated and which is not dominant in its field of operation as further defined in the Small Business Size Regulations, adopted by the U.S. Small Business Administration and published in the U.S. Code of Federal Regulations, including the industry size standards set forth in the table contained therein, which regulations are incorporated herein, and made a part hereof by reference.

**SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS** — — Those who have either been subjected to racial, sexual or ethnic prejudice because of their identity as a member of a group or to differential treatment because of their disability without regard to their individual qualities, and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business who are not socially disadvantaged

- A. In determining who are socially and economically disadvantaged individuals, the Minority Business Procurement Advisory Board may make a reputable presumption that all minority persons, all women and all disabled persons shall be so classified.
- B. The Minority Business Procurement Advisory Board, in determining whether an individual shall be classified as a socially and economically disadvantaged individual, shall also consider, among other things, the extent of the liquid assets and net worth of such socially disadvantaged individuals.

**WOMEN BUSINESS ENTERPRISE or WBE** — — Any Women Business Enterprise

- A. Which is at least 51% owned and controlled by one or more socially and economically disadvantaged women.

- B. In the case of any publicly owned business, one in which at least 51% of the stock is owned by one or more socially and economically disadvantaged women, associations or groups; provided, however, that a reputable presumption shall exist that any person that has received more than \$5,000,000 in three consecutive years of contract work from the City is not a WBE, and; provided further, that any previous certification of any such person as a WBE shall be reevaluated pursuant to regulations to be promulgated by the MBEC.

**§ 23-703. Minority Business Procurement Advisory Board**

- A. Stated mission. To advise administration on issues and policies concerning enhance participation, to the maximum extent feasible, ~~in employment practices~~ **third-party contractors** t all levels, included but not limited to apprenticeship programs, training programs, etc., for MBEs, DBEs, WBEs, and the lower-to-moderate income residents, etc. within the distressed areas as mandated by City, state and federal governments regulations.
- B. Meeting dates. First week of the month.
- C. Appointment by Mayor (usually with recommendations from sitting Board members and the Minority Contractors Association) with the approval of City Council.
- D. Length of term: two years.
- E. Accountability to City: reports.
- F. Revenue source: City General Fund.
- G. Number of Board members. ~~Seven~~ **Five** members shall be appointed. ~~, including but not limited to the following: one rep. Housing Authorities Sector, two reps. Minority Contractors~~  
~~—Association, one rep. as Chamber of Commerce Designee, and three community members~~  
~~—at large. Representation of members of the Board should reflect the demographics of the City.~~

**§ 23-704. Minority Business Procurement Advisory Board.**

- A. There is hereby established in the Administrative Services Department, a Minority Business Procurement Advisory Board to advise the Administration on policies, procedures and practices to enhance participation of MBEs, DBEs, WBEs, SBEs and the lower-to-moderate income residents, etc. in procurement of City contracts and all employment practices.
- B. The Board shall consist of ~~seven~~ **five** members, each to be appointed by the Mayor for a two year term, with City Council approval. The members of the Board may be reappointed to successive terms of office. Each member of the Board shall continue to serve after their term until their successor has been qualified and appointed. Appointments of new term members shall be made 60 days prior to the expiration of the current term. Vacant seats on the Board shall be filled within 90 days. Three members-at-large from the community will also serve on the Board.
- C. The Board shall elect one of its members as Chairman and may elect such other officers as it may deem necessary. The Chairman may, with the approval of the Board, appoint such committees as may be necessary to carry out the powers and duties of the Board, and the members may authorize such committees to take any necessary action for the Board.
- D. The Board shall adopt such rules and regulations for its own organization, operations and procedures as the Board shall deem necessary to administer, implement and enforce this Part 7.

- E. The Board shall hold at least four public meetings during each calendar year. *Three* members of the Board shall constitute a quorum for the transaction of business, and a majority vote of those present at any meeting shall be sufficient for any official action taken by the Board. Members are required to vote on all issues. However, in case of a valid absence approved by the Chairman, the member is required to vote either by abstaining or via proxy, whichever is deemed appropriate. Members who have failed to fulfill their duties, including but not limited to two missed votes, shall first receive a warning. However, further violation of their duties will render an immediate resignation.
- F. The members of the Board shall serve without compensation, but upon resolution of Council, they may be reimbursed for all necessary expenses incurred in the performance of their duties in accordance with appropriations made by Council.
- G. In the event that no members shall be able and available to exercise any of or fulfill any of the duties of the Board, the Mayor may appoint one or more members temporarily, with the approval of City Council, to assume the powers and/or fulfill the duties of the Board. Such appointment may be limited in duration of term and in scope of the powers and duties of any members so appointed.
- H. In the event that a member wishes to resign, they must do so in writing to the Chairman of the MBPAB. A copy of this letter should be provided to all members for information purposes only.
- I. Removal of members. Any member may be removed for misconduct or neglect of duty or for other just cause by a majority vote of Council taken after the member has received 15 days' advance notice of the intent to take such vote. Failure of a member to attend three consecutive regular meetings of the Board will constitute grounds for immediate removal from the Board by City Council. Failure of a member to attend at least 50% of the regular meetings of the Board in a calendar year will constitute grounds for immediate removal from the Board by City Council. The Chairperson of the Board shall inform the City Clerk in writing when a member has failed to comply with this attendance policy. Following such notification, City Council may vote to remove the member and seek applicants to fill the vacant position.  
**[Amended 9-13-2010 by Ord. No. 66-2010]**

**§ 23-705. Powers and duties of Board.**

The Minority Business Procurement Advisory Board shall have no powers or duties but shall serve in an advisory capacity to the administration only.

**§ 23-706. City contracts.**

All contracts of the City and its contracting agencies shall encourage the contractor to comply with the policy of this article to enhance the participation of MBEs, DBEs, WBEs, SBEs and the lower-to-moderate income residents, etc., therewith and to comply with any state or federal law or laws or regulations relating to unlawful employment practices in connection with any work to be performed thereunder and shall require the contractor to include a similar provision in all subcontracts.

**§ 23-707. Procedure.**

The MBPAB, or any subsequent successor, shall advise the administration in accord with the policy set forth herein and in so doing shall also:

1. Advise a procedure to ensure the City is outreaching and encouraging to MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses to participate in procurement.
2. Advise a procedure to ensure the City is outreaching and encouraging to MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses to participation in City contracts as subcontractors.
3. Ascertain and advise the Administration, within 90 days of the enactment of this Part, the total number of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses in the Berks County Standard Statistical Area.
4. Maintain a listing of all ~~such residents~~ **eligible vendors** and make it available to all agencies.
5. Advise a process to ensure all majority contractors are aware of the existence and identity of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses.
6. Survey such businesses to ascertain how to establish accessibility of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses to the City's procurement process and report findings to administration and Council.
7. Survey such businesses to ascertain how to establish accessibility of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses to participation in City contracts as subcontractors and report findings to administration and Council.
8. Report to the administration and Council the MBEs, DBEs, WBEs, SBEs and lower to-moderate income businesses on biannual basis (every six months) of participation in City contracts and its procurement process.
9. Report to the administration and Council the MBEs, DBEs, WBEs, SBEs and lower to-moderate income businesses on biannual basis (every six months) of participation in City contracts as subcontractors.
10. Advise administration and Council of percentage of MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses participation in City contracts and its procurement process.
11. Advise administration and Council of percentage of MBEs, DBEs, WBEs, SBEs and lower-to moderate income businesses participation in City contracts as subcontractors.
12. Advise administration and Council of appropriate policies and procedures for aid in monitoring and obtaining Board's mission and policy.

The Administrative Services Director, **or a designee**, in conjunction with the MBPAB, shall assemble and furnish to such procurement records and documents of the various agencies, cooperative relationships, etc. as are necessary for the monitoring MBEs, DBEs, WBEs, SBEs and lower-to-moderate income businesses participation in City contracts and its procurement process and subcontractors.