Monday, May 13, 2019
Council Chambers
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. Executive Session – Contracts & Personnel

II. Youth Commission – see pgs 22-24 attached

III. Interim Auditor - See Charter Board Advisory Opinion pgs 14-18 attached

IV. Agenda Review

V. Executive Session re contracts and litigation

VI. Adjourn
COUNCIL MEMBERS PRESENT:

OTHERS PRESENT:
L. Kelleher, S. Smith, K. Lugo, O. Deming, P. Sleppy, J. Kelly, A. Dominguez, W. Stoudt, R. Johnson, F. Lachat, V. Cooper, T. Edmonds

The Committee of the Whole meeting was called to order at 5:02 pm by Mr. Waltman.

I. National League of Cities Presentation
Ms. Cooper and Mr. Edmonds provided information about the National League of Cities (NLC) to the seven members of Council.

Ms. Cooper stated that the NLC is a great organization. She stated that they are very helpful to her as a member of the Norristown City Council. She stated that the NLC offers excellent networking opportunities along with new tools and resources. She stated that there are many benefits to membership.

Mr. Edmonds stated that the NLC desires all municipalities to succeed. He stated that the NLC was founded in 1924 through the joining of State leagues. He stated that the focus is on federal advocacy. There are 2,000 municipalities nationwide who are
members of the NLC. He stated that they represent municipalities other than cities and that 80% of the member municipalities have fewer than 50,000 residents. He noted that there are many grants, trainings, economic development tools, a prescription program, and a grant finder program.

Ms. Cepeda-Freytiz questioned if Reading is a member. Ms. Kelleher stated that it was formerly a member but dropped its membership when trimming expenses prior to entering Act 47.

Ms. Cepeda-Freytiz questioned the cost of membership. Mr. Edmonds stated that Reading’s cost would be $6,891 and that it is well worth the cost. Ms. Cooper agreed that it is worth the cost for Norristown. She stated that recently Allentown received a NLC grant to expand its food bank.

Mr. Edmonds noted his understanding of having to spend taxpayer funds wisely. He stated that there is good value in membership and that the NLC has the tools needed to help move the City’s vision forward.

Ms. Reed stated that she attended the NLC conference in Washington, DC in 2003. She stated that the information shared was very helpful. She noted her support of joining.

Ms. Goodman-Hinnershitz expressed the belief that Reading does not fully utilize grant opportunities. She noted the need to use the membership wisely and noted her support of joining.

Ms. Sihelnik noted the need for Council to have a better understanding of the resources available to assist Reading as it exits Act 47. She stated that it is time to reconsider membership.

Ms. Cooper and Mr. Edmonds left the meeting at this time.

**II. Recycling Cart Update**

Mr. Lugo provided a handout to the seven members of Council.

Mr. Lugo stated that this update will focus on the new recycling cart pilot program. He recommended that the program expand City-wide as an opt-in for residents who want the new cart. He explained the recent news about China no longer accepting certain
recyclables and stated that US recycling centers are investing in upgraded facilities. He noted the need to continue recycling.

Mr. Lugo stated that the major goal of the pilot program was to reduce litter. He stated that the new carts are larger and have attached lids so that there is no overflow and the wind will not blow items out of the carts. He reminded all that the pilot program was in the 18th ward, Glenside, and Northmont neighborhoods where there is less density and higher recycling rates.

Mr. Lugo stated that two cart sizes are available depending on the needs of the residents. He stated that each resident that received the new carts also received a flyer explaining what types of materials are recyclable and FAQ's in both English and Spanish.

Mr. Lugo stated that approximately 50% of the $350,000 cost was for the new carts. The rest of the expenses were to replace existing recycling containers.

Mr. Lugo stated that surveys were sent to participating households in December 2018 and there has been a 20% response rate (704 surveys were received). The surveys showed that:

- 50% of respondents believe that litter has been reduced
- 75% were satisfied with the new carts in spite of the large amount of vocal dissatisfaction at the beginning of the program
- 67% wish to keep their current cart – carts were switched for smaller or larger size if requested
- 69% store the cart beside or behind their home

Mr. Kelly questioned if the cart swaps were from the large cart to the smaller or vice versa. Mr. Lugo stated that both occurred – some residents requested the larger cart and some the smaller.

Mr. Kelly questioned if both size carts would be available moving forward. Mr. Lugo stated that they would both be available.

Ms. Reed questioned if quality of life tickets would be issued to those who store the cart in the front of their homes. Mr. Lugo stated that he requested that tickets not be issued
during the pilot period in these areas. He stated that he is willing to swap the carts to facilitate rear storage.

Mr. Lugo stated that the pilot program was well received. He stated that he was glad to have feedback and explained that seniors are 15% of Reading’s population but accounted for 40% of the responses. He stated that most responses were received in English. He noted the need for additional outreach regarding recycling. He stated that he has currently begun using an asset tracking system.

Mr. Lugo recommended re-orienting the goals of the recycling program. He stated that the new containers are better quality and noted the need for better education. He also recommends allowing small businesses to opt into the City’s recycling program.

Mr. Deming questioned if non-profits would be considered small businesses. Mr. Lugo stated that they are considered small businesses. He stated that many times the private market is too expensive for small businesses and non-profits to recycle.

Mr. Twyman questioned if the cost of the program included staff time. Mr. Lugo stated that it includes the cost of materials only.

Mr. Twyman requested that the cost of staff time be included in future presentations. Mr. Lugo stated that he will include this information in future presentations.

Ms. Sihelnik wished all a happy Earth Day. She stated that the 18th Ward gateway signs have been installed. She stated that she is hoping that the signs and the new carts inspire pride and good stewardship. She agreed with allowing small businesses and non-profits to join the City’s recycling program. She suggested that the City work with the Chamber to promote this opportunity. She congratulated Mr. Lugo on his good work.

Ms. Goodman-Hinnershitz also recognized Earth Day. She noted the diversity in housing throughout the City. She agreed with the need to continue education and to encourage residents to increase their recycling. She suggested that, rather than requesting tickets not be issued, that the ordinances be formally amended.
Ms. Reed questioned if residents are keeping their carts in front even if they have room for them in the rear. Mr. Lugo noted his willingness to do a follow up mailing to those with the new carts to remind them that they must be stored in the rear.

Ms. Reed questioned if a resident could receive a ticket for their trash container being in the front but not receive one for their recycling container in front. Mr. Lugo referred this question to Property Maintenance. Mr. Johnson agreed. Mr. Deming stated that he will invite Mr. Reigner to attend the next meeting to address this issue.

Mr. Johnson agreed that the program should move forward as an opt-in rather than as a mandatory program. He stated that Public Works will move on this path unless Council objects.

Mr. Kelly questioned if Mr. Lugo was interested in interns to assist with the program. Mr. Johnson stated that he is interested.

Ms. Sihelnik suggested that additional metrics be measured with the asset tracking system. She suggested that residents receive incentives for participating. Mr. Lugo explained that the system is currently only being used to track the containers (via their barcode). He stated that the metrics can be better utilized during the next contract period as the system requires the assistance of the hauler.

Ms. Cepeda-Freytiz suggested that DID can also assist with publicizing the small business and non-profit participation in the City’s program.

Ms. Cepeda-Freytiz questioned if the City makes money from the sale of recycling. Mr. Lugo stated that it does not. He explained that the current contract does not include this provision. He stated that this has protected the City from additional costs during this market downturn. He stated that he will analyze the market for future contracts.

Mr. Johnson stated that if the hauler increases their revenue they may consider reducing the City’s fee. He explained that currently the market is down and some municipalities are paying additional fees to offset these costs.

Ms. Cepeda-Freytiz questioned if the State was considering a recycling deposit. Mr. Lugo stated that these are referred to as Bottle Bills. He stated that Pennsylvania has considered this in the past but has not moved a program forward. Mr. Deming
explained that these states increase the purchase price of items that is refunded when the item is returned.

Mr. Waltman warned that if other residents see neighborhoods where the recycling carts are being stored in the front of homes it will spread as more and more leave them in front.

Mr. Twyman agreed and noted the need to be careful how the City trains its residents. He noted his support of dual stream recycling over the current single stream approach.

Mr. Johnson thanked Mr. Lugo and his team for the success of this program. He stated that they took a concept and turned it into a successful program.

III. Interim Auditor
Mr. Waltman questioned the Administrative Services Director’s outreach. Mr. Kelly stated that the position has been posted on the City’s website with a close date of May 3. He stated that the information has also been posted on Indeed and other employment websites. He stated that he has also been working with the City’s other recruitment contacts. He stated that he will provide additional details at the May 6 meeting.

Mr. Marmarou expressed the belief that the interview with Mr. Anewalt went very well.

Ms. Goodman-Hinnershitz noted the need to allow this process to continue.

IV. Agenda Review
Council reviewed this evening’s agenda including the following:

• Recognizing the SkillsUSA winners

Ms. Sihelnik questioned this recognition. Ms. Smith explained that these are Reading-Muhlenberg Career and Technology Center students.

• Patriot Order Sons of America

Ms. Goodman-Hinnershitz stated that this group has provided a new flag at the Pagoda. She stated that they were invited to attend this evening’s meeting but she is unsure if they will attend. She noted the need to recognize their gift.
• Resolution authorizing the purchase of a 2019 F-150 XL 4x4 for the fire K-9 unit

Ms. Cepeda-Freytiz questioned if this expense was budgeted. Chief Stoudt stated that it is part of the capital budget.

Mr. Deming stated that Council will begin seeing similar resolutions more frequently. He noted the need for Council to approve large purchases even if they are budgeted.

Ms. Goodman-Hinnershitz expressed the belief that this is best practice and provides additional transparency.

Ms. Cepeda-Freytiz questioned if this is a result of MERC. Mr. Deming stated that it is his preference. *(Note: Council approval for purchases in excess of $35,000 is required by the purchasing policies.)*

• Award of Contract for ambulance bill collection services

Mr. Deming stated that this contract will reduce the City’s costs for collection. He explained that the current contract has a 7% cost where the new contract will have a 4.6% cost.

• Award of Contract rescinding the bituminous materials contract award to South Reading Blacktop and awarding the contract to New Enterprise Stone and Lime due to a clerical error

Ms. Cepeda-Freytiz questioned the error. Ms. Kelleher stated that the purchasing clerk made an error that skewed the pricing.

Mr. Marmarou questioned if the contract was paid. Mr. Lachat stated that no work has been done to this point.

Ms. Goodman-Hinnershitz noted the need for a letter to the business that is being rescinded. Mr. Lachat stated that the company is aware but that a letter will be sent.

• Award of Contract for plumbing construction for the 6th & Canal Pump Station project
Mr. Johnson stated that this is part of the consent decree WWTP construction project. He stated that the general contractor and electrical contractor contracts have already been awarded.

Ms. Goodman-Hinnershitz requested taking action during the resolution section due to the cost of the contract. Mr. Waltman agreed.

Ms. Cepeda-Freytiz questioned if the purchasing policy was followed. Mr. Johnson stated that it was.

Ms. Cepeda-Freytiz questioned when the bids were received. Mr. Lachat stated that they were received in January 2019. Mr. Johnson explained that the bid process was followed and this is the result.

- Ordinance amending the budget, agency fund #31, to reflect partial funding of construction costs for the Pendora Park project

Mr. Deming stated that this is a housekeeping item.

Ms. Goodman-Hinnershitz requested a description of the project. Mr. Johnson stated that the playground equipment will be replaced, ADA paths and new benches will be installed, and a splash park will be installed at the current site of the pool area.

- Ordinance amending the capital budget to reflect the funding of the Hillside Pool property purchase and revising the timeline for the Schlegel Pool rehabilitation project

Mr. Waltman questioned if $200,000 was the agreed amount. Mr. Deming stated that it is.

Mr. Waltman questioned the delay for the Schlegel Pool project. Mr. Johnson stated that to apply for grants for the project a feasibility study must first be completed. He stated that this has slowed the project but that the grant will be very helpful.

Ms. Sihelnik noted the need for the Schlegel Pool to remain a high priority project.
Mr. Johnson thanked Ms. DeGroote for her assistance.

Ms. Cepeda-Freytiz questioned the purchase of the Hillside Pool property. Mr. Deming stated that Council approved moving forward with the purchase in 2018.

Mr. Waltman gave Ms. Cepeda-Freytiz a brief explanation.

Ms. Goodman-Hinnershitz questioned if the land issue has been resolved. Mr. Deming stated that it has.

Ms. Goodman-Hinnershitz stated that there are similar issues with the East Reading Pool property.

Ms. Reed questioned if there were any remediation issues. Mr. Deming stated that there are not.

Ms. Reed questioned the plan for the site. Mr. Deming stated that the Mayor intends to install a splash park.

Ms. Reed questioned the cost. Mr. Deming stated that he was unsure.

Ms. Reed questioned what would be done with the rest of the area. Mr. Deming stated that he is unsure.

Ms. Reed noted the need for the City to take action and not let the site sit for an extended period of time. Mr. Deming stated that he will provide additional information at the next meeting.

Ms. Goodman-Hinnershitz expressed the belief that this ordinance is really two separate issues and requested that they be separated.

Ms. Kelleher questioned if this purchase provides the additional lands needed due to the buildings in Angelica Park. Mr. Deming stated that this would be a lengthy discussion.

Mr. Twyman noted the need to clarify the details.
- Ordinance amending the Park Code to include the entire Mt. Penn Preserve area in the definition of Park

Mr. Marmarou questioned the meaning of park.

Ms. Goodman-Hinnershitz stated that this amends the definition.

Mr. Johnson stated that he was unable to locate this ordinance. He questioned if this was legal as these lands were granted to the City.

Ms. Kelleher stated that the original definition of park included the preserve. She stated that a former amendment of the definition excluded the fire tower, Rotary Park, Camp Lily and other areas in the preserve outside the City’s boundaries.

Ms. Goodman-Hinnershitz explained that this does not give the lands to the Mt. Penn COG.

Ms. Kelleher stated that the amendment is minor and matches the area in the mutual aid agreement.

Ms. Goodman-Hinnershitz stated that the park lands and preserves are governed by the City’s Park Code. She noted the need for both types to have the same level of enforcement.

Ms. Kelleher stated that Lower Alsace does not own any park land and so it does not have a Park Code. She noted the need to extend the City’s Park Code into their municipality.

Ms. Goodman-Hinnershitz reminded all that the City owns property outside City corporate limits. She noted the need for consistent enforcement.

Mr. Lachat stated that Mr. Poist has been working on this project. He stated that this is required for enforcement beyond the City limit.

Ms. Goodman-Hinnershitz expressed the belief that this park land is a City legacy and that it must be safe and protected.
• Resolution affirming the language in Charter Article IV regarding the appointment of the managing director, undertaking the Charter required process to hire a managing director

Mr. Waltman stated that the body has decided to move forward following Council’s understanding of the Charter requirements.

Mr. Lachat requested that “directing” be changed to “requesting”.

Mr. Waltman disagreed and stated that “requesting” is not strong enough language.

Ms. Cepeda-Freytiz questioned using “acting” versus “temporary”. Ms. Kelleher stated that they have the same definition.

Ms. Sihelnik noted the need to use the Charter language for consistency.

V. Other Business

• East Reading Pool site
Ms. Goodman-Hinnershitz stated that she has spoken with the Mayor about this property being on the repository tax sale list. The Mayor requested that action be delayed until after the primary election. She expressed the belief that the Administration should not make these decisions alone. She stated that the highest bid at this point is $501 and expressed the belief that this ½ square block area has large liability issues. She requested clarity about Council’s role in the tax sale process.

Mr. Lachat stated that he is reviewing the process and requested additional time for review.

Ms. Goodman-Hinnershitz noted the need for the Administration to report to Council when these sales are allowed.

Chief Dominguez left the meeting at this time.

Ms. Reed questioned if this permission should be granted via ordinance since it is a sale of land.
Ms. Kelleher suggested amending the Fiscal Code.

- **City Park Greenhouse**
  Ms. Sihelnik questioned if the RFP is in process. Mr. Johnson stated that it is in process but that there is currently a backlog in the purchasing office.

- **PA Municipal League**
  Mr. Kelley reminded all that the City is already a member of the PA Municipal League. He stated that their conference in October is also a great opportunity for networking.

- **Charter Orientation**
  Ms. Cepeda-Freytiz stated that she has received her Charter training. She questioned if training could be provided on the Administrative Code. Ms. Kelleher stated that this would need to be over multiple sessions. She suggested that Ms. Cepeda-Freytiz review the Code online and be specific about sections that need further clarification.

Ms. Goodman-Hinnershitz expressed the belief that an overview of the Code would be very helpful.

Mr. Lachat stated that there are some very important sections for the City’s day-to-day work that are often used. He stated that it would be a great effort to prepare an overview and training sessions.

**VI. Executive Session**
Mr. Waltman announced the need for an executive session on legal matters. All exited the meeting except for the seven members of Council, Mr. Lachat, Mr. Johnson, Mr. Kelly, Mr. Deming, Ms. Kelleher, and Ms. Smith.

Council entered executive session at 6:34 pm. The executive session ended and the meeting adjourned at 6:54 pm.

Respectfully Submitted by

Linda A. Kelleher, CMC, City Clerk
THE CHARTER BOARD OF THE CITY OF READING
IN RE: The Filling of Vacancies : Request Received November 21, 2013

Under Charter §§ 304 : and 505 : Advisory Opinion No. 35

ADVISORY OPINION
I. PROCEDURAL HISTORY AND QUESTIONS PRESENTED
By letter dated November 21, 2013 the City Clerk, Linda A. Kelleher, (“Clerk”) requested an advisory opinion from the Charter Board of the City of Reading (“Board”). By letter of December 5, 2013 the Board requested that the Clerk grant the Board a thirty (30) day extension, ending January 22, 2014, in which to issue the requested advisory opinion. The Clerk agreed by a returned written acknowledgement. As the result of inclement weather, the Board requested, and the Clerk granted, a further extension from January 22, 2014 to February 5, 2014.

The substantive issue of the Clerk’s request concerns Sections 304 and 505 of the Home Rule Charter of the City of Reading (“Charter”) and the provisions found there for the filling of vacancies in the offices of Mayor and City Auditor. As the Clerk points out, those Charter sections do not contain any provisions for the timing of the filling of vacancies in those offices, the qualifications or eligibility of the proposed appointee, or the vote necessary to fill such vacancies (i.e., majority, 2/3 vote, etc.). The Clerk asks the Board to clarify what provisions, if any, apply to filling a vacancy in the office of Mayor and City Auditor.

The Board answers the Clerk’s request for an advisory opinion as follows.

The Clerk correctly notes that this lack of detail is not found in the provision for the filling of a vacancy on City Council. See Charter § 207.

II. DISCUSSION
A. Pertinent Provisions of the Charter
1. The Office of Mayor
Charter § 304, concerning a vacancy in the office of Mayor, states:
Section 304. Vacancy.
(a) If the office of the Mayor becomes vacant for any reason, Council shall appoint an interim Mayor who shall serve until the next Municipal Election.
(b) A vacancy in the office of Mayor shall be filled at the next Municipal Election, in the manner provided by law. The person elected shall hold the qualifications for the office of the Mayor and shall serve the remaining portion of the vacated term.

Concerning qualifications for a candidate for Mayor, Charter § 303 provides:
Section 303. Eligibility.
The candidate for Mayor shall be a registered voter of the City who
shall have resided in the City continuously for at least one year immediately preceding the primary election in which the Mayor seeks office. The Mayor shall continue to reside in the City throughout the term of office.

2. The Office of the City Auditor.
Charter § 505, concerning a vacancy in the office of the City Auditor, states:

Section 505. Vacancy.
(a) If the office of the City Auditor becomes vacant for any reason, Council shall appoint an interim City Auditor who shall serve until the next Municipal Election.
(b) A vacancy in the office of City Auditor shall be filled at the next Municipal Election, in the manner provided by law. The person elected shall hold the qualifications for the office of the City Auditor and shall serve the remaining portion of the vacated term.
Concerning the qualifications for a candidate for City Auditor, Charter § 502 provides:

Section 502. Eligibility.
The candidate for City Auditor shall be a registered voter of the City who shall have resided in the City continuously for at least one year immediately preceding the primary election in which the City Auditor seeks office. The City Auditor shall continue to reside in the City throughout the term of office. In addition, the City Auditor must have a Bachelors Degree in Business Administration, Municipal Government, Accounting, Management or a related field. The City Auditor elected at the first election under this Chapter shall receive an annual salary of $40,000.00.

B. Analysis
The Charter Board Ordinance2 (C.B.O.) directs the Board’s interpretation of the Charter. See C.B.O. § IV(A). The object of all interpretation and construction of the Charter is to ascertain and effectuate the intent of its authors. When the words of the Charter are clear and free from ambiguity, the letter of it shall not be disregarded in pursuit of its spirit. Likewise, when the Charter is not explicit, the intent of its authors shall be ascertained by considering:
(a) the mischief to be remedied;
(b) the object to be attained;
(c) the circumstances under which it was enacted; and (d) the contemporaneous legislative history. Id. The Statutory Construction Act, 1 Pa.C.S. §§ 1501, et seq., serves as a refinement of the above standard. C.B.O. § IV(C).

As explained in City Council of the City of Reading v. Eppihimer:
In addition, this Court has held that general rules of statutory construction are applicable in interpreting provisions of a home rule charter. *Williams v. City of Pittsburgh*, 109 Pa.Cmwlth. 168, 531 A.2d 42, 44 (1987) (citing *Cottone v. Kulis*, 74 Pa.Cmwlth. 522, 460 A.2d 880 (1983)), *petition for allowance of appeal denied*, 518 Pa. 622, 541 A.2d 748 (1988). We must interpret statutes to ascertain and effectuate the intent of the legislature and, if possible, give effect to all of its provisions. Section 1921(a) of the Statutory Construction Act of 1972, 1 Pa.C.S. § 1921(a). Further, if the words of a statute are clear and unambiguous, a court may not ignore the letter of the law under the pretext of pursuing its spirit. 1 Pa.C.S. § 1921(b); *Ramich v. Workers' Compensation Appeal Board (Schatz Electric, Inc.)*, 564 Pa. 656, 770 A.2d 318 (2001). This Court must presume that the drafters of the charter did not intend a result which is absurd, impossible of execution or unreasonable. *Cottone*, 460 A.2d at 882.


The pertinent standards for statutory construction are as follows: The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly. Every statute shall be construed, if possible, to give effect to all its provisions." 1 Pa.C.S. § 1921(a); *Commonwealth v. McCoy*, 599 Pa. 599, 962 A.2d 1160, 1167–68 (2009). A statute's plain language generally provides the best indication of legislative intent. *McCoy*, 962 A.2d at 1166; *Ephrata Area Sch. Dist. v. County of Lancaster*, 595 Pa. 111, 938 A.2d 264, 271 (2007); *Pennsylvania Fin. Responsibility Assigned Claims Plan v. English*, 541 Pa. 424, 664 A.2d 84, 87 (1995) ("Where the words of a statute are clear and free from ambiguity the legislative intent is to be gleaned from those very words."). Only where the words of a statute are not explicit will we resort to other considerations to discern legislative intent. *Ephrata Area Sch. Dist., supra*; see also 1 Pa.C.S. § 1921(c); *In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election*, 577 Pa. 231, 843 A.2d 1223, 1230 (2004).

Moreover, in this analysis, “[w]e are not permitted to ignore the language of a statute, nor may we deem any language to be superfluous." *McCoy*, 962 A.2d at 1168. Governing presumptions are that the General Assembly intended the entire statute at issue to be effective and certain, and that the General Assembly does not
intend an absurd result or one that is impossible of execution. See 1 Pa.C.S. § 1922(1)-(2).

We are also mindful that statutes which relate to the same persons or things must be construed together as one statute. See 1 Pa.C.S. § 1932. "[S]ections of a statute must be read together and in conjunction with each other, and construed with reference to the entire statute." Housing Auth. of County of Chester v. Pa. State Civil Serv. Comm’n, 556 Pa. 621, 730 A.2d 935, 945 (1999). A word or phrase whose meaning is clear when used in one section of a statute will be construed to mean the same thing in another section of the same statute. Id. at 946. Board of Revision of Taxes, City of Philadelphia v. City of Philadelphia, 607 Pa. 104, 4 A.3d 610 (2010). Although a court should construe a statute, if possible, to give effect to all of its provisions, a court may not supply a provision omitted from a statutory section even if the omission resulted from the General Assembly’s inadvertence or failure to foresee the circumstances in question. Lisanti Painting Co. v. W.C.A.B. (Starinchak), 973 A.2d 464, 471 (Pa. Commw. Ct. 2009), appeal denied 603 Pa. 697, 983 A.2d 730 (2009). Courts may not add provisions that the General Assembly has omitted unless the phrase is necessary to the construction of the statute. Commonwealth v. Lewis, 885 A.2d 51, 57 (Pa. Super. Ct. 2005), appeal denied 588 Pa. 777, 906 A.2d 540 (2006).

Here, absent from Charter §§ 304 and 505 are provisions for the timing of the filling of vacancies in those offices, the qualifications or eligibility of the proposed appointee, and the vote necessary to fill such vacancies (i.e., majority, 2/3 vote, etc.). The Board will address each of these matters separately, applying the above cited long-standing principles of statutory construction.

1. Timing
Both Sections 304 and 505 of the Charter are silent as it relates to the timing of the appointment of a Mayor or a City Auditor by City Council in the event of a vacancy. The Charter contains not less than five (5) references to the appointment of candidates to fill vacancies.3 Only the Charter section for the filling of a vacancy in City Council has a specific time parameter, i.e. thirty (30) days. Charter § 207. Clearly the drafters of the Charter knew that they could provide for a time in which to mandate that a vacancy be filled by Council. Yet the drafters inserted no such provision for vacancies in the offices of Mayor and City Auditor. 3 See Charter §§ 207 (vacancies on City Council to be filled within 30 days), 304 (vacancy in the office of Mayor, stating no time frame), 403, 505 (vacancy in the office of City Auditor, stating no time frame), 1002(b) (vacancies on Boards and Commissions to be filled promptly).

The Board can render no advisory opinion as to the permitted time in which City Council must fill these vacancies. As Lisanti Painting Co. and Lewis, supra., prohibit, the Board may not insert a term into the Charter. The Board does not find the lack of a time frame for the filling of a vacancy to cause ambiguity or to prevent an interpretation of Charter
§§ 304 and 505 under their terms as written. Further, should City Council not act promptly in filling any such vacancy, presumably a determination will be made at the ballot box for any actual or perceived tardiness.

It is not for the Board to legislate and insert a time frame by which Council must act. Regarding timing, the Charter is clear only that City Council shall fill vacancies in the offices of Mayor and City Auditor. The Board can opine no further on the issue of timing.

2. Qualifications
Neither Charter §§ 304 or 505 have any requirement that the person appointed to fill a vacancy in the offices of Mayor or City Auditor be “qualified.” However, to be sure, there are qualifications for those offices as set out in Sections 303 and 502, both regarding “eligibility.”

Both referenced sections require the candidates for those offices to meet the minimum qualifications. See Charter §§ 303, 502, supra. Black’s Law Dictionary, 6th ed., defines “candidate” as “one who seeks or offers himself, or is put forward by others, for an office, privilege, or honor. A nominee.” (internal citations omitted). It appears to the Board that it is the law of Pennsylvania that a person appointed to fill a vacancy must hold the statutory qualifications to fill the office. See generally as to qualifications for office, Commonwealth ex rel. Kelley v. Keiser, 340 Pa. 59, 70-71, 16 A.2d 307, 311-12 (1940).

Qualifications for the offices of Mayor and City Auditor exist under the Charter, therefore a candidate for appointment to fill a vacancy in those offices must meet those stated qualifications. Reading Charter Articles III and V together, to give effect to all of their provisions, would require that the qualifications found in Sections 302 and 504 would equally apply to appointments to fill vacancies in those offices. It would be an absurd result that an appointee to a vacancy need not hold the qualifications for the office to which he or she is appointed. 1 Pa.C.S. § 1922(1).

3. The Vote of Council
The Board recently addressed voting of City Council in the context of appointments to the Charter Review Commission. See Adv. Op. No. 33 (May 9, 2013). There the Board concluded that motions or resolutions voted upon by City Council must garner a simple majority of a quorum to prevail, unless otherwise provided by law, the Charter or an Ordinance. Admin. Code § 1-122(9). See DiGiacinto v. City of Allentown, 486 Pa. 436, 439, 406 A.2d 520, 522 (1979); Ronald H. Brown Charter School v. Harrisburg City School District, 928 A.2d 1145, 1147-48 (Pa. Commw. Ct. 2007). Advisory Opinion No. 33 opines that the common law rule for the number of votes necessary for a deliberative body to take official action applies to making appointments to the Charter Review Commission. The Board applies and adopts that same analysis here in opining that the
common law rule would also apply to the filling of vacancies, specifically, vacancies in the offices of Mayor and City Auditor. Therefore, to fill a vacancy, a majority of a quorum of City Council must vote in favor of the candidate.

III. OPINION OF THE BOARD
It is the Opinion of the Board that:
A. the Charter is silent as to the timing of the appointment by City Council to fill a vacancy in the offices of Mayor and City Auditor and the Board cannot opine upon, or insert, a time frame;

B. an appointee to fill a vacancy in the offices of Mayor and City Auditor must possess the qualifications and be eligible, in accordance with Charter §§ 302 and 504, to hold the office to which appointment is made;

C. an affirmative vote of a simple majority of a quorum of City Council must be had to fill a vacancy in the offices of Mayor and City Auditor, as the Charter provides for no other description of the votes necessary to fill such a vacancy and therefore the common law rule is applicable.

CITY OF READING CHARTER BOARD
By:
Susan Gibson, Chair
Date: February 5, 2014
Amending the City Code Chapter 23 Boards, Commissions and Committees by creating a new Part 15 Youth Commission

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

Section 1. Amending the City Code Chapter 23 Boards, Commissions and Committees by creating a new Part 15 Youth Commission, as attached in Exhibit A.

Section 2: This Ordinance shall be effective ten (10) days after adoption pursuant to Sections 219 and 221 of the City of Reading Home Rule Charter.
3. Regular meetings of the Commission shall be determined by the membership but the Commission shall meet no less than four (4) times per year. Notices of meetings will be posted on the City of Reading website.
4. Minutes from meetings will be kept and copies of the meeting minutes will be sent to the City Clerk’s Office after each meeting.

§23-1505. Duties and Functions
The Commission shall:
(a) Identify critical issues affecting youth in the City of Reading.
(b) Provide advice and recommendations to the Mayor, City Council, Managing Director, and other City officials on issues affecting youth in the City of Reading.
(d) Form subcommittees of less than a majority of its members as deemed necessary to allow for in-depth review of issues of interest to the Commission.
(e) Make available to the Managing Director its findings and recommendations and present periodic reports to City Council.
(f) Provide a written report annually on the status of the Commission and its activities to the Mayor and City Council.
(g) Perform such further duties as may hereafter be delegated to the Commission by resolution of the City Council.