



# ***COMMITTEE of the WHOLE***

## ***CITY COUNCIL***

**MINUTES**  
**April 23, 2012**  
**5:00 P.M.**

### **COUNCIL MEMBERS PRESENT:**

M. Goodman-Hinnershitz, D. Sterner, D. Reed, F. Acosta, R. Corcoran, S. Marmarou, J. Waltman

### **OTHERS PRESENT:**

L. Kelleher, S. Katzenmoyer, L. Murin, M. Torres, D. Cituk, C. Younger

Council President Acosta called the Committee of the Whole meeting to order at 5:13 p.m.

### **I. Water Authority Lease Agreement Review**

Mr. Acosta reviewed the issue to date.

Mr. Spencer arrived at this time.

Mr. Waltman stated that this issue was discussed briefly during budget preparation. He stated that the current language is more favorable but noted his concern that the land is removed from City control. He stated that he does not wish to hijack the discussions but that there is no need for the Water Authority to be the landowner.

Mr. Marmarou stated that this issue was reviewed in the past and there was no objection by Councilors. Mr. Waltman stated that he was always opposed to the Ontelaunee land transfer.

Mr. Marmarou stated that easements were at issue during the former discussions. Ms. Reed stated that there were also run-off issues and contamination issues regarding chemicals used on the proposed fields getting into the water supply.

Mr. Acosta stated that Ontelaunee Township proposed soccer fields for a portion of this land. The rest of the area is within a conservation district. He noted the need for Council to move forward on this issue.

Ms. Kelleher stated that Mr. Miravich has spoken with Mr. Setley. Mr. Setley stated that the Water Authority's position has not changed and that the increased payments have already begun. She stated that the Water Authority needs this assurance to ensure that the land will not be sold by the City.

Mr. Waltman stated that the increased payments have been received by the City and have been used. He stated that budget discussions occur within a leveraged time frame. He stated that the Water Authority's goal was to preserve the land. He stated that he recommended a clause in the agreement that the City preserve all land in the water shed needed by the Water Authority. He stated that the draft agreement requires written consent of the City before the Water Authority can sell the land, but does not require Council approval.

Mr. Spencer stated that the Administration cannot sell land. Mr. Waltman stated that the City would no longer be the landowner.

Mr. Acosta requested a legal opinion. Mr. Younger stated that it would depend on the wording of the agreement.

Ms. Goodman-Hinnershitz stated that the City is also given the right of first refusal to purchase the land from the Water Authority at market value. She stated that this issue should have been addressed sooner.

Mr. Waltman stated that review began during budget season but that the written agreement was not seen until approximately one month ago. He noted his discomfort with anyone beside the City holding the land. He noted the need for the agreement to be clear about what defines written consent and who may sign the consent. He stated that if the Water Authority does not intend to sell the land, this clause should not be included. He stated that this agreement is leveraging the City and has loopholes.

Mr. Spencer stated that the agreement requires City consent and that the Mayor cannot sell land. Mr. Waltman noted his understanding of this statement but stated that the Mayor can sign many documents and that the City will no longer be the owner of this property after the lease agreement is signed. He noted the need for the agreement to better define this approval process.

Mr. Acosta agreed with the need for the agreement to be specific. Mr. Younger stated that the agreement would dictate the process for the Water Authority to sell the land. He stated that as written, the Mayor can sign the sales agreement.

Mr. Waltman stated that this leaves the City exposed to the land sale. Ms. Goodman-Hinnershitz stated that she understands Mr. Waltman's position but that the issue should have been addressed before the increased payments were accepted. Mr. Waltman stated that he did not agree to the Water Authority being able to sell this land.

Ms. Goodman-Hinnershitz stated that the City has the right of first refusal. Mr. Waltman stated that the Water Authority wanted a tangible asset to offset the increased payments. He questioned if the body agreed that the Water Authority would have control of whether to sell this land in the future.

Ms. Reed agreed with Mr. Waltman. Mr. Waltman noted the need for the agreement to align with Council's intent.

Mr. Acosta noted that Mr. Setley made the Water Authority's position very clear.

Mr. Spencer questioned why the Water Authority would sell the land if they bought it to prevent the sale by the City. Ms. Reed stated that this is a long term agreement and a future board may wish to sell the land. Mr. Waltman stated that this is a large issue in the City's long term future as it exposes the City to this loss of land.

Mr. Younger stated that there were other reasons the Water Authority did not support the land sale.

Mr. Waltman stated that he could agree to the Water Authority owning the land if the agreement states that it will never be sold.

Mr. Sterner reviewed the memo from Fox Rothschild. He stated that this memo describes the land sale options. He requested that Mr. Younger review this memo.

Mr. Waltman noted the need for the agreement to either state that the City will preserve the land forever or sell the land to the Water Authority and that they will preserve the land forever.

Mr. Younger stated that that statement assumes that future Council's will not change the lease agreement. Mr. Waltman noted that his concern is how the lease agreement is currently worded.

Mr. Acosta stated that the lease agreement amendments should have been discussed before the payments increased and were accepted.

Mr. Waltman stated that Council was not involved in the negotiations but now must ratify the agreement.

Mr. Acosta noted his belief that Council was okay with the amendments until recently. Mr. Waltman questioned if the intent of the body was to allow the Water Authority to sell the land.

Mr. Acosta stated that Council can disband the Water Authority. Mr. Waltman noted his understanding but stated that if the City does not have funds to purchase the land during their right of first refusal a third party will control this land.

Mr. Acosta stated that Mr. Setley should have been present for this meeting.

Mr. Waltman stated that the body agreed to these items conceptually but questioned the body's agreement that the Water Authority have the ability to sell this land. He stated that the Water Authority and Council should not assume that this was part of the initial agreement.

Mr. Sterner questioned why the Water Authority would not agree to retain the land.

Mr. Spencer stated that this is a trust issue. He stated that the City wanted to sell the land to Ontelaunee Township. He stated that the Water Authority opposed this sale and the City leveraged the Water Authority into paying to preserve the land. He stated that Water Authority customers do not appreciate their payments for water and sewer service going into the City's general fund. He questioned if they would really sell the land.

Mr. Sterner stated that the City has also been in this position at the Reading Regional Airport. Mr. Spencer stated that the County Commissioners were involved at the Airport. Ms. Kelleher stated that the County may become involved with the Water Authority as regionalization is discussed.

Ms. Reed agreed with Mr. Sterner and Ms. Kelleher and stated that there is no guarantee for the future the way this agreement is written.

Ms. Goodman-Hinnershitz suggested that Council either vote this evening or schedule a meeting with the Water Authority. She stated that the increased payments have already begun and noted the need for the most favorable agreement.

Mr. Acosta took a straw poll which showed that there was not enough support to move action forward at this evening's meeting.

Mr. Sterner stated that if the Water Authority is disbanded that the land would come back to the City. Mr. Waltman stated that that was true of assets owned by the Water Authority at the time but it may be too late for that land.

Ms. Reed stated that once there is an agreement of sale, it would be too late. Ms. Kelleher stated that the process to disband the Authority is lengthy and could not occur before the sale of the land.

Mr. Waltman agreed with the need to move forward on the agreement. He stated that the agreement includes this clause but that does not mean that this was Council's intent.

Mr. Corcoran noted the need for the agreement to specify who and how the City gives written consent to any sale of land.

Ms. Reed suggested that Mr. Waltman work closely on this issue as it moves forward. She stated that Council sets the terms of the agreement even though the payments have already increased. She noted the need to proceed cautiously.

Mr. Acosta suggested that Mr. Waltman and two other Councilors meet with representatives of the Water Authority and Mr. Setley. Mr. Waltman suggested that Mr. Corcoran and Mr. Younger also attend.

Mr. Marmarou requested that the entire body of Council participate. Mr. Acosta stated that discussions be scheduled during a Committee of the Whole. Ms. Kelleher suggested a meeting on April 30. She stated that this is a fifth Monday but that a waste water treatment plant update is already scheduled from 5 – 7 pm that evening. She suggested this meeting begin at 7 pm and also include Mr. Miravich.

## **II. Authority Membership**

Mr. Lloyd arrived at this time.

Mr. Acosta expressed his belief that this discussion had concluded. He stated that authorities are established through State statute that the City cannot make changes. He stated that the final remaining question is whether a Council member should serve on the Water Authority.

Ms. Goodman-Hinnershitz expressed the belief that this would be similar to Councilors serving on the Recreation Commission. She noted that it would be important for Council to be represented on the Water Authority.

Mr. Acosta noted that this would need to be by Council resolution.

Mr. Waltman noted the need to avoid any conflicts of interest. He stated that this was never done in the past. He expressed his belief that there would be value in this but that it is important to keep separation as the Council representative would be ratifying agreements on both sides.

Mr. Acosta noted the need for Council to conclude discussions on topics as they are able.

Mr. Sterner expressed his belief that a Council representative on the Water Authority is not necessary even with the current situation.

Mr. Acosta took a straw poll which showed that there was not support to place a Councilor on the Water Authority.

Mr. Sterner stated that it would put the other authority members in an awkward position as well as the Council representative.

Ms. Reed expressed her belief that with the current situation that it is imperative that Council has representation. She suggested this topic be discussed at the next Nominations and Appointments Committee meeting.

Mr. Waltman expressed his belief that control by presence is not a best practice. He stated that a better way would be to lock down agreements with the City in a better position.

Mr. Acosta stated that there is one vacancy on the Water Authority. He noted the need for Council to bring a name forward. He stated that Mr. Lloyd cannot vote on some issues and that if another member is absent, with one vacancy, there are quorum issues.

Mr. Waltman noted his support of citizen representation on boards, authorities and commissions (BAC). He stated that the guidance given by RAWA legal counsel can sometimes interfere with members' good intentions. He suggested increasing turnover of legal counsel. He stated that this would require new policies.

Ms. Reed suggested term limits on members and on legal counsel.

Mr. Marmarou noted the problems encountered trying to fill all BAC positions as it is.

Mr. Spencer expressed his belief that Mr. Setley is not swaying the Water Authority. He stated that the membership currently has strong personalities and they are good people. He stated that good people come on as new members and buy into the existing position of members.

Ms. Kelleher stated that once a member is appointed they cannot be removed without cause.

### **III. Reducing the Threshold for Council Approval from \$25,000 to \$10,000**

Ms. Kelleher stated that this was added to the agenda as the Finance, Audit and Budget Committee was unable to address the topic at their meeting due to time limitations.

Mr. Acosta noted the need to withdraw the introduction of the ordinance removing the Managing Director's ability to waive the use of the procurement process.

Ms. Goodman-Hinnershitz stated that she was unclear how that ordinance was inter-related to the reduction of the threshold.

Mr. Acosta stated that both of these issues will be discussed at the May Finance, Audit and Budget Committee meeting. He suggested that this be as a Committee of the Whole.

#### **IV. Hampden Marion Fire Station**

Mr. Marmarou stated that he was contacted by Fire Department employees regarding the condition of the Hampden Marion Fire Station. He stated that the City should be ashamed of these conditions. He stated that he visited the fire station and described the many issues. He questioned who inspects City buildings.

Mr. Waltman stated that all these issues stem from the station needing a new roof. He questioned if repair was in the Capital Budget and if it was not, why that would be.

Ms. Kelleher stated that Council approved this work and a contractor was obtained. She stated that the contractor walked away from the project and suggested the Administration review the issue.

Mr. Spencer stated that he has not been contacted by the union president about these issues and stated that he does recall approving the work when he was Council President.

Mr. Waltman questioned who should report these problems. Mr. Spencer stated that it should be Public Works. He stated that he will follow up with Mr. Jones.

Ms. Goodman-Hinnershitz expressed her pleasure that the Administration will pursue this issue. She noted the need for City buildings to meet codes requirements. She stated that this is also a public safety issue.

Mr. Acosta stated that all these repairs are necessary because a water leak was not controlled.

Mr. Waltman noted his concern that the channels of communication are not functioning. He questioned why Council has not heard about these problems from command staff.

Ms. Goodman-Hinnershitz reminded Council that the press is present. Mr. Younger stated that discussion can continue as long as specific names are not mentioned.

Mr. Marmarou noted the need for the City to pay fire personnel when apparatus must be repaired at far away locations. Ms. Kelleher stated that Chief Squibb has rectified this situation.

Mr. Spencer stated that he has not heard about these problems from the Fire Chief or the union representation. He stated that he will follow up with Public Works and the IAFF.

Mr. Acosta requested a follow up report from the Administration.

## **V. Agenda Review**

Mr. Acosta stated that this evening's agenda is extremely short.

Mr. Sterner stated that during the work session review of the Quality of Life issue the Administration was to prepare a report. Mr. Acosta stated that Mr. Agudo is preparing the report and Council will receive it in several weeks.

Ms. Kelleher stated that the Administration has requested adding the introduction of the ordinance to set the salary of the Fire Chief. Mr. Spencer stated that Chief Squibb will be stepping down in June.

Mr. Agudo arrived at this time.

Council reviewed this evening's agenda including the following:

- Resolution authorizing an amendment to the FFY 2011 ESG Action Plan

Mr. Agudo stated that he was present to answer any questions. He stated that a presentation was made at the Finance, Audit and Budget Committee.

Ms. Goodman-Hinnershitz noted that this is a good plan. She noted the increase in homeless people in downtown Reading.

Mr. Acosta noted that more and more families are being confronted with homelessness.

Ms. Reed noted that there is no job growth.

Mr. Acosta stated that the Administration is working to bring 150+ jobs to Reading.

Mr. Waltman noted the need for the City's strategies to work along with State and Federal issues to reduce homelessness. He stated that the City must institute its housing issues flawlessly and that they cannot be diluted by other issues.

Mr. Acosta stated that compounding the issue is decreased funding. He stated that a person's immigration status also affects their ability to receive assistance.

Mr. Waltman stated that the City is not spending their funds effectively. He stated that the City is constantly treating the symptoms.

Mr. Acosta noted that some states are beginning to require drug testing prior to receiving benefits.

Ms. Goodman-Hinnershitz requested that Councilors consider their statements if they are made without all the facts. She stated that most social service agencies are facing significant funding cuts and that they are under much scrutiny and oversight. She stated that poor people go where costs are lower. She noted that if Council wishes to become educated on these issues that they invite other agencies to a future meeting.

Ms. Reed questioned the City's responsibility in this issue and where the line is drawn. Mr. Acosta agreed stating that government and agencies cannot do everything for people. He stated that Council will be discussing incentives for businesses who wish to locate in Reading which will increase jobs.

Ms. Reed also noted the need for the City to de-densify and reverse illegal conversions of single family homes into apartments. She stated that many people don't care for their own families.

Mr. Spencer stated that as the City implements its housing strategy people will be forced from their homes. He questioned where they would go.

Mr. Acosta questioned if the tenants in the building at 9<sup>th</sup> & Walnut Sts were Section 8. He questioned why this building was not inspected and noted that the left hand does not know what the right hand is doing. Mr. Spencer stated that the City had inspected the building and their work decreased casualties from this fire. He stated that the property owner does not have insurance.

Ms. Goodman-Hinnershitz stated that the City requires insurance to secure housing permits. She questioned how this would be enforced. Ms. Reed agreed and stated that this situation occurs many times with fires within the City. Mr. Younger stated that as it is a requirement for housing it may be a quasi criminal offense.

- Non-Violence Week

Ms. Goodman-Hinnershitz distributed a flyer detailing the activities to be held during Non-Violence Week. She stated that the representative could not attend the meeting this evening and questioned when these items could be described during the meeting. Mr. Spencer stated that he would include them with his report.

- Ordinance creating a Tax Amnesty program

Mr. Younger stated that the legal specialist working on this issue is concerned that the program is being introduced this evening. Ms. Kelleher stated that she intentionally wrote the ordinance provide the Administration with the flexibility to choose the taxes it would pursue and the portions that would be excused.

Mr. Acosta suggested introducing the ordinance and discussing it at the next Finance, Audit and Budget Committee.

Mr. Waltman stated that he has many questions and that this item needs detailed discussions.

Mr. Spencer stated that the Administration has not yet decided on the details.

## **VI. Reducing the Threshold for Council Approval from \$25,000 to \$10,000**

Mr. Waltman questioned if this issue could be completed as there was still time before the regular meeting begins.

Ms. Goodman-Hinnershitz stated that the issue is complicated and will require extensive discussion.

Mr. Acosta stated that this is why he suggested it be discussed as a Committee of the Whole topic on the Finance, Audit and Budget Committee. He stated that there are amount issues and process issues that need to be reviewed.

Mr. Sterner questioned if the two issues are the reduction to \$10,000 and the purchasing policy amendment being introduced. Mr. Acosta stated that is correct and the introduction of the purchasing policy amendment will be withdrawn from the agenda. He stated that the issue is complicated.

The meeting adjourned at 6:32 pm.

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