



COMMITTEE of the WHOLE

CITY COUNCIL

MINUTES
May 21, 2014
Council Chambers
5:00 P.M.

COUNCIL MEMBERS PRESENT:

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

OTHERS PRESENT:

L. Kelleher, M. Bembenick, C. Younger, D. Cituk, E. Lloyd, L. Murin, V. Spencer

The Committee of the Whole meeting was called to order at 5:32 pm by Council President Acosta. He stated that Ms. Goodman-Hinnershitz was required to attend a work related event this evening and cannot attend.

I. Review Public Participation Rules

The public participation rules are included on the first page of the meeting agenda and the Public Comment regulations from the Sunshine Act and the City Code are attached to the agenda.

II. Stalemate on Water Lease Discussion

Mr. Acosta stated that there is clearly a conflict and stalemate between Council's position and the mayor's position on the water lease issue. He stated that the majority of Council want an open and transparent RFP of the system that could include a bid from RAWA and the mayor prefers to negotiate an agreement directly and solely with RAWA. He stated that unless someone has changed their position we should agree that there is no need to continue to haggle over the deadlock. He stated that City Council will wait for the mayor to join Council in an open RFP process and that no RFP will occur until the mayor agrees to do so. City Council is not interested in any information being presented outside of an open RFP process.

Mr. Acosta inquired if any member of Council has had a change in opinion or position. No one responded.

Mr. Acosta inquired if the mayor has had a change in opinion or position. Mr. Spencer stated that he has a prepared statement and that he is unsure about how the mayor and Council got out of sync. He stated that the answer to the question will be found in his prepared statement.

Mr. Waltman stated that he and Council do not wish to hear the terms of the deal the mayor has negotiated. He stated that there is no need to rehash the same issues.

Mr. Spencer stated that he has a prepared statement that he would like to read.

Mr. Waltman stated that Council can certainly hear the statement but that the statement should not include any detail of the negotiations with RAWA.

Mr. Spencer stated that he has a prepared statement.

Mr. Waltman asked that Mr. Acosta be prepared to intervene if Mr. Spencer's statement run afoul of the terms for the meeting. Mr. Waltman warned that the April 14th resolution instructs RAWA to stop negotiating.

Mr. Spencer again stated that he has a prepared statement. He stated that he is here with his negotiating team, the newly formed Our City, Our Water and the petitioners committee. He stated that his presentation is a summary of the May 6th Town Meeting, which Council didn't attend.

Mr. Acosta stated that Council has received a written summary of the Town Meeting.

Mr. Spencer stated that this is an advertised public meeting. He stated that public comment is required at this meeting. Mr. Waltman corrected that public comment is only permitted at regular business meetings and special meetings.

Mr. Spencer stated that this is special meeting and public comment is required. He stated that Council's position and agenda deviate from that.

Mr. Spencer began reading his statement. He read that his plan is to have a valuation of the water system by a private firm and that the valuation would be vetted by a citizens committee. He stated that the cost of the valuation will be covered by RAWA through a third party. He stated that during the valuation negotiations with RAWA will go into high gear. The committee includes Mr. Lloyd, Mr. Bembenick, Mr. Johnson, Mr. Marmarou, Mr. Daubert, Mr. Younger and himself. He stated that one additional Councilor and the City Clerk may choose to participate.

Mr. Spencer stated that his next town meeting will be held on June 16th and will focus on how much money needs to be generated to assist the City and how the money will be used. He stated that he will ask PFM to require Council to hold its own town meeting. He stated that

after this meeting the petitioners committee will reveal their members and describe their intent to place a referendum question on the November ballot requiring voter approval for the sizeable sale of a City asset.

Mr. Spencer stated that the valuation should conclude in August and then the valuation will be compared with the RAWA offer to see if it will support the City in various ways. He noted the need for RAWA to reform in customer service areas. He expressed the belief that citizens need to have a voice in this process and consider the privatization of the system.

Mr. Waltman expressed the belief that Mr. Spencer should hold as many town meetings as he believes he needs. He stated that Council intends to focus on the 2015 Budget, as they will not be hamstrung by the administration. He noted that at the time Mr. Spencer walked out of the water lease meetings with Council, the group was beginning the modeling to determine how much money was needed and where it should be applied. He suggested that having Mr. Spencer's negotiating team perform this function should be stopped as the majority of Council will not approve any outcome. He suggested that Council and the mayor identify a list of items that they can successfully work on together until a compromise is found. He noted that the RAWA board has been instructed to stop negotiating with the mayor.

Mr. Waltman suggested considering the amendment to the Recovery Plan and attacking Act 111 which creates budget difficulties annually. He questioned what is wrong with exploring an open bid process for the system that would allow the City and its citizens to consider all available options, as has been repeatedly requested by the majority of Council. He stated that until the mayor will agree to an open process discussions on the water system should stop. He noted that the mayor can continue to hold his meetings without inviting Council. He suggested that the mayor stop the games and road shows and stop trying to sell Council on a concept they have already rejected.

Mr. Spencer expressed the belief that Council created the game. He noted that Council refuses to address the questions when they arise. He stated that the budget will be presented on October 1st. He noted that fighting Act 111 will not be a speedy process. He also noted the need to explore opportunity for economic development. He stated that to obtain the CRIZ designation the City must have an economic development plan in place with developers ready to go.

Mr. Acosta noted the upcoming CRIZ meeting the mayor agreed to on Tuesday May 27th. Mr. Spencer accused Council of hiding behind their meeting process. Mr. Acosta accused the mayor of hiding behind memos and press releases.

Mr. Waltman stated that Council will not be backed into a corner when the budget is presented. He questioned talking about CRIZ as a solution for 2015 as obtaining the designation from the State is not a sure thing.

Mr. Schlegel stated that Mr. Waltman created budget deficits.

Mr. Spencer questioned why Mr. Schlegel cannot speak.

Mr. Waltman stated that the meeting was advertised as a discussion between the mayor and Council. He stated that two weeks ago the mayor and Mr. Lloyd agreed that the stalemate on this issue exists. He questioned why Mr. Spencer would continue to try to force his solution, the same solution, at Council.

Mr. Spencer stated that this is a public meeting and he read the advertisement "Special Session. Council will be holding a non-voting meeting to discuss matters relating to the water lease with the mayor".

Mr. Acosta stated that all Council meetings are public; however, public comment is only permitted at special meetings, regular meetings and public hearings

Mr. Sterner stated that the mayor has recognized the majority of Council's position since the beginning; a fair and open RFP process. He stated that PFM agrees with Council's position, as do County and State elected officials. He questioned why the mayor would continue to talk to Council about a deal negotiated with RAWA alone. He questioned what harm would come from considering all offers on the water system. He stated that various controls can be placed in the RFP and that RAWA can submit a bid. He inquired how RAWA will fund any up front payment without taking on additional debt.

Mr. Sterner stated that during all the meetings that preceded the impasse, the mayor never objected to the position of Council to obtain an open bidding process. Mr. Spencer stated that he did object. Mr. Sterner again questioned considering only a RAWA offer that would increase water rates.

Mr. Spencer requested the names of the elected officials who support Council's position.

Mr. Schlegel stated that Council is divorced from the numbers and works to shut others from the meeting.

Mr. Acosta called Mr. Schlegel out of order, as the meeting was advertised for a Council/mayor discussion and he asked Mr. Spencer to respond.

Mr. Acosta and Mr. Waltman left the meeting at this time.

Mr. Spencer accused Mr. Acosta and Mr. Waltman of walking out to avoid the heat this topic brings.

Ms. Reed noted that Council leadership is no longer at the meeting but there is still a quorum present. She questioned if the quorum wants to adjourn. Mr. Sterner moved to adjourn. Mr. Marmarou objected.

Mr. Marmarou noted the need for the parties to speak their peace which could identify a solution.

Ms. Reed called a recess.

Ms. Reed returned and stated that as Finance Chair she will reconvene the meeting. She suggested an abbreviated version of the meeting whereby Council, the mayor and the public will be permitted to make three minute statement, which the City Clerk will time.

Mr. Marmarou suggested looking at the systems in place in Lancaster, Allentown, Easton, Harrisburg, etc. to compare the value of those systems, the ownership and the rates charged. He suggested a complete review of other systems.

Mr. Murin began to respond and Ms. Reed asked the mayor to respond. The mayor noted that he has not agreed to the format of the meeting, both the advertised purpose and the reconvened purpose.

Ms. Reed asked Ms. Kelleher to explain the advertisement. Ms. Kelleher stated that the title of the ad was Special Session and the body of the advertisement called the meeting a non-voting meeting, as Council stated that the meeting was intended to allow discussion between the members of Council and the Mayor without public comment. She noted that the Sunshine Act requires public comment at regular and special meetings only and that this session is neither of those. She stated that the language in the ad was intentionally selected to avoid any question about the ability of the public to speak.

Ms. Reed asked the Solicitor to verify the meaning of the ad. Mr. Spencer again read the advertisement. He stated that the agenda differs from the ad.

Mr. Younger agreed that this is not a special meeting or a regular meeting and that public comment is not required, which was conveyed to the administration earlier today. He suggested sticking with matter advertised.

Mr. Marmarou stated that he is tired of fielding questions from the public. He noted the need for Council and the mayor to stop fighting.

Mr. Daubert noted his frustration. He noted that the public must also feel frustrated watching this process, or lack thereof. He stated that the lack of proper communication does not help the public.

Mr. Sterner noted that the mayor and Council have very different positions on the water system. He again questioned why the City should only consider a deal with RAWA. He noted that various parties spew numbers and that numbers can be manipulated to serve almost any end result. He stated that he will not consider any offer outside the open bidding process. He asked RAWA why they are afraid of the open bidding process. He suggested that the mayor stop negotiating with RAWA when a super majority will not vote in favor of it.

Ms. Reed suggested opening the floor for informal public comment. She stated that the City is crumbling and the administration does nothing about it, other than to issue negative memos and press releases. She noted that five Councilors remain committed to a fair and open process, which the mayor agreed to when talks started earlier this year. She suggested finding a mediator to assist with this issue. Although in March PFM offered to mediate; however, the mayor walked out of that session.

III. Informal Public Comment Period

Ms. Reed stated that each person who chooses to speak will be provided with three (3) minutes, timed by the City Clerk.

Mr. Murin stated that 6% of the water systems in the nation are owned privately and the rest are owned publicly. He stated that the systems in private hands have higher water rates. He stated that in West Chester the system is privately owned and the rates are \$200 higher annually, based on a 2006 study. He continued with other examples. He stated that the information relayed by Stevens and Lee is faulty. He stated that the system does not yield 77MGD and that yield is based on information from 1960s. Today the system yields only 35MGD. He stated that the report contains other errors. He stated that the majority of privately owned systems are in the hands of Pa. American and Aqua. He asked Council to consider all facts.

Ms. Reed noted that no member of Council has ever discussed their willingness to sell the system.

Mr. Schlegel stated that the water system yield is faulty. He asked Council to consider facts based on the market rate of the system. He noted that any bid will rely on a valuation and what a company can borrow on that expected value. He stated that Council needs to consider the management of the system since 1994 which provided the City with a \$100M subsidy over this 20 year period. He stated that all RAWA debt was Council approved. He agreed that the Stevens and Lee report is faulty. He suggested that the entire group sit down and resolve this issue. He suggested obtaining information from RAWA. He suggested a presentation about RAWA's customer service and he asked that complaints about customer service to be reported to the RAWA Board.

Mr. Bembenick stated that there is a \$7M deficit expected for 2015, which grows annually. He stated that a long term deal on the system will drive taxes down. He noted that annual budgets are stressed by growing personnel costs, Act 73, etc. He stated that a long term water lease could drive taxes down, stem budget cuts and assist with the expected deficits.

Mr. Lloyd suggested that Council also consider the consent decree on the sewer system and the cost to the customers. He stated that a sale of the water system will increase water rates.

Johanny Cepeda stated that many questions remain unanswered. She expressed concern about any proposed increase in water rates as local businesses and residents cannot afford further rate increases. She stated that a petitioners committee has formed and they will take matters into their own hands.

Brenda Skimski stated that she is the Vice President of AFSCME and a City employee. She stated that she was born in the City. She noted the need to resolve this issue, as it affects residents and employees alike.

Ed Terrell stated that he is a resident and that he believes the town meeting conducted by the mayor was informative. He questioned why Council did not attend. He noted the need to resolve this matter.

Gary Wegman thanked Council for remaining and listening to the public's comments. He noted the need for the public to hear Council's position on this issue. He stated that Council needs to consider the control of the system. He suggested that a long term deal will denigrate public control and turn the system into a cash cow.

No other citizens stepped forward to speak and the meeting closed at 6:37 pm.

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