



COMMITTEE of the WHOLE

CITY COUNCIL

MINUTES
June 9, 2014
5:00 P.M.

COUNCIL MEMBERS PRESENT:

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

OTHERS PRESENT:

L. Kelleher, S. Katzenmoyer, T. Butler, D. Cituk, C. Younger, C. Snyder

The Committee of the Whole meeting was called to order at 5:03 pm by Council Vice President Waltman.

I. Housing Ordinance Amendment

Ms. Butler distributed a Standard Operating Procedure to gain entry to properties when the owner or tenant will not allow access to the inspector.

Mr. Natale arrived at this time.

Ms. Butler explained that after three attempts to gain entry have failed, Property Maintenance and Law apply for an administrative search warrant from the MDJ. She stated that if the warrant is granted, the property is posted and both the owner and tenants are notified of the date and time the warrant will be served. She explained that if access is denied after the issuance of the search warrant, the new procedure will be to file for an injunction so that the court orders the owner and/or tenant to allow access. If this order is ignored, Law will go back to court to ask for the court to find the owner/tenant in contempt and penalize them. She stated that the only goal through this process is to inspect the property.

Ms. Butler stated that forcible entry is allowed as soon as the administrative search warrant is issued but that the City refrains from using it unless there is reason to believe that there are dangerous conditions in the building.

Mr. Marmarou questioned if this warrant was different from an arrest warrant. Ms. Butler stated that it is very different.

Mr. Marmarou questioned the amount of time this process would take. Ms. Butler stated that adding these steps would increase the time of the process at the front end rather than using force and having a lawsuit at the back end. She stated that either way, there are legal processes.

Mr. Marmarou stated that Albright students could move into a property in September and this process could take until the end of the semester or longer. Mr. Natale stated that the student housing process would not change.

Mr. Marmarou stated that all these processes take too long. Ms. Butler stated that citizens have a right to due process.

Mr. Marmarou stated that there is a situation where tenants were evicted but did not move out. Mr. Natale explained that the tenants appealed the eviction in court and they cannot be removed during the appeal process.

Mr. Spencer arrived at this time.

Mr. Marmarou questioned the process used in other college towns. Ms. Butler stated that other municipalities use forcible entry and then have lawsuits filed against them.

Mr. Marmarou questioned how often this process will need to be used. Ms. Butler stated that there are several property owners who challenge the City each time they are able. She stated that there are several already waiting to test this process. She reminded all that the properties cannot be inspected while it is in the process.

Mr. Murin arrived at this time.

Mr. Spencer questioned if the tenants remained in the properties during the appeal. He stated that unsafe conditions may exist if the property cannot be inspected. Mr. Younger stated that they may remain during the legal process.

Mr. Sterner stated that the legal process is lengthy. He questioned if timelines can be requested from the judge as dangerous conditions may exist. He questioned if the inspectors always tried three times before requesting a warrant. Mr. Natale stated that they try three times unless they suspect there are dangerous conditions.

Mr. Sterner questioned how long it takes to try three times. Mr. Natale stated that Property Maintenance works closely with the Police with search warrants. He stated that the District Attorney has approved removing people in unsafe conditions and stated that in this case people can be removed in several days.

Ms. Reed questioned how this process compares to other PA cities. Mr. Natale stated that he participates in a statewide organization and that Reading is ahead of others with inspections and code enforcement. He stated that Allentown generally follows Reading's lead.

Ms. Reed questioned if the number of properties needing inspection was similar. Mr. Natale stated that Allentown's number is very similar to Reading. He stated that many other municipalities work with the utility companies to have the utilities shut off when a property is deemed unsafe.

Mr. Waltman questioned if there was a way the City could recoup these court costs. Ms. Butler stated that the City can request restitution at the hearing to enforce the injunction.

Mr. Waltman stated that working with the utility companies to shut off the utilities when a property is deemed unsafe is excellent. He expressed the belief that the City will be held liable if there is a problem at a property and it cannot gain access. He suggested that those who refuse entry lose their business license and housing permit. He stated that each appeal assures that there will be no inspection.

Mr. Waltman questioned the number of warrants and appeals made annually. Mr. Natale stated that there are three property owners who continually appeal. He stated that most others comply when the Police accompany Property Maintenance when a warrant has been issued.

Mr. Acosta arrived at this time.

Mr. Spencer questioned how a property was deemed unsafe. Mr. Natale stated that these properties usually involve Building Trades and/or the Fire Marshal office.

Mr. Spencer noted the need to err on the side of safety. He questioned if a property can be assumed unsafe if it has not been inspected. Ms. Butler stated that tenant complaints help gain entry but that other tenants refuse access.

Mr. Waltman stated that when the property owner goes through the permit process he should need to sign to agree to the City's terms and conditions including inspections. He stated that if there is no compliance that all permits should be at risk. Ms. Butler stated that PA Act 90 does allow all permits to be revoked.

Mr. Marmarou noted the need for landlords to include the need for tenants to allow the inspection in their lease.

Mr. Natale explained that this process must be followed for a single unit inside a multi-unit property if one tenant does not allow the inspection.

Mr. Waltman noted the need for all housing rules to be handed out in a packet during the housing permit process. Mr. Natale stated that he often gets calls asking for clarification and additional information.

Ms. Butler stated that in answer to the question about other municipality's process, most stop at the administrative search warrant level and force entry. She stated that Reading is taking the extra steps to avoid forced entry.

Mr. Sterner questioned if there was a way to speed up the process. Ms. Butler stated that the City tried having a housing court established but it was refused. She stated that the process must follow the normal court schedule allowing for due process.

Mr. Sterner suggested that Reading try again to have a housing court established. Mr. Natale cautioned that if this occurs there may be a limited selection of judges.

Ms. Snyder questioned if additional modifications to the legislation were needed. She stated that the amendment also eliminates the need for property owners to submit tenant lists. She stated that this legislation has been tabled since April.

Mr. Sterner questioned if the City still requested the name of the local building manager for out of County owners. Ms. Butler stated that this requirement was eliminated in a prior amendment. Mr. Natale stated that all contact is made with the property owner.

Mr. Waltman suggested that Codes know the building manager. Mr. Natale stated that IT has been doing tremendous work to assist Property Maintenance. He stated that his hope is that all forms will be available online and that building managers can get copies of all notices. He stated that PA requires building managers to be real estate brokers but that there are several in Reading who are not.

Mr. Sterner questioned if Property Maintenance knew the owners of rental properties. Ms. Butler stated that the Vacant Property registration legislation will assist in finding owners of vacant properties.

Mr. Sterner stated that not all problem properties are vacant. Mr. Natale stated that Property Maintenance uses County records.

Mr. Waltman stated that this legislation is eligible for vote this evening.

Ms. Butler and Mr. Natale left the meeting at this time.

II. Agenda Review

Council reviewed this evening's agenda including the following:

- Resolution authorizing the MOU with RAWA for curbside collection fee billing

Mr. Waltman requested that this resolution be tabled this evening.

- Commendation urging Meatless Monday

Ms. Kelleher stated that this will be issued on June 23 as Mr. Daubert will not be attending the meeting this evening.

Ms. Reed stated that she has received many negative comments about this from the public.

III. Other Matters

- Egelman's Park baseball field

Mr. Marmarou stated that he knows of a high profile citizen who would like to develop this field like the fields in Bern Township.

Mr. Acosta stated that any group using this field cannot impose on the MOU with the Recreation Commission.

Ms. Reed suggested that Mr. Marmarou check with the County to understand the pros and cons of the operation of this facility.

Mr. Marmarou questioned a presentation to Council. Ms. Snyder and Ms. Reed suggested that the presentation be made to the Recreation Commission.

- Override of Veto of Ordinance 46-2014

Mr. Spencer questioned the cost to dissolve RAWA. Mr. Waltman stated that it can be anywhere from zero to \$7 million depending on the transition. He stated that it is in the current member's best interest to resign. He stated that this is not a specific amount but a tangible one. He noted Council's goal to keep costs low.

Mr. Spencer questioned the rationale of dissolving RAWA. Mr. Waltman noted the need to protect this City asset.

Mr. Spencer stated that Council makes all appointments to RAWA. Mr. Waltman stated that this is true but that appointees then contradict Council's views. He noted the need to strengthen City control and oversight.

Mr. Spencer questioned what Council wanted. Mr. Waltman stated that he would explain in two weeks. He stated that not all issues need to be discussed.

Mr. Spencer questioned why Council needed to protect this asset. He stated that Council approves all appointments and approves all debt. Mr. Waltman stated that there cannot be

debt overload. He stated that not all debt is or was approved by Council and that Council must do better in its due diligence. He stated that this system is not perfect.

Mr. Spencer questioned if RAWA needed to be protected from the City. Mr. Waltman noted the need for better integration between the City and RAWA. He expressed the belief that RAWA is too autonomous. He compared RAWA with the airport and stated that this City asset was eroded over time.

Mr. Spencer stated that the County was asked to do more with the airport and so the County wanted more control. Mr. Waltman stated that this can also happen with RAWA. He stated that the City water system is very valuable and that RAWA is not responsive when information is requested.

Mr. Spencer questioned who appointed RAWA members. Mr. Waltman stated that it was Council.

There was discussion between Mr. Spencer and Mr. Waltman about the protections needed.

Mr. Sterner stated that this entire fiasco could have been avoided if an RFP was released earlier in the process. He noted the need to review all possible offers. Mr. Spencer stated that he made it clear at the beginning of the process that he wished to work with RAWA first.

Mr. Spencer questioned what the RFP value would be based on. Ms. Reed noted the need for a valuation of the system. Mr. Waltman stated that this valuation was part of the Council process. Mr. Spencer stated that the valuation was used as an ultimatum by Council. He stated that he has a copy of this paperwork.

Mr. Spencer questioned the value of the system. Mr. Sterner stated that at this point it doesn't matter.

Mr. Spencer stated that he wanted to get the valuation of the system and negotiate with RAWA before going to a full RFP. He stated that he has been told that he can negotiate with RAWA because they have a current agreement with the City. He stated that amounts from an RFP don't hold up if there is no valuation.

Mr. Waltman noted the need for the City to get the best value through an open market process. He stated that the RFP responses could be three times the valuation. He stated that Council was doing its due diligence when the process broke down.

Mr. Spencer again noted the need for the valuation of the system. Mr. Waltman suggested that the valuation be gotten. He stated that each side is waiting on the other and there is no progress. He stated that the Mayor cannot move forward without Council approval and Council cannot issue an RFP. He noted the need to work together on the 2015 budget.

Mr. Waltman stated that Council cannot issue an RFP. Mr. Spencer stated that the Administration is prepared to present a valuation to Council.

Mr. Sterner questioned hearing offers from others besides RAWA. Mr. Spencer stated that an RFP may need to be issued if RAWA cannot meet the valuation.

Mr. Waltman noted the need not to use RAWA as a benchmark or a valuation.

Ms. Reed noted that the discussion is going in circles.

Mr. Spencer questioned the conflict present in order for Council to hire outside legal counsel. Mr. Waltman stated that this is a legal matter and he will not discuss it outside executive session.

Mr. Sterner stated that the current conversation proves that there is conflict. Mr. Spencer noted the need for Mr. Sterner to be better informed of the PA Municipalities Authorities Act. He stated that this is not a defined conflict. He stated that Council did not RFP to hire their legal counsel.

Mr. Waltman again stated that this is a legal issue and should be discussed in executive session. He likened this evening's questions to Jeopardy.

Mr. Spencer stated that the City Solicitor has opined that there is no conflict. Ms. Reed stated that the City Solicitor serves both the Administration and Council. She stated that he has sided with the Administration from the outset of this issue and that as long as one solicitor serves two bodies the conflicts will continue. She took offense to the insults Mr. Spencer made of Mr. Sterner.

Mr. Waltman noted the need to find remedies. He stated that in the interim there is no RFP. He noted the need to begin focus on the 2015 budget, the Act 47 amendment, the Penn St project, etc. He also noted the need to address Act 111.

Mr. Spencer, Mr. Murin, and Mr. Cituk left the meeting at this time.

IV. RAWA Appointments

Mr. Waltman stated that the Mayor announced that he appoints members of the Water Authority. He stated that this opinion was based on a lawsuit in Harrisburg. He noted his understanding that the Harrisburg mayor is a part of Council. He stated that this is not the case in Reading and that City Council is the governing body in Reading. He stated that any challenge to Council making RAWA appointments must have a better legal standing.

Ms. Reed stated that yet another lawsuit will again increase the City's legal fees.

Mr. Acosta stated that he is tired of the Administration finding new ways to try to take credibility away from Council and their process.

Ms. Reed stated that the residents that she has spoken to can see through the Mayor's posturing.

Mr. Acosta stated that Council has been opposed to a member of the Administration serving on RAWA and should not put itself in the same position.

Mr. Marmarou stated that if a new authority is formed, Council has been named as members in the legislation. Mr. Acosta stated that Council names appear in the legislation for incorporation purposes only and that they will not be members. Mr. Younger agreed.

Mr. Waltman stated that the ball is in RAWA's court.

Mr. Spatz from the Reading Eagle was permitted to speak.

Mr. Spatz stated that RAWA was originally formed so that the City did not have to follow PUC regulations. He questioned when the PUC would begin to regulate it again if City officials serve on the board. Mr. Waltman stated that this is a fine line. He stated that if the new authority is launched, Council would need to nominate five individuals immediately as it did with CRIZ. Mr. Acosta agreed and stated that Council will appoint individuals and not serve as the authority.

Mr. Acosta noted the need for all to continue to explain that the water system is not being sold. Ms. Reed stated that this has become an urban legend and has been difficult to quash.

Mr. Marmarou stated that residents are confused about rate increases. He stated that water rate increases would increase the water charge only and not the entire bill.

Mr. Acosta stated that RAWA's \$50 million proposal would increase rates by 30%-40% and its \$200 million proposal would increase rates by 25%. He stated that this indicates that RAWA is not financially stable and that people are being given misinformation.

Mr. Waltman stated that those concerned with rate increases should be told that since there is no process in place to move forward, there will be no increase in 2014.

Mr. Spatz stated that he is currently trying to confirm with RAWA about the rate increase and to which charges it would apply and that all RAWA customers would pay the increase, not only City residents.

Mr. Acosta stated that there is also confusion with RAWA as their proposals are not all up-front lump sums as requested. He stated that they include a lump sum and incremental payments.

Mr. Waltman noted the need for Council not to get cornered by RAWA's threats.

Ms. Goodman-Hinnershitz arrived at this time.

Ms. Reed noted the increase in public relations funds being spent by RAWA. Mr. Acosta expressed the belief that there will be additional information brought forth by RAWA if the veto is overridden this evening.

Mr. Spatz questioned Mr. Acosta's definition of privatize. Mr. Acosta stated that it is selling to a private organization.

Mr. Spatz stated that there are many definitions of privatize. He noted the need for Council to better define it to the public. Ms. Goodman-Hinnershitz noted the need to be very clear with the public. She stated that she defines it as outside public control.

Mr. Waltman stated that there is too much turmoil. He stated that increasing revenue does not treat the underlying issues. He stated that accepting a lump sum for a lengthy time frame does not leave future options.

Ms. Goodman-Hinnershitz agreed with Mr. Waltman. She expressed the belief that City assets are vulnerable to private leverage.

Mr. Waltman stated that he has grown even more protective through this process.

Ms. Reed expressed the belief that the extreme reactions are red flags.

The meeting adjourned at 6:37 pm.

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