

City of Reading City Council
Regular Business Meeting
Monday, April 28, 2014

Council President Francis Acosta called the meeting to order.

The invocation was given by Rev. Carolyn Hetrick, Holy Spirit Lutheran Church.

All present pledged to the flag.

ATTENDANCE

Council President Acosta
Councilor Daubert, District 1
Councilor Goodman-Hinnershitz, District 2
Councilor Sterner, District 3
Councilor Marmarou, District 4
Councilor Reed, District 5
Councilor Waltman, District 6
City Auditor D. Cituk
City Solicitor C. Younger
City Clerk L. Kelleher
Managing Director C. Snyder

Council President Acosta announced that the purpose of the Executive Session during the April 23rd meeting was to discuss the potential litigation related to the dissolution of the Reading Area Water Authority and potential litigation to compel the transfer of the Authority's assets to the City.

PROCLAMATIONS AND PRESENTATIONS

City Council issued the following commendations:

- recognizing Perfect Candy and Packaging Co, accepted by Robert Erkes
- recognizing AFSCME Week, accepted by AFSCME representatives

PUBLIC COMMENT

Council President Acosta stated that there were fourteen (14) citizens registered to address Council on agenda matters and two (2) citizens registered to speak about non-agenda matters this evening. He reminded those registered about the public speaking rules. He inquired if any Councilor objected to suspending the public comment rule requiring non-agenda comment at the end of the meeting. As there was no objection, the rule requiring non-agenda comment at the end of the meeting was suspended.

Justo De Jesus, of Chestnut Street, was not present.

Johanny Cepeda, of Walnut Street, was not present.

David Nazario, of North 3rd Street, read the article in the Reading Eagle about the Council session on March 19^h and he stated that a Charter complaint was filed against City Council by Aaron Thomas for holding illegal executive sessions. He stated that executive sessions have become the norm. He expressed the belief that the use of police force at the March 19th meeting was disrespectful and obstructive. He expressed the belief that Council has been improperly applying the Sunshine Act regulations and going into illegal executive sessions. He expressed the belief that the public should have the ability to observe Council's meetings on the water lease. He quoted statements made by the Council President on social media.

During his comments Mr. Nazario referred to comments made by City Council members during various executive sessions and he repeatedly used the names of several elected officials and Council President Acosta advised him of the regulation requiring citizens to address the body of Council as a whole and refrain from using the names of public officials. *(See Administrative Code § 5-209. Public participation D, E, F and G)*

Mr. Nazario continued by stating that Council should encourage public participation and input. He read from another Reading Eagle article regarding the privatization of water systems. He again made various accusations against Council members. He stated that if Council can mess with his life, he can mess with the lives of Council members.

Roger Stief, of Mt. Penn, deferred to Felix Freytiz.

Felix Freytiz, of Carroll Street, stated that he is the President of AFSCME and he stated that AFSCME could not accept the Commendation issued by Council this evening as Council members do not support AFSCME members. He noted the work AFSCME employees do to keep the City services running day and night.

Mary Jane Smith, of Perkiomen Avenue, stated that she sympathizes with Council as they deal with this difficult issue. She expressed the belief that Council should take time to consider the issue without being pressured into the decision making process. She stated that the administration's position is reflecting badly on them. She noted the extreme fluctuations in her water bill. She stated that she lives alone and sees fluctuations in her monthly billing running between \$30 to over \$100. She expressed the belief that RAWA requires improved monitoring. She noted that RAWA complaints are made by many people. She reminded Council that 4-6 months ago she spoke at a Council meeting and requested that RAWA provide a grace period or adjustment to the billing period that would allow people receiving

SSI payments to avoid delinquencies. She stated that RAWA just acted on this request in April, which is ridiculous. She also noted that the high fees that are on the RAWA bills are also ridiculous.

Claudia Ortega, of Rose Street, expressed the belief that Reading citizens are already suffering enough hardships and she asked Council to deeply consider the water lease issue before making a decision.

Aaron Thomas, of South 13th Street, deferred to Vince Rosado.

Vince Rosado, of North 13th Street, he expressed the belief that the public and Council needs to be better educated on the water lease issue. He noted his confusion about the process being used to consider the water lease issue, as the Charter provides the mayor with broad executive authority. He read from Charter Sections 102 and 103 “§ 102. *Grant of power. The City shall have the power to exercise any power or to perform any function not denied by the Constitution of the United States, by the Constitution of Pennsylvania, by act of the General Assembly of Pennsylvania, or by this Charter.* § 103. *Exercise of powers. All powers of the City shall be exercised as provided by this Charter, or if the Charter makes no provision, as provided by ordinances or resolutions of the City Council.*” He also cited other sections of the Charter and Administrative Code and questioned why Council believes they have the ability to retain outside legal counsel. He questioned where the Charter or Administrative Code allows Council to retain outside counsel. He also questioned where it says Council can sabotage the administration by hiring outside legal counsel. He stated that Council needs to remember that they represent the public.

Mr. Rosado stated that RAWA is no friend of the City, although AFSCME employs working hard to provide the public with clean water; one hand doing a good thing and the other doing the bad. He questioned if Council wants the stick and he suggested that Council members not interested in putting themselves behind this issue should leave. He continued that if Council members would not voluntarily leave, he would not run up there and make the Council members leave now but he may in the future.

Council President Acosta stated that the comments made by Mr. Rosado are disrespectful and impertinent and he asked Mr. Rosado to step away from the podium.

Councilor Waltman noted the need for citizens to speak to the body of Council with decorum and respect.

A brief recess was requested by Councilor Waltman to confer with the Council President at approximately 7:25. The meeting resumed at approximately 7:30 pm.

William Vitale, of Hill Road, stated that the issue with the water lease seems to be in the context of the takeover of the water system by a private firm. He stated that he prefers a

publically run system. He stated that water is the oil of the 21st century. He stated that he has heard about Council's desire to obtain the best deal for the City. He expressed the belief that it is more important for the City to keep control and ownership of the system; however, he agreed with the need for an RFP process. He questioned the need to consider offers from private firms. He suggested that Council explain their desired goal. He expressed the belief that the process Council is following is useless and reckless as it is better to retain a lease with RAWA rather than consider private firms with deep pockets.

Stephanie Payton, of North 12th Street, was not present.

Justus James, of Plymouth Meeting, stated that he represents AFSCME and that Council needs to improve their communication. He stated that AFSCME refused to accept tonight's commendation because Council does not support the AFSCME employees. He stated that AFSCME employees were rated lower than financial issues by Council on a survey. He expressed the belief that Council has placed AFSCME employees in jeopardy.

Brenda Skimski, of Seibert's Court, stated that with a heavy heart she too refused to accept the commendation issued by Council tonight as the commendation is hollow in light of the current priority list prepared by Council where they ranked financial issues, including money, over the value of AFSCME employees. She noted the value of AFSCME employees as they keep the City running night and day.

Rick Kasprzewski, of South 15th Street, stated that RAWA is a touchy subject. He stated that the City started running its water system in the late 1800s. He urged Council to continue to maintain control over the water system. He expressed the belief that the broken communications between Council and the Administration needs to be rectified.

James Rodriquez, of Court Street, spoke in support of the Microloan program resolutions that were removed from the agenda. He stated that he is involved with small business development at Kutztown University and he noted the importance of these loan programs to support upstart businesses.

Carl Baskin, of Fairview Street, stated that he represents the Iron Workers 420 as Vice President and he distributed photographs of a crane used at the Doubletree Hotel site in the 700 block of Penn Street. He expressed his belief for the use of local unions, rather than unions outside of Berks County. He described the terrible accident that could have occurred with this crane at the hotel site and he noted his support for a project labor agreement.

APPROVAL OF THE AGENDA & MINUTES

Council President Acosta called Council's attention to the agenda for this meeting, including the legislation listed under the Consent Agenda heading and the minutes from the April 14th

Regular Meeting of Council. He noted that the Administration is withdrawing the Ordinance for the County Radio System lease agreement.

Councilor Marmarou moved, seconded by Councilor Sterner, to approve the minutes from the April 14th Regular Meeting of Council and the agenda as amended, including the legislation listed under the Consent Agenda heading. The motion was approved unanimously.

Consent Agenda

A. Award of Contract – for the CCTV and Manhole Inspection Project to the four (4) qualified proposers: Mr. Rehab, RedZone Robotics, Savin Engineers and Video Pipe Services. **(Purchasing)**

B. Award of Contract – for the engineering for 6th and Canal Pump Station improvements to T & M Associates **(Purchasing)**

ADMINISTRATIVE REPORT

There was no administrative report at this meeting.

AUDITOR’S REPORT

City Auditor Cituk read the report distributed to Council at the meeting, in summary:

- 2014 Admissions Tax Collection
- 2014 Real Estate Transfer Tax

REPORT FROM DEPT. DIRECTORS, BOARDS, AUTHORITIES, & COMMISSIONS

None.

ORDINANCES FOR FINAL PASSAGE

Pending – Further Legal Review Required

Bill 37-2014 – dissolving the Reading Area Water Authority, approving the Certificate of Termination of the Authority, and authorizing all actions necessary to effectuate the same. **(Law/Council Staff) Introduced at the March 31 special meeting; tabled at the April 14 regular meeting**

Bill 41-2014 – creating the Reading Regional Water Authority **(City Council) Introduced at the April 14 regular meeting**

Bill 26-2014 – approving a long-term lease of certain premises within City Hall to the County of Berks in support of regional emergency communications & operations **(Man Dir) Introduced at the March 24 regular meeting; tabled at the April 14 regular meeting – WITHDRAWN BY THE ADMINISTRATION**

Bill 39-2014 - amending the City Code Chapter 308, Housing, of the Codified Ordinances to eliminate the tenant listing requirement and provide for injunctive relief **(Man Dir)** *Introduced at the April 14 regular meeting; Advertised April 22*

Potential Override of Veto

Bill 38-2014 – amending the Administrative Code which authorizes all departments, offices, and agencies to undertake the RFP process **(Law/Council Staff) (Law/Council Staff)** *Introduced at the March 31 special meeting; Enacted April 14; Must be returned to the Council office by 4-24*

Councilor Reed moved, seconded by Councilor Goodman-Hinnershitz, to override the mayor's veto of Bill No. 38-2014.

The mayor's veto of Bill No. 38-2014 was approved by the following vote:

Yeas: Daubert, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Acosta,
President - 7
Nays: None - 0

Bill 40-2014 - amending Chapter 212, Fee Schedule, Section 120 Parks and Recreation, of the City of Reading Code to add a rental fee for Keffer Park Field House **(Recreation Commission)** *Introduced at the April 14 regular meeting; Advertised April 22*

Councilor Goodman-Hinnershitz moved, seconded by Councilor Daubert, to adopt Bill No. 40-2014.

Councilor Goodman-Hinnershitz stated that this is a positive thing for the Rec Commission. She stated that the Rec Commission is making great strides with their programming. She noted the importance of increasing fees in a responsible manner to allow the Commission to become self sustaining.

Bill No. 40-2014 was enacted by the following vote:

Yeas: Daubert, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Acosta,
President - 7
Nays: None - 0

Bill 42-2014 – authorizing a MOU between the City and the Reading Recreation Commission **(Law)** *Introduced at the April 14 regular meeting*

Councilor Goodman-Hinnershitz moved, seconded by Councilor Daubert, to adopt Bill No. 42-2014.

Councilor Goodman-Hinnershitz stated this is also a positive step forward for the Commission and for the City, as this was a long standing issue.

Bill No. 42-2014 was enacted by the following vote:

Yeas: Daubert, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Acosta, President - 7

Nays: None - 0

Bill 43-2014 - amending the Home Rule Per Capita Tax Ordinance penalty and interest sections and setting the due date as July 1st annually (Law) *Introduced at the April 14 regular meeting; Advertised April 22*

Bill No. 43-2014 was enacted by the following vote:

Yeas: Daubert, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Acosta, President - 7

Nays: None - 0

INTRODUCTION OF NEW ORDINANCES

The following ordinances were read into the record:

A. Ordinance - amending the Purchasing Policies in the Administrative Code (Adm Services & Council Staff) *Reviewed by Finance Committee on April 21st*

B. Ordinance - amending Chapter 212, Fee Schedule, Section 120 Parks and Recreation, of the City of Reading Code to add a rental fee for Egleman's Park (Recreation Commission)

C. Ordinance - notifying the Reading Area Water Authority and other parties about the termination of the water lease (Council Staff)

RESOLUTIONS

A. Resolution 56-2014 - extending the term of Acting Fire Chief Gary Mogel for an additional 90 days (Man Dir)

Councilor Reed moved, seconded by Councilor Marmarou, to adopt Resolution 56-2014.

Ms. Snyder stated that the administration is actively searching for a new Fire Chief and she thanked Acting Chief Moyer for stepping in to assist in this interim period.

Resolution No. 56-2014 was adopted by the following vote:

**Yeas: Daubert, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Acosta,
President - 7**

Nays: None - 0

B. Resolution 57-2014 – extending the term of Acting Public Works Director Ralph Johnson for an additional 90 days **(Man Dir)**

Councilor Goodman-Hinnershitz moved, seconded by Councilor Daubert, to adopt Resolution 57-2014.

Ms. Snyder stated that the administration is actively searching for a new Public Works Director and she thanked Acting Public Works Director Ralph Johnson for stepping in to assist in this interim period.

Council President Acosta stated that Mr. Johnson has done a fantastic job with the Public Works Department.

Resolution No. 57-2014 was adopted by the following vote:

**Yeas: Daubert, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Waltman, Acosta,
President - 7**

Nays: None - 0

C. Resolution 58-2014 – retaining Stevens & Lee as independent legal counsel to assist City Council with legal matters and litigation related to the dissolution of RAWA and the creation of a new water authority **(Council Staff)**

Councilor Reed moved, seconded by Councilor Goodman-Hinnershitz, to amend Resolution 58-2014 as follows:

“City Council finds and determines that there is a conflict with Mayor Spencer and the City Administration regarding matters with the termination of the water lease, the dissolution of the Reading Area Water Authority and the creation of a new water authority; therefore, City Council hereby determines to retain Stevens and Lee as independent legal counsel to represent and assist the City Council in connection with the legal processes to terminate the water lease, dissolve the Reading Area Water Authority, to create a new water authority, and to assist with other legal matters pertaining to the issues with the water lease, including litigation, retroactive to

Monday, April 21, 2014.

City Council also directs the Administration, including the Law Department, to process and pay the bills submitted by Steven's and Lee, as per the Law Department's guidelines for outside legal counsel, as they are submitted."

Councilor Daubert stated that he will not support the amended resolution as he does not believe the dissolution of RAWA is necessary as it will not put the City in a better place; therefore he does not believe in the need to retain legal counsel to assist with the dissolution.

Councilor Marmarou stated that he agrees with Councilor Daubert. He noted the need for all parties to work together.

Councilor Waltman began speaking but he was disrupted by loud comments from the audience. Council President Acosta called for order.

Councilor Waltman explained that Council is not considering the sale of the water system to any party. He stated that Council is waiting for the Mayor to agree to restart the process with Council. He noted the need to limit debt, retain employees, limit rate increases, etc. He noted the need for the City collectively to go through an open RFP process. He noted the importance of the system to all citizens.

Councilor Waltman offered to meet with residents who have questions. He asked interested residents to call the City Clerk's Office to schedule appointments.

Again citizens began shouting from the audience.

Councilor Waltman stated that Council has the right to retain outside legal counsel. He stated that the citizens come first. He noted that Council's requests for information were flatly rejected.

Again citizens began shouting from the audience. Council President again called for order. He noted that now is not the time for a discussion with the public.

Resolution No. 58-2014 was adopted, as amended by the following vote:

Yeas: Goodman-Hinnershitz, Reed, Sterner, Waltman, Acosta, President - 5

Nays: Daubert, Marmarou - 2

COUNCIL COMMENT

Councilor Goodman-Hinnershitz stated that she appreciates the democratic process that includes public input. She noted the need for Council to consider public input and the

education they receive about issues. She noted concern with the current actions and operations of RAWA. She stated that the opportunity to resolve the conflict will occur at the requested May 6th meeting with the mayor, Council and RAWA. She expressed her belief in retaining the water asset as a public asset. She stated that Reading's fore-fathers saw to it that we have this asset and the asset needs to be protected now and in the future.

Councilor Reed noted the need for people to be reasonable as they address their beliefs on any issue. She urged people to speak with Council members in a reasonable manner and avoid using methods of intimidation.

Councilor Daubert commended those who provided public comment this evening. He noted the importance of citizen input. He noted the need to respect the process Council has decided to use.

Councilor Sterner also thanked those who provided public comment. However, he noted that there was no need for bad and out of control behavior. He stated that Council members respectfully listen to citizen input and those who attend the meeting need to provide that same respect to Council members. He stated that Council is simply trying to do the right thing.

Councilor Sterner expressed disbelief that people think that the dissolution of RAWA will eliminate AFSCME employees, as the AFSCME employees are the people who make the water system operational. He noted that various rumors and the misinformation being publicized. He noted that the indebtedness of RAWA is generally the responsibility of the City and its citizens. He also noted that the RAWA deal publicized would require a 25-33% rate increase.

Councilor Sterner also noted that the mayor has incorrectly stated that without the RAWA deal the City would be bankrupt and the AFSCME employees would be fired, etc. He noted the need to give people the correct information. He also questioned why the mayor pulled away from the process he created, when he and Council were so close to an agreement on the water lease issue. He expressed the need to carefully weigh all offers just as a home owner would weigh various offers if they sold a piece of property or an item of value. He stated that Council must sort this out, just as a home owner would. He urged people not to believe the rumors that are spinning through the community.

Council President Acosta noted that a meeting with the mayor and his staff occurred on Friday, April 25th at 2 pm with people assisting City Council where the mayor and his staff promised Council a "public bashing" and they made various threats. However, that will not work or make Council change their position. He noted that Council distributed a response to the mayor's erroneous talking points about things that will occur if the RAWA proposal is not

accepted. These talking points were distributed to the City employees. He stated that Council has never discussed firing AFSCME employees; however, the Acting HR Director has told the FOP that Council's unwillingness to accept the RAWA proposal creates the need to layoff police officers. He stated that this is entirely incorrect and he urged the administration to fire those who are spreading invalid rumors.

Council President Acosta stated that any proposal negotiated by Council will include the requirement to retain AFSCME employees, cap rates, etc.

Council President Acosta stated that people have also complained about the closed meetings Council has had to consider the water issue. However, he reminded everyone that the new process set up by the mayor only includes a maximum of three members of Council so they can hold their meetings privately. He reminded everyone that only meetings that include four (4) or more members of Council are considered open meetings. He suggested that people complaining to Council about the need to hold public deliberations should also take that complaint to the mayor.

Council President Acosta stated that to date the people in this room only listen to the stories that are coming from the mayor's office. He noted the need to have discussions with Council about these stories so they can be properly educated. He stated that the mayor also says that we need to keep control of RAWA; however, we do not have control of RAWA now. He stated that the most recent RAWA bonds jeopardize the ownership of the system. He noted that after reading the indentures associated with the bonds RAWA has drawn, he learned that if RAWA fails to make its payments, the bank will take over the water system. He stated that we do not own this system, we "owe" the system.

Council President Acosta stated that the mayor has turned this issue into a political game and that the mayor has now made the residents a victim of this game.

Council President Acosta stated that a letter was sent to the mayor and RAWA Chair; however, no response has yet been received from the mayor. He explained the need to hire and retain Stevens and Lee to assist Council with this process, as the City Solicitor told Council that he is in the middle and cannot assist Council. As he cannot assist, there is a conflict and outside legal advice is needed. He urged those present to track where the stories are coming from and then confirm that Council has stated that AFSCME will lose their jobs unless the RAWA proposal is approved. He stated that he will resign if they can track the information back to him. He also asked that if they find that the information is coming from the administrative side, they ask for the proper parties to be fired.

Council President Acosta explained that he and his family have decided to rent the property where his family resides, rather than purchase it. He stated that this is a family decision that

should not become a political football.

Councilor Waltman stated that there is more to this issue than what actually appears. He invited citizens to call the Council Office at 610 655 6204 to schedule meetings with him to discuss this issue. He stated that the public needs better information about this issue. He stated that the poor behavior at this meeting proved that the public is misinformed. He noted that the current water asset is at risk and that the information circulating is propaganda. He stated that Council is trying to protect this unprotected system.

Councilor Daubert moved, seconded by Councilor Reed, to adjourn the regular meeting of Council.

Respectfully submitted by Linda A. Kelleher CMC, City Clerk