

Government Study Commission

September 3, 2013

Committee members in attendance: William Berwick, Bert Lennon, Philip Shevlin, David Sheridan, Robert Winston, Kenneth Womack, Stephen Hughes, Alternate, John Sacrison. Absent from the meeting were Blake Wilson and James Flower.

Mr. Ken Womack called the meeting to order at 7:00 PM.

The minutes from the 8-27-2013 meeting were amended then approved.

Roger Spitz, provided the commission a written statement regarding his views of comments that were given at the prior week's meeting. See attached statement.

Present at the meeting were Councilor Scott and Councilor Heath.

Councilor Scott provided his views on the election of council members by ward. He sees advantages and disadvantages. Being elected at large the council represents the entire borough and not just a certain areas. Also, being elected at large. some citizens may feel they are not represented. He would prefer electing by wards with 5 ward members and two at large members. In regard to the tax collector, Councilor Scott stated the Borough did not have a tax collector for several years and it worked well. By having the taxes collected by the municipality it creates a level of professionalism and allows regular business hours for the citizens.

Councilor Heath stated he supports having seven council members; less than that becomes exclusionary and more becomes cumbersome. He also supports at large members because electing by wards might create division. In regard to tax collector being appointed, he suggested the term should be longer than two years. He favors appointing a tax collector and creating a staff position in-house.

Councilor Scott's position on the advantages of the current council/manager form of Municipal government in Carlisle is you have a professional person who is trained to handle day to day operations of the Borough. The council then provides the political leadership and the municipal manager acts as the chief policy advisor for council.

Councilor Heath agrees with Councilor Scott and stated his idea of council is they do not run the borough but set policies.

Bob Winston asked the councilors opinion about a form of government that has an elected Mayor who appoints a municipal administrator. Both councilors agreed that there would be no advantage to that form of government.

There was a discussion regarding protocol and procedures for communications between council and staff members. Councilor Heath stated training, qualifications and a level of expectation are important for members of council. He suggested creating a written protocol for an effective

communication policy. Councilor Scott stated that the leadership provided by the council president can be the buffer between staff and council.

Ken Womack noted the commission members are presently reviewing charters and will review the language in these charters regarding an administrative code that can be written into the charter.

Ken Womack asked the councilors what they would do differently in regard to current council/manager. Councilor Scott stated over the past years the council has worked to create an effective evaluation process for the manager. Some members of the commission stated the charters they are studying have language written as to how to handle evaluations.

The councilors discussed the present practice for evaluating the manager. The ERCP committee drafted an evaluation form that includes goals and job responsibilities. The council's evaluations of the manager were reviewed and summarized and were then reviewed with the borough manager. Both councilors agreed this process was successful.

There was a discussion regarding the proper oversight of the police department between the council, the mayor and borough manager. Councilor Heath stated a modified evaluation form was created for the Police Chief that focused on council established goals such as, productivity, public safety and financial goals.

The councilors discussed the fact that during their tenure on council, they were not aware of an evaluation that had been completed for the present police chief. They stated the previous mayor had never provided a report of an evaluation on the police chief. Presently, the council is in the process of having an evaluation of the police chief completed.

Councilor Heath stated the current council believes those that are directly responsible to council need to be evaluated. Council is responsible for the overall production of the police department and not the day to day operations. He also stated that the Borough's current system makes the Mayor responsible for the police department but does not require any experience for the mayor in police management.

There was discussion regarding the police chief reporting to the borough manager instead of the mayor. Councilor Heath noted a municipal manager might have better knowledge on how to run a police department than an elected mayor. He stated that council should consider the training and experience of a municipal manager in police operations when hiring a manager.

Ken Womack noted the commission could capture who the police chief reports to for operational and administrative oversight and write this in a charter. He then asked the councilors how they make requests to the police chief.

Councilor Heath responded that in the past year requests have been funneled to the Mayor and the Mayor implemented the requests to the police chief. The councilors agreed that the day to day operation should be decided by the police chief.

Mr. Scott would like the commission to consider citizen's referendums in the charter. The commission discussed the different options that could be written into a charter regarding referendums.

Ken Womack asked the councilors their thoughts on who should be the face of the Borough. Councilor Heath stated the spokes person should be flexible and be determined by the specific situation being addressed.

Councilor Heath asked the commission if they have researched the ability to alter or add various taxes and would they have influence over the EIT tax. The commission responded they cannot increase a tax by more than the limit that is already set by the state cap.

The councilors were asked if term limits should be consider for council members. They responded at local level of government they would not advocate term limits.

Old Business:

- a.) Councilor Scott mentioned he has found a professor from Dickinson College that would be willing to create a twitter account for the commission. Councilor Scott explained how a twitter account could promote information to the citizens regarding the Government Study Commission.

The borough secretary will ask the water department if a Home Rule flyer can be inserted into the Borough water bills.

It was reported that the Facebook page has 14-20 followers. The DCA will help promote the Facebook page for the commission.

The commission discussed creating a twitter account to promote information. The commission voted to delay a decision on creating a twitter account.

The commission will invite Ed Web from Dickinson College to a meeting to explain if twitter could be of any value in promoting information for the commission.

- b.) Reviewed the report of issues of consideration. Stephen Hughes will post the list of issues on the Facebook page.

- c.) Stephen Hughes reported the initial charter for the borough of White Hall in online. He stated he was unable to contact the commission members from that borough.

The commission will read over White Hall's charter for next week's meeting.

Bert Lennon provided a report on the Home Rule Charter created by the Borough of Murrysville. This borough elected a strong mayor form of government.

- d.) The commission will continue to interview council and previous council members and Mayors.

Ken Womack will contact the borough Manager to discuss which department heads would like to talk to the commission.

Meeting was adjourned at 9:20 PM.

Respectfully Submitted

Joyce Stone
Borough Secretary

Attachment:

Questions for Current Council Members
Statement from Roger Spitz
Report on Murrysville Borough

GOVERNMENT STUDY COMMISSION

QUESTIONS FOR CURRENT COUNCIL MEMBERS

- Q1) In your position as a Carlisle Borough Council Member, what do you believe are the key advantages of the current council-manager form of municipal government in Carlisle?
- Q2) In your position as a Carlisle Borough Council Member, are there aspects of the current council- manager form of municipal government that you think could be improved?
- Q3) What is your opinion on electing council members by ward, by a combination of ward and at-large, or solely at-large?
- Q4) Do you believe the current council of seven members is the best structure for the Carlisle Borough Council?
- Q5) Do you believe the tax collector for Carlisle Borough should be elected or appointed? If appointed, by whom?
- Q6) What do you believe is the proper relationship for oversight of the police department (operationally and administratively) between the council, the mayor and the borough manager?
- Q7) Are there any other issues you believe the government study commission should consider in its study of the existing form of government and its consideration on the advisability of adoption of an optional form of government or home rule charter?
- Q8) Are you aware of any best practices that should be adopted to fix any structural or operational weaknesses in the current local government so that it could serve the citizens more efficiently and

To commission members:

After hearing the response from some of the council members at your meeting August 27th I cannot let what some said go unchallenged about a few issues.

About election by wards it was said that some would be afraid that you will not get qualified candidates from the wards with less voters (wards 1, 2 and 4) my opinion is any persons who are able and willing to serve and who are qualified to vote should be able to have a seat on council, but when selecting boards member then they may be required to have certain qualities, and to say anything different is very disrespectful. It was also said that to vote by wards would require change in the wards voting lines because of the differences in population. I disagree. Just because a person is elected in the lesser populated wards doesn't mean that they will not represent the Carlisle borough as a whole. Under home rule we are trying to get out from under the thumb of the state borough code rules not bury ourselves deeper. Two questions that I would like to hear answered from council members are

1-(Would you have voted differently on any issue had there not been a state borough code law in place preventing you from doing so).

2- (How much research is done by you on issues that come before council)?

It was also said that the borough manger is not from PA so he doesn't understand PA law, so he should not oversee the police department. This statement has no validity whatsoever. When we hired the police chief he was not from PA but from NY does that also mean he doesn't know PA laws, I can assure you that in the last 40 years there hasn't been any mayor qualified to oversee the police dept. The answers from the council members was nothing more than was expected. I wanted to respond to some of the answers given by council members, but we were told that this was not the forum to do this but, Mr. Kronenburg (who was not on the agenda) was permitted to offer his personal bias options on issues. Thank You.

Roger Spitz

REPORT ON MURRYSVILLE CHARTER

By Bert Lennon

BACKGROUND. Murrysville is a municipality in Westmoreland County, Pennsylvania, located roughly 20 miles east of Pittsburgh, Pennsylvania on U.S. Route 22, just east of the county line that separates Westmoreland and Allegheny counties. According to the United States Census of 2010, the municipality has a population of 20,079 people within a total area of 36.9 square miles (95.7 km²). Murrysville Municipality evolved from the Borough of Franklin which was originally known as Franklin Township.

Franklin Township was a township of the second class consisting of the communities of Dunningtown, Newlonsburg, Ringertown, Sardis, and White Valley which surrounded the Borough of Export, PA. Township residents became concerned that they were vulnerable to annexation by neighboring municipalities for the purpose of unwanted residential and commercial developments and took action to adopt the PA Borough Code as a quick, stop-gap action to defend against these threats. They felt that the Borough Code contained some inherent faults so they also began a nearly simultaneous exploration of a home rule charter that could be tailored to fit their needs.

Some of the faults the residents felt were inherent in the borough code were as follows:

1. No System of Checks and Balances. Elected councilmembers serve as both legislators and executives. The mayor's veto is the only check on council's legislative powers.
2. Inability to Fix Responsibility. Since administrative affairs are the collective responsibility of the Council, it is difficult for voters to determine effectiveness of individual members.
3. No Central Authority. Councilmembers tend to act independently in directing administrative and department heads.
4. No Flexibility. Borough Code is too restrictive and does not permit flexibility in meeting citizen's needs in the most economical and efficient manner.
5. No Guarantee of Citizen's Right to be Heard. No provision in Borough Code to guarantee citizen's right to be heard at Council meetings.

In order to find fixes to these perceived faults, the Township Supervisors initiated the study process in accordance with the Pennsylvania Home Rule Charter and Optional Plans Law.

PROCESS. The Township Board of Supervisors adopted an ordinance which placed the question of forming a government study commission on the November 5, 1974 General Election ballot where it passed. The 9 member government study commission organized itself on December 2, 1974 and began the study process with weekly meetings from December 1974 through April 1975. In April of 1975, the commission mailed an opinion questionnaire to 12% of the registered voters and also published a copy of the questionnaire in the local newspaper. The Study Commission ended Phase I of its study with a public meeting on April 22, 1975 to hear citizen views on the current government.

On May 27, 1975, roughly the six month mark of its study, the commission made the decision to draft a home rule charter. In June of 1975, to assist in this process, a citizen advisory council of 42 people (from civic, social, political and religious organizations) was formed to keep the public informed.

A preliminary draft of the Charter was printed and distributed to approximately 4500 households on November 5, 1975, one year after the referendum establishing the study commission. On November 13th, a public hearing was held to enable citizens to voice their opinions on the draft Charter. While the study was in process, Franklin changed its form of government from a Township of the second class to a Borough on January 1, 1976.

After incorporating items from citizen testimony and having the Charter reviewed by the Solicitor, the Commission approved the final Charter and had the question placed on the ballot for the April 27, 1976 Primary Election. The referendum passed and in July of 1976, the community passed a referendum changing the municipality's name to Murrysville. After a transition process, in which sitting, elected borough officials were replaced by elected municipality officials, the Charter was fully in effect January 1, 1978.

FORM OF GOVERNMENT. Murrysville opted for the Mayor-Council form of government as the residents believed this form provided better checks and balances by separating the legislative and executive branches of local government. Under this form of government, the Council enacts all legislation and the Mayor, through a Chief Administrator, has the responsibility for execution of the ordinances and the day-to-day administration of all departments.

ELECTED OFFICIALS. The Study Commission concluded that the best representation for its citizens would be achieved by a Mayor, as chief executive, and a 7 member Council, as the legislative body, elected at large. The Commission considered elections by ward but discarded this solution because of anticipated frequent redistricting required by population changes and the ensuing cost involved in establishing suitable ward boundaries. The original charter retained the Tax Collector as an elected position, but included the caveat that should the office become vacant, the Council may transfer the function to a municipal department or another governmental unit.

MAYOR. The Mayor serves as the executive power of the government of the Municipality. The Mayor is elected at-large for a term of two years. The Mayor appoints the Chief Administrator and the Department Directors, with Council's advice and consent. The Mayor attends all Council Meetings; however, the Mayor cannot vote on matters being considered by Council. The Mayor approves or vetoes every ordinance or resolution, except those filling vacancies in offices of elected officials. Annually, the Mayor prepares the "Report to the People", which is provided to all residents of the Municipality. Additionally, the Mayor presents the annual budget, capital program and an annual written report on the state of the Municipality to Council.

COUNCIL. The Council performs the legislative functions of the Municipality and consists of seven (7) resident members who are elected at large for a term of four years. The Municipality of Murrysville is not comprised of "wards" or "districts", so Council members serve all of the community, not just certain areas. Although citizens may contact any individual councilperson with problems or suggestions, that information should be brought before the entire Council if action is required. The legislative powers of the Municipality are vested in Council as a whole and this power is to be administered only as a body. No individual councilperson has any authority or power to speak or act for council except as authorized by the entire Council.

Per Section C-45 of the Municipal Charter, community input is accepted at each Council Meeting. There is no pre-registration required. This opportunity is afforded to the public at all Council meetings. These citizen comments are made a part of the official minutes.

The Charter empowers the Council with the duties of adopting, amending or repealing ordinances, the annual budget, the personnel system (to include compensation of Municipal employees), the Administrative Code, all boards and commissions and levying all taxes. The Charter places specific restrictions on the last two of these duties: Municipal Authorities and Taxation.

Municipal Authorities. The government study commission was concerned over the dilution of municipal control and responsiveness caused by the existence of municipal authorities. The Murrysville charter requires special procedures before the governing body can adopt an ordinance creating a municipal authority. In Murrysville, two public hearings must be held, and the ordinance must be approved by a 6/7 council vote.

Tax Limits. The Home Rule Charter and Optional Plans Law allows a degree of flexibility to home rule municipalities regarding tax limits. Although the law reserves the fixing of subjects of taxation to the General Assembly, it does allow home rule municipalities freedom in setting the rates of property taxes and personal taxes levied on residents.

Two types of tax rate limits are found in Pennsylvania charters. The first is a maximum limit on the rate of a particular tax or all taxes; the second is a limit on the amount taxes can be raised in any given year. Maximum rate limits are found in 30, or 42%, of the charters, while 41, or 58%, have no maximum rate limits. Limits on the amount of annual tax increases are found in 6 charters, or 9%.

There are two municipalities that require all increases in property taxes to be approved by a 6/7 council vote or by referendum, Murrysville and Allentown. Section C-111, Tax Ceiling, in the Murrysville Charter states: "In fixing the rate of any municipal tax which may be now or hereafter authorized by law, Council shall abide by the limits established by the General Assembly for Townships of the Second Class. All increases in property tax rates must be approved by the electorate or by an affirmative vote of six Councilmembers."

TAX COLLECTOR. In 1999, the elected tax collector retired. The Council then passed a resolution moving responsibility for tax collection to the municipality Finance Department. A subsequent referendum amended the Charter to abolish the Office of Tax Collector and provide for the collection of taxes in the Municipality by a Department of Tax Collection which is headed by a Director. The current Finance Director functions as the Director of Taxation. It was determined that this function could be more economically and efficiently performed through outsourcing.

Currently, two commercial firms perform this function with guidance and coordination from the Municipality Finance Director. Keystone Collections performs this function for Real Estate, Per Capita and Local Services Taxes while Berkheimer Tax Administrator performs the tax function for Earned Income Taxes.

TERM LIMITS. None of the municipal codes in Pennsylvania limit the number of terms elected officials can serve. However, term limits for members of governing bodies appear in 10 home rule charters.

Council Term Limits. The Murrysville Charter is one of the 10 charters that included term limits when originally adopted. The limit prescribed for the Murrysville Council is two consecutive four-year terms.

Mayor Term Limits. The Murrysville Charter is also one of nine home rule charters that originally included term limits for the elected executive. The Murrysville charter sets a limit of four consecutive two-year terms for the Mayor.

APPOINTED OFFICIALS. The Murrysville Charter authorizes the Council to appoint a solicitor to supervise all legal affairs of the Municipality and be chief legal advisor to Council and the Mayor. The Charter also authorizes the Council to appoint independent auditors to review financial transactions. The Council is also empowered, within special restrictions enumerated in the Charter, to appoint Boards and Commissions. The Charter also empowers the Mayor, with Council's advice and consent, to appoint a Chief Administrator and administrative department Directors.

The Chief Administrator is responsible to the Mayor for the proper and efficient administration of the affairs of the Municipality. The Chief Administrator receives and investigates all complaints received by the Municipality, administers the personnel system, directs and supervises the administration of all departments in the Municipality, prepares the annual budget and capital program, attends all Council meetings, and serves on the Municipality's Emergency Management Council. Departments reporting to the Chief Administrator are: Planning, Finance, Police, Codes Enforcement and Roads.

To prevent dilution of authority within the administrative body the Study Commission included specific language in the Charter, specifically, Section C-71. Interference with Administration which specifies that..."Except for the purpose of formal inquiries and investigations, the Mayor or Council or its members shall give orders to the officials and employees of the Municipality who are subject to the direction and supervision of the Chief Administrator, solely through the Chief Administrator."

QUESTIONAIRES. The Carlisle Government Study Commission developed questionnaires to get input from other municipalities and our own mayor and council members. I felt that the Murrysville Final Report, dated 1976, and the online version of their Home Rule Charter, with amendments, answered many of the questions posed in our questionnaire that addressed the government study commission charter process so I created a questionnaire for the Murrysville officials that was a blend of our original municipality questionnaire and the Carlisle mayor/councilmember questionnaire. This modified questionnaire primarily addressed the current status of the local government under their charter. I emailed the questionnaire to the Murrysville mayor, council president and municipality chief administrator. The questions posed to these officials were as shown below.

- Q1) In your position as Mayor/Council President of Murrysville, what do you believe are the key advantages of the form of municipal government you adopted in your Home Rule Charter?

-Q2) From your perspective as Mayor/Council President of Murrysville, are there aspects of your current form of municipal government that you think could be improved?

-Q3) Are you aware of any best practices, currently in use by other municipalities, that should be adopted to fix any structural or operational weaknesses in your current local government so that it could serve the citizens more efficiently and responsibly?

-Q4) Are there any other issues you believe our government study commission should consider in its study of our existing form of government and its consideration of the advisability of adopting an optional form of government or home rule charter?

RESPONSES. The Chief Administrator deferred from answering the questionnaire as he was not present when the Charter was being developed. Mayor Robert J. Brooks and Council President Joan C. Kearns responded to my questionnaire and follow-up questions via email correspondence and telephone conversations. Their responses are as found below.

Mayor. Mayor Brooks has served in the local government for 22 years -- 4 years as mayor and 18 years on council (all these were broken by years of not being on either as required by the term limit portions of the Home Rule Charter). Mayor Brooks is familiar with Carlisle as his sister works at the Carlisle Regional Medical Center. He also serves on the Board of Trustees of F&M Bank. His response to the questionnaire is as follows.

"I have found this form of government a good governing tool.

The Mayor does not have direct control of Admin or Police, but is a counselor to both.

The government works as good as your Chief Administrator is good.

The Mayor then can focus on strategic plans and working with community groups to improve and promote the town. Of course all budgets and plans are with the Mayor's input and approval before going to Council.

Murrysville is a little bigger than you both in square miles and population, but we are less self-sufficient as we neighbor many other close-by larger cities.

The Mayor has a real voice in Council meetings even though I do not vote (that is the tradeoff for not directly running departments)."

Council President. Council President Kearns has served in the local government for 21 years – 14 years as an elected member of council and 7 years as a volunteer on advisory commissions. Her responses to my questionnaire are as follows.

"1. I find that the division of government afforded by our Home Rule Charter works well in this community. Separating the Legislative and Executive portions allows us to enact legislation while not having to be involved in the "day-to-day" administrative functions of local government. The mayor is a non-voting member though he is the one to whom the Chief Administrator reports. Having the administrative staff report to the Chief Administrator rather than to Council is a benefit especially when there may, depending on the outcome of elections, be dominant micro-managers as part of the elected body.

2. I do not find any aspects of our local government that I would like to change or that I feel could be improved. We are fortunate at present to have a very capable and knowledgeable Chief Administrator with a marvelous staff beneath him. All understand that we have a common goal and that the outlook of the current, as well as previous bodies, Council is very conservative.

3. I have not monitored other communities with Home Rule government to see what they might be doing. I also have not noted within Murrysville's government structural or operational weaknesses that would require change or improvement. Our residents have high expectations from their government and have no hesitancy in voicing disappointment if we don't measure up to their expectations. Such occurrences are rare and are always closely examined to see if change or improvement is warranted.

4. Our Charter, in its prelude, gives a pretty clear rationale as to why the Home Rule option was chosen and I find no fault with that rationale. Not knowing what your "optional form of government" might be makes it impossible for me to comment.

I would caution you that if you go to a Home Rule government and write your Charter make certain that there are no loopholes in interpretation of provisions of the Charter. Our most challenged portion has been the term limits provisions. Our Charter refers to a "term" as 4-years with a Council member eligible to have two consecutive terms (8 years total). There is also a provision for a former Councilman to apply for a vacancy on Council (completing a term of another) after an absence of 18 months or longer and then, at his option, running in the

next election to complete the balance of the 4 year term of the departed Councilman AND then seeking a full 4-year term. Our Solicitor has ruled that a partial term is not considered as part of the “two consecutive terms” scenario and some in the community have challenged that interpretation though not in Court (yet).

To date I have found nothing that I feel needs to be changed to improve the way we operate. Perhaps that good fortune is due to the personnel who work for the Municipality. Our residents are involved in the community through local government activities, volunteer projects, sports organizations, social organizations, etc., and expect THEIR government to be responsive. As a Home Rule government, that is the driving force behind what we do.”

Follow-up Question re Tax Collector. In the original charter, the Tax Collector’s position was retained as an elected position. The charter further stipulated that should the office become vacant, the Council may transfer the function to a municipal department or another government unit. The current, online version of the Murrysville charter shows that an ordinance was passed April 7, 2001 and approved at subsequent referendum, abolishing the Office of Tax Collector and providing for the collection of taxes in the Municipality by a Department of Tax Collection which is headed by a Director. This issue was not addressed by the mayor and council president in their original responses so I posed this follow-up question reference the tax collector position.

-Q5) My question is to what caused this action? Did the office become vacant or did some other initiative take place to cause council to take this action?

Mayor. Mayor Brooks responded as follows: “The Tax Collector was always an elected position until 1999 when Y2K (2000) confused everyone about computer software capabilities. The current collector at that time decided to resign and council decided that outsourcing the function made the most economic sense. PS. Even for City payroll, I believe it makes sense to outsource to ADP or an equivalent. The Finance Director has responsibility and a coordinator where needed.”

Council President. Councilwoman Kearns responded thusly: “The Tax Collector at the time was retiring and the referendum option was employed to clear the way to contract out the function because of the complexity involved with Real Estate tax, Earned Income Tax, etc., as well as the need to pursue those who had back taxes due, particularly Earned income tax. Keystone Collections is the current Tax Collector. Our Finance Director still functions as the Director of Taxation so any issues regarding tax collection go to her. To date this arrangement has worked well.”

CONCLUSION. This concludes my report on the Murrysville Home Rule Charter process and the ensuing Charter enacted by referendum. I give special thanks to Mayor Brooks and Councilwoman Kearns for sharing their knowledge of the Murrysville Home Rule process. Their comments place their municipality’s experiences in context and provide us with valuable insights to consider in our own study.

The current Murrysville Charter can be found online at the municipality website www.murrysville.com by selecting the Online Resources Menu and clicking on Murrysville Codes Online. The direct link to their code is: <http://ecode360.com/11533675> .