

Government Study Commission
October 22, 2013
Carlisle Borough Hall
Meeting Minutes

Committee members in attendance: Ken Womack, Bert Lennon, Robert Winston, Blake Wilson, William Berwick, and John Sacrison.

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

The October 1 and October 8, 2013 minutes were approved.

Joe Canfield, Parker Street, Carlisle Pennsylvania, inquired the reasons for changing the form of government.

Ken Womack explained the process of the commission and stated the seven reasons the commission has developed for possible changes to the current structure of government. 1) Process to select mayor and best role for the mayor 2) Election procedures 3) Citizen right to petition for initiative/referendum 4) An alternative to using the elected tax collector 5) Alternative procedures for borough 6) A code of ethics 7) Financial impact of home rule.

John Sacrison provided the definition for home rule as stated in the DCED publication.

The basic concept of home rule is relatively simple. The basic authority to act in municipal affairs is transferred from state law, as set forth by the General Assembly, to a local charter, adopted and amended by the voters. This basic point has been explained by government study commissioners to their voters. "Home rule means shifting of responsibility for local government from the State Legislature to the local community ...a borough choosing home rule can tailor its governmental organization and powers to suit its special needs."

Karen Center, 525 Wilson Street, Carlisle, Pennsylvania stated that initiatives and referendums written into a home rule charter would give more power to the people.

The commission discussed referendums and initiative with explanations of how initiatives and referendums could be used by the citizens to bring a specific issue to the voters as a legal recourse in response to decisions made by council.

Ken Womack corrected a statement he made regarding his editorial in the newspaper that stated taxes could be raised no higher than the current borough code limit. The correct statement is a home rule law permits council the power to tax if no limitations are written into the home rule

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charter. He stated in the 1992 Home Rule Charter, language was written into the charter limiting taxes to those permitted in the current borough code.

Ken Womack noted that he would try to provide a “tentative” agenda to be published on the web site no later than Monday, prior to the next meeting.

Bert Lennon commented there have been 77 municipalities that passed a home rule charters that have placed special rules and language to set limits on raising taxes.

The commission discussed placing limits on referendums to prevent insignificant submissions.

Former council member Sean Schultz submitted his comments to questions given to previous council member regarding the current structure of government. See attached

Old Business:

The commission reviewed issues conveyed at the October 15th public hearing.

Bert Lennon mentioned the comment suggesting the commission looking at Luzern County’s Home Rule Charter. He stated he specifically did not look at Luzern County because they have different laws as a county. The other comment from the hearing was on weighting issues of importance. The commission stated they do not believe weighting issues is necessary during the decision on how to proceed since the decision to proceed on any one issue is sufficient to move forward with a proposed charter.

The commissioners were asked to present their views on the following question by using the seven reasons for possible change to the current form of government:

Do you think the best way to proceed is: No change to the present form of government; Look at Optional form of Government Plans; Proceed with a Home Rule Charter.

Bert Lennon provided his position on the following issues. He stated the premise for appointing a tax collector is no longer an issue given the fact that a new tax collector will be elected on November 5th and will remain the tax collector until January 2018 per state election law even if a charter is selected. During our hearings, 6 of 7 council members and mayor said keep elected tax collector as this is cheapest method. A recent 2010 PA Senate study found that the cheapest tax collection method is when paid by bill as is the current Carlisle method. He stated his position at this point would be to do nothing all and not move forward with changes. His position on at large vs. ward elections is that this would be a costly expense to reapportion initially as well as every ten years when a census is completed. There is currently a large disparity of the number of voters in each of the current wards. He feels the Mayor should be elected at large with a veto vote. Mayor is

most common and traditional face of the community. Mr. Lennon considered that change in the form of government could be an increase in costs to the borough. Examples were adding personnel and assigning increased supervisory responsibilities to existing personnel could result in salary increases. He commented that the negatives outweigh the positives because of the law of unintended consequences that could arise from the language written in a home rule charter. When interviewing other boroughs he discovered they needed to write amendments to correct flawed language written in their charter. The Christmas tree effect was also a concern for Mr. Lennon. This occurrence happens when many different ideas are added to a charter that would make a simple plan more complex. He also mentioned the Abilene Paradox could become an issue, which is a circumstance where people have the same goals and objectives but their understanding of the process causes conflicts and becomes destructive to the process. His view is that best course is to leave the current structure as is. He stated his perspectives on citizen initiatives would be that the council would listen to the citizens.

Robert Winston provided his position on the following issues. The collection of taxes is a core government function that should not be a profit making function. He feels an appointed tax collector assures integrity and creates check and balances through a supervised process by the borough. Mr. Winston stated he is not opposed to giving council options for collecting taxes such as hire a part time collector, hire an accounting firm, or consolidate with the county. He thinks council should have the opportunity to select how the taxes are collected. He commented he is undecided in regard to voting at large or wards. In regard to citizens right to petition, specific criteria and safeguards could be written into a charter that would prevent frivolous initiatives or referendums. Mr. Winston's stated is it important to have a Mayor but thinks it possible to have a Mayor that is elected as member of council. He is troubled by the current system and thinks the police department belongs under the supervision of the borough manager. The reason for this is persons elected as mayor, more than likely do not have specific training for supervising a police department, as do borough managers. He mentioned a code of ethics would be good but feels a charter could specify a time frame for council to enact a borough code of ethics. Mr. Winston's stated the risk of doing nothing outweighs the risks of reviewing the present form of government. He does not see an optional form of government as a good form of government.

William Berwick provided his position on the following issues by stated elected tax collector set office hours that are not convenient for the citizens. It would be better for taxes to be collected at borough hall to accommodate the citizens with regular office hours. Mr. Berwick is not in favor of referendums. He feels if council passed an unpopular decision the citizens could write a petition to have the decision tabled. A code of ethics should be established to prevent nepotism. He also thinks the police should report to the borough manager. He stated a Home Rule Charter should be considered and there is no advantage for an optional form of government.

John Sacrison provided his position on the following issues. He stated the decision of an elected or appointed tax collector should be made by the council and part of the core government function.

He feels there are complexities and potential expenses to redistricting as well as possible gerrymandering and feels staying with voting at large would be best for the borough. Mr. Sacrison believes the Mayor should be elected separately from council and should remain the face of the community. He is leaning toward the mayor not having voting rights in order to keeping the legislative and executive branches separate. He feels more discussion is needed concerning how and who the mayor reports to and controls. In regard to who should oversee the police chief, there is no guarantee a borough manager or a Mayor would have significant police training other than what is offered by the state. Mr. Sacrison is uncertain on this topic of police oversight. His view on the cost of change would be to keep changes to a minimum and be efficient with the changes. He stated the job description of the Borough Manager should remain a professional manager. He recommended only having four to five significant changes if a Home Rule Charter is chosen. He does agree with initiatives and referendums but suggested limits should be set. Mr. Sacrison noted an optional form of government is too inflexible.

Blake Wilson provided his position on the following issues. He agrees the Mayor is a visible person but this does not prevent the Mayor from being elected to serve on council. The form of government that designates the mayor to oversee the chief of police is outdated and he would like to see the police department supervised by the borough manager. This would be an efficiency by eliminating a position. In regard to election procedures, this could be decided by the council and is not a charter issue. He did mention a change to voting by wards could create additional costs and difficulties finding citizens to run for office. Mr. Wilson is strongly in favor of initiatives and referendums but agrees that limits should be placed on what issues can be brought forward. In regard to the tax collector he is in favor of the giving the council the right to decide on a tax collector, but he does feel this does not have to be an elected position. The topic of purchasing needs to be looked into further before making any changes. He stated three reasons he would like to pursue a home rule charter would be the role of the mayor and the police administration, petitions and referendum and the tax collector. He does not support an optional form of government because it would not address these three issues.

Ken Womack provided his position on the following issues. He began by reading a statement from the DCED Home Rule Book.

“Twenty-seven years of experience has shown home rule to be neither a panacea nor a bane for local governments. Home rule has proven to be an effective tool for reorganizing local governments to increase effectiveness and citizen participation and has enabled a modest local initiative in procedural and substantive matters. Home rule has not revolutionized local government operation, nor has it entangled municipalities in legal difficulties or imprudent activities.”

He would want to use this process to provide the current council with flexibility. The best role for the Mayor needs to be studied further and feels this role needs to be codified to better define the

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position and not make it personality dependent. He believes there is an administrative aspect and an operational aspect in running the police department and the Borough manager should be running the administrative aspect. While the elections procedures could be addressed by council, Mr. Womack feels the initiative and referendums would be the best way to address this issue as well as being a benefit to the citizens. He does feel strong on the issue of the tax collector stating the present system does not promote accountability. The decision on how to elect or choose a tax collector should be made by council. He noted there could be potential savings by looking into purchasing procedures and contracts. Mr. Womack would like to see a code of ethics mandated but let the council decide on the code. He does not believe an optional form of government addresses the key issues identified thus far.

Mr. Womack announced a public hearing will be held on Tuesday, October 29, 2013 at Borough Hall at 7:00 PM. The purpose of the meeting will be to make a decision to select the optional plan, a home rule charter or do nothing.

Adjourned at 9:18 PM

Respectfully Submitted,

Joyce Stone
Borough Secretary

**GOVERNMENT STUDY COMMISSION
QUESTIONS FOR FORMER COUNCIL MEMBERS**

Q1) As a former Carlisle Borough Council Member, what do you believe are the key advantages of the current council-manager form of municipal government in Carlisle?

Done right, it encourages responsiveness and professionalism. During my tenure, the makeup of council reflected various neighborhoods of the borough. That meant a majority of residents had an elected official in their neighborhood. With a professional manager in charge of the day-to-day affairs of the borough, we can generally be assured of quality management. I can also see some benefit of the system where the mayor is in charge of the police. In public safety, rule by committee in the day-to-day decisions is not ideal, however, with a full-time, professional police chief that should not be an issue with or without a mayor.

Q2) As a former Carlisle Borough Council Member, are there aspects of the current council-manager form of municipal government that you think could be improved?

The Pennsylvania Borough Code leaves a lot to be desired regarding the lines of authority over the police department. Council can set general policy and hold the purse strings, but a single person as mayor can choose not to deploy resources to implement the policy. In the modern day with a professional police chief, the mayor in our form of government is either irrelevant. You can have direct lines of professional accountability running through the borough manager's office, which is then accountable to council, who are in turn accountable to the residents.

And that is the core problem with the current form. The tangled web of governing authority reduces accountability. Can it work well with the right people in those seats? Certainly. But the lack of clear authority heightens the likelihood that lines of accountability will break down. I saw that happen during my tenure, and attempts to cure it were near impossible.

Q3) What is your opinion on electing council members by ward, by a combination of ward and at-large, or solely at-large?

I understand the arguments for at least a hybrid system. There are those who suggest that it would enable each neighborhood to be represented by one of its own. It could foster greater diversity of opinion and discussion.

I question whether ward elections are a good idea given the disparity of numbers in the wards as they are currently laid out. Also, for the most part, the wards are not laid out in such a way that they cover only discrete neighborhoods reflecting populations that will have specific interests, which mitigates the likelihood that it will encourage any more diversity of opinion than we already have. I also believe election by Ward will limit the ability to get high quality citizen-representatives on council because you'd be limiting the pool of candidates. We get significant diversity of opinion with the at-large structure. As it stands now, the system encourages council members to consider the best interests of the community as a whole. I believe ward elections work better in larger municipalities.

Q4) Do you believe the current council of seven members is the best structure for the Carlisle Borough Council?

Seven members is a good number given the number of candidates the races seem to attract. More seats, and you may not have any contested elections—or certainly fewer contested elections. If you have fewer members, you'll limit the diversity of elected officials.

Q5) Do you believe the tax collector for Carlisle Borough should be elected or appointed? If appointed, by whom?

It should be appointed by council as other positions that need professional services are appointed. This position as it is lacks accountability. A person is frequently elected without vetting. We had a race this year, but that was only because of the scandal and news coverage. In the average year, people win the election with a handful of write-in votes and may not have any qualifications to manage the collection of tax dollars. The requirement of the bond serves to protect the taxing authorities, but why should we even have to worry about that?

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?

I touched on this in an earlier answer.

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?

I love the idea of citizen-initiated ordinances. No one has all the answers, and encouraging a greater level of citizen participation is a good thing.

I believe the ability for citizens to petition for recall of an elected official is a great idea. It must be balanced with rigorous requirements, including a need for a significant number of signatures, so that it cannot be used by those who may have purely personal gripes to harass an elected official, but generally it seems like something that would be beneficial.

I believe we would be better served by greater transparency that is built into a charter rather than having to rely on the whim or policy of council. The Right to Know Law, for example, establishes the minimum of transparency. There are exceptions under that statute that do not necessarily need to be used.

For example, during my term on council and as president of council, if a citizen wanted to see our policy briefing statements on an issue, our manager would provide them or if someone asked me for it, I was happy to provide it. I understand the need to protect staff's ability to provide confidential opinion. Frankly, to me, the opinion of staff was only one factor among many. I was more interested in the factual background from which I would derive my own opinion before getting to the staff opinion. I think those non-opinion sections of the policy briefing statements should be provided to residents without question, and it ought to be built into any home rule charter if that is the direction this process takes. I think it can be limited to protect sensitive negotiation issues, personnel decisions, real estate acquisition, etc., but we ought to do away with any sole

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reliance on the exception under 65 P.S. § 67.708(10)(i) for predecisional documents that have been submitted to council.

I can relay to you that to my surprise when I submitted a Right to Know request for the manager's budget proposal last year after it had been submitted to council, the initial suggestion was that the request would be denied because it was a predecisional document. It was only after some persistence and a discussion with the borough solicitor that I was able to get an electronic copy. If I were not a lawyer with the law at my fingertips, I wonder whether I would have received it. Copies were then handed out to the audience moments before the budget hearings began only to have some of them astonishingly berated by one or two elected officials for not coming to the meeting without proposed solutions to their complaints. Documents such as that should be publicly available the moment they are submitted to council, and that ought to be built into our governing charter—not subject to a policy decision. By doing so, the Home Rule Charter would enable better informed opinions among our residents, and perhaps better policy-making because of that.