

Government Study Commission

March 18, 2014

Carlisle Borough Hall

Meeting Minutes

Commission members in attendance: Bert Lennon, Philip Shevlin, John Sacrison, Blake Wilson, Stephen Hughes, Ken Womack, Robert Winston and Secretary Joyce Stone

Attending meeting via telephone: Dave Sheridan

Not in attendance at the meeting: and William Berwick

1. Call to Order

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

2. Approve minutes

The March 4, 2014 minutes were approved.

3. Public Comment

None

4. Old Business

a) Committee Reports

o Charter Development Committee

- The committee reviewed draft document and will continue to update the information. When the draft charter is completed the document will be made available to the public.

o Tax Collection

- No update

o Citizen Participation

- No update

o Government Structure

- The committee reviewed the information and continues to refine the language in the report.

o Miscellaneous

- The committee reviewed the information and continues to develop the report. They will be looking into ways to increase efficiency and provide more cost-effective purchasing and contracting.

5. New Business

None

6. Public Comment

None

7. Adjourn

Meeting was adjourned at 8:20PM

Respectfully Submitted,

Joyce Stone,

Borough Secretary

Attachment: Government Structure Committee Report
Miscellaneous Committee Report

**Draft Report of the Government Structure Committee
March 18, 2014**

Under the current Carlisle municipal government, borough council hires the manager and, with the exception of the police department, municipal departments report to the manager. The police department reports directly to the mayor rather than to the manager (though other public safety personnel [fire chief] do). The mayor, elected at large, attends any or all regular and special meetings of council and may take part in the discussions of the council on matters pertaining to borough affairs. However, the Mayor only votes in cases where, by reason of a tie or split vote, the mayor casts the deciding vote (under current law the Mayor may table the matter until a special meeting of Council is held to reconsider the issue). The mayor also has the authority to veto ordinances, which veto can be overridden by a majority of all elected council members plus one.

The committee believes that the current government structure, where some department heads report to the manager while the police department reports to the mayor, is confusing and inconsistent with sound management practices. In addition, the committee believes that having the mayor sit with council and take part in the discussions of the council on matters pertaining to borough affairs, but only voting in case of a tie or exercising a veto, is cumbersome and fails to fully include the mayor in governing the borough.

Boroughs that have adopted home rule have generally responded to this situation by reorganizing the government in several ways that can be described as existing on a continuum: at one end is the option of eliminating the mayor entirely and moving to a council-manager form of government with a council president chosen by council from its members; at the other is a strong mayor form of government in which the mayor is the “chief executive” who oversees municipal operations, often with the help of a municipal administrator chosen by the mayor, and council is purely legislative; in some municipalities with a strong mayor, the mayor’s powers are constrained by an “advice-and-consent” requirement for major appointments like the municipal administrator and some department heads. Between these two poles, municipalities have built a variety of structures.

The government structure committee recommends one of these “middle ways”:

- A borough council with seven members; six council members and the mayor who shall be the seventh member of council.
- Six members of council are elected at large for a four year term, three in each alternating odd year. The mayor is elected at large for a four year term every other odd year.

- The Mayor serves as the “president” of the council and chairs all council meetings, and shall exercise the same authority and responsibility to vote as all other council members; the mayor shall have no veto.
- Borough Council shall, by majority vote, hire the manager, as is the case under the current borough government.
- The mayor chairs the public safety committee and is an *ex officio* member of all other borough committees.
- The chief of police reports to the borough manager, as do all other department heads.
- The mayor is the “face of the Borough” to the public and to other governmental entities.
- At its post-election organizational meeting, council elects a deputy mayor to serve for two years. If the mayor is temporarily incapacitated or otherwise unable to serve, the deputy mayor assumes the mayor’s duties until the mayor is able to return.
- If the mayor’s office becomes vacant, the remaining members of council shall elect, from its members, a new mayor to fill such vacancy until the next municipal election at which time there shall be an election to fill the unexpired term or the new four-year term as the case may be. If the deputy mayor is selected to be the mayor, council shall also elect, from its members, a new deputy mayor. [Note: Electing a new mayor from council creates a vacancy in council which shall be filled as indicated below.] If Council shall refuse, fail, neglect or be unable for any reason whatsoever to fill such vacancy within forty-five (45) days after the vacancy occurs, then the Court of Common Pleas shall upon petition of the Council or of any five (5) citizens of Carlisle fill the vacancy until the next municipal election at which time there shall be an election to fill the unexpired term or for a new four-year term.
- If a vacancy shall occur in the office of council member for any reason, the remaining members of council shall fill such vacancy until the next municipal election at which time there shall be an election to fill the unexpired term or the new four-year term as the case may be. If Council shall refuse, fail, neglect or be unable for any reason whatsoever to fill such vacancy within forty-five (45) days after the vacancy occur, then the Court of Common Pleas shall upon petition of the Council or of any five (5) citizens of Carlisle fill the vacancy until the next municipal election at which time there shall be an election to fill the unexpired term or for a new four-year term. [’92 charter]
- A sitting council member may run for mayor. If the council member has an unexpired term the council member’s seat shall be deemed vacant immediately following the next organizational meeting when the new mayor is sworn in, regardless of who is elected mayor, at which time

Council would fill the vacant council seat until the next election, when an election will be held to fill out the remaining term or for a new four-year term as the case may be.

NON-INTERFERENCE [see justification below]

Except for the purpose of formal inquiries and investigations, the Mayor, or Council through the Mayor, shall give orders to the officials and employees of the Municipality who are subject to the direction and supervision of the Borough Manager solely through the Mayor to the Borough Manager.

The Government Study Committee takes particular note of a theme that ran through a number of our information-gathering sessions: there is a real danger that the Borough Manager ends up having “seven bosses” under the current structure. In other words, while Council should govern and the Manager should manage the day-to-day operations of the Borough, some Council members apparently do try to micromanage. The Committee recommends that the elected Mayor be the single individual authorized to convey policies set by the Council. This “authorized voice” must be just that, authorized to bring specific, agreed-upon information and policies to the Manager – and to the public and other government entities as well – on behalf of the Council and the Borough as a whole.

This suggestion should not be interpreted as restricting constituent services by members of Council. It is appropriate – indeed, an expectation – that members of Council bring issues raised by constituents to the attention of the appropriate Borough personnel, preferably via the Manager. It is well-known that many Carlisle citizens contact various departments directly, so it would be illogical to hinder the reporting of, say, potholes or missed trash pick-ups by members of Council.

Requirement for Council Members to Vote

The Following is from the West Chester Home Rule Charter:

§ 41.2-217. Form of Action by Council.

- A. All official actions of the Council shall be taken by the adoption of an ordinance, resolution or motion. All legislation shall be enacted by the adoption of an ordinance. All ordinances and resolutions must be in written form and enacted only after reasonable notice to Members of Council, except as otherwise provided in this Charter. All final action in adopting ordinances or resolutions shall be by roll call vote and the vote of each Member of Council shall be entered in the record of the meeting.

- B. In all cases where, by reason of a tie or split vote, the council shall be unable to enact or pass any ordinance, resolution, or motion, or to take any action on any matter lawfully brought before it, the mayor, or the assistant mayor acting in the mayor's behalf, shall direct that the matter be tabled until the next regularly scheduled meeting of council when an odd number of council members shall be present, at which time the matter shall be reconsidered by council.
- C. All Members of Council present at the meeting shall be required to vote in either the affirmative or the negative on all issues and questions put to a vote of the Council, except as restricted by this Charter, or unless a Member of Council shall have a conflict of interest in the matter, in which case the Member of Council shall abstain and inform the Council in public session of the reason for abstaining.

Administrative Code

Council shall, within 120 days of its organization, adopt by ordinance an Administrative Code which shall set forth all departments, offices, agencies, boards and commissions of the Municipality, together with a description of their powers, duties and functions. The Administrative Code shall also provide a Code of Ethics to apply to all elected and appointed officials and employees of the Municipality. The Administrative Code may contain such other rules and regulations concerning government of the Municipality as Council finds desirable or necessary.

**GOVERNMENT STUDY COMMISSION
MISCELLANEOUS COMMITTEE
Interim Report
March 18, 2014**

1. Procurement Code

Based on inputs from the public hearings and a review of other home rule charters, the committee believes using the authorities in the home rule law would allow the borough to adopt practices and procedures, not allowed by the current PA Borough Code, which would increase efficiency and provide more cost-effective purchasing and contracting. There is wide diversity in the approaches of other charters. Some are very specific while others provide very basic guidance and authorize council the latitude to develop specific procedures. The committee will continue to examine these options and update its report on March 18th.

2. Need Ethics Code for public officials

The committee examined a number of home rule charters and found a very diverse approach for including a code of ethics. Options include simply requiring the council, through the home rule charter, to adopt a code of ethics to actually writing the details of a code of ethics into the charter. One of the key issues which makes a number of the existing home rule charters out of date with respect to ethics is using the recall provision to remove persons accused of ethics violations.

Section 1103 of the [Public Official and Employee Ethics Act](#) applies to all elected officials of all political subdivisions (PA DCED Publication on Home Rule, p. 62). Any violation of the act can be referred to the State Ethics Commission for investigation and action. Discussions with legal counsel at the Ethics Commission indicated that if a local charter has ethics provisions more stringent than the state code, the ethics commission would not be able to investigate complaints that those provisions were violated but could only investigate complaints that provisions of the state code were violated. The committee believes that any attempt to adopt an ethics code more stringent than the state code would be problematic in terms of enforcement. For this reason, the committee believes the state code should be specifically adopted in the charter (elected officials and employees are subject to it regardless of whether or not it is specifically mentioned). Suggested language:

Declaration of Policy

The proper operation of a representative government requires that public officials and employees be independent, impartial and responsible to the people; and, that governmental decisions and policies be made in the best interests of the people and of the Borough. In recognition of these goals, all Borough elected and appointed officials and employees of the Borough, whether compensated or uncompensated, including members of authorities, agencies, boards and commissions of the Borough, shall be governed by the PA State Public Official and Employee Ethics Act [Ethics Act].

Violations

A. Elected and appointed officials and employees of the Borough, including members of authorities, agencies, boards and commissions of the Borough.

- 1) When any member of the public or any other elected or appointed official of the Borough, including members of authorities, agencies, boards and commissions of the Borough, believes that a violation of the PA State Public Official and Employee Ethics Act has occurred the official shall notify, in writing, the Mayor who shall bring the complaint before the full council. In the event the complaint shall be against the Mayor, the complaint shall be provided to the deputy mayor. The complaint should state the specific provisions of the Ethics Act which have been violated.
- 2) The Mayor, or deputy mayor, after discussion with the borough solicitor, shall, if he/she deems to complaint substantive, bring the complaint before the full council and council shall, if it deems the complaint substantive, by a majority vote of its members, refer the complaint to the PA State Ethics Commission for further investigation and action. Any council member who is the subject of the alleged violation shall refrain from voting on the referral.

B. Borough employees

The borough Administrative Code and associated Personnel Code shall include provisions for violation of the Ethics Act by borough employees.

3. Need option for regional merge of police and fire departments, if necessary.

Section 1202 of the current PA Borough Code states:

Specific Powers.--The powers of the borough shall be vested in the borough council.... The specific powers of the borough shall include the following:

(24) Intergovernmental Cooperation. To enter into agreements with other political subdivisions, in accordance with existing laws, ... in performing governmental powers, duties and functions and in carrying into effect provisions of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation), and agreements with the proper authorities of municipal corporations, regional police or fire forces, or other public safety or governmental entities created by two or more municipal corporations pursuant to 53 Pa.C.S. Ch. 23 Subch. A, either for mutual aid or assistance in police and fire protection or any other public safety services, or for the furnishing to or, receiving from the municipal corporations or governmental entities, police and fire protection or any other public safety services, and to make appropriations for public safety services.

§ 105, Construction, of the draft 1992 code contains a provision that:

The powers of the Municipality under this Charter shall be construed broadly in favor of the Municipality and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this article. All possible powers of the Municipality except as limited in 103 above [the Constitution of the United States by the Constitution of Pennsylvania by the General Assembly or by this Charter] at any time are to be considered as if specifically and individually set forth in this article whether such powers are presently available to the Municipality or may hereafter become available.

Since it appears that the Borough would retain these powers without specifically including them in the charter, **the committee recommends that a draft home rule charter remain silent of the issue of regionalization.**

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