

## Government Study Commission

April 29, 2014

Carlisle Borough Hall

Meeting Minutes

Commission members in attendance: Ken Womack, John Sacrison, Stephen Hughes, William Berwick, Robert Winston, David Sheridan, Bert Lennon, Blake Wilson, Phil Shevlin and Secretary Joyce Stone

1. Call to Order

Ken Womack called the meeting to order.

2. Approve minutes

The April 15, 2014 minutes were approved.

3. Public Comment

None

4. New Business

5. Old Business

a) Committee Reports

○ Charter Development Committee

- The commission discussed and reviewed a rough draft of the charter. John Sacrison will update the draft charter to include the recommended additions and changes to the document.

○ Tax Collection

- No update

○ Citizen Participation

- No update

○ Government Structure

- No Update

○ Miscellaneous

- The committee presented a draft report that included a procurement code and an ethic code for public officials. Updates were made and will be inserted into the draft charter.

○ Elections

- The commission discussed conditions of term limits for elected official.

b.) The commission took a straw vote for term limits. The consensus of the commissioners were that term limits should be implemented.

6. Public Comment

Mr. Wayne Ulsh stated he is in favor of term limits

7. Adjourn

Meeting was adjourned at 8:35 PM

Respectfully Submitted,

Joyce Stone,  
Borough Secretary

Attachments: Miscellaneous Report

**GOVERNMENT STUDY COMMISSION  
MISCELLANEOUS COMMITTEE  
Report  
April 29, 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. Based on a review of other home rule charters and discussions by the commission and the committee, recommend the commission consider the following language:

**Proposed Contracting/Purchasing Input for Home Rule Charter**

- A. Council shall establish by ordinance the procedures and authority for the execution of contracts by the Municipality. This ordinance shall be a Purchasing Code which shall be a distinct section of the Administrative Code. All contracts for supplies, material, labor services or other valuable consideration shall be in accordance with this Purchasing Code which shall contain the following provisions:
- 1) The requirements of and the procedure for competitive bidding to include as a minimum the kinds of contracts requiring competitive bidding; definitions; publication and notice requirements; length of term; deposit and bond requirements, conditions, terms, rules, regulations, waiver, rights of acceptance and rejection; and exceptions; as it shall from time to time deem advisable and in accordance with General Law and this Charter. Both single contract and separate contract procedures may be used at the discretion of Borough Council when not constrained by applicable General Law.
  - 2) Except as otherwise provided in this Charter, no contract for materials, supplies, labor, franchise, or other valuable consideration, to be furnished to or by the Borough, shall be authorized on behalf of the Borough except with the lowest responsible bidder, after competitive bidding.
  - 3) No contract shall be made or obligation incurred unless the supplies, material, labor services or other valuable consideration is programmed in the current fiscal budget or, the Manager shall certify that there is a sufficient unencumbered balance in an appropriation and that sufficient monies therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.
  - 4) All contracts or purchases in excess of 1.25 times the base amount specified in the §1402(a) of the PA Borough Code, subject to adjustment in §1402(a.2), shall not be made except with and from the lowest qualified and responsible bidder after due notice subject to provisions prescribed in the Purchasing Code.
  - 5) All contracts or purchases in excess of 1.25 times the base amount specified in the §1402(a.1) of the PA Borough Code, subject to adjustment in §1402(a.2), but less than the amount specified above, shall require written or telephonic price quotations from at least three qualified and responsible contractors subject to provisions prescribed in the Purchasing Code.

- B. No person shall evade the competitive bidding provisions of this Charter or General Law by purchasing or contracting for materials, supplies, or services piecemeal, which transactions would, in the exercise of reasonable discretion and prudence, be considered as one transaction amounting to more than the amount specified according to this section or applicable General Law to require competitive bidding.
- C. Competitive bidding shall not be required for:
- 1) Labor or services rendered by any Borough official or employee;
  - 2) Contracts for labor, materials, supplies, or services aggregating less than the amount specified by Borough Council in the Administrative Code or other ordinance, for the item in the year supplied;
  - 3) Contracts relating to the acquisition or use of real property;
  - 4) Contracts for professional or unique services or supplies except that the use of competitive bidding for such items shall be encouraged where practicable;
  - 5) Contracts for insurance and surety company bonds except that the use of competitive bidding for such items shall be encouraged where practicable;
  - 6) Contracts for emergencies;
  - 7) Contracts with governmental entities, authorities, agencies, or political subdivisions, except where required by General Law;
  - 8) Contracts made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission.

## **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.