

Municipality of Mt. Lebanon
Ad Hoc Home Rule Charter Study Committee
Report
December 16, 2013

FINAL REPORT 01-07-14



Table of Contents

1. Ad Hoc Home Rule Study Committee
2. Overview
3. Committee Recommendations
 - a. Gender Neutrality
 - b. Public Notice
 - c. Public Notice Related to the Issuance of Debt
 - d. Official Records
 - e. Procedures to Issue Debt
 - f. Elected Treasurer
 - g. 1st Class Township Limits
 - h. Earned Income Tax (EIT) Requiring Reduction in Real Estate Tax (RET)
 - i. 2-Mill Real Estate Tax Increase Limit
4. Community Outreach
5. Committee Minutes
6. DCED Home Rule Charter Background

Ad Hoc Home Rule Charter Study Committee

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Overview

Introduction

Mt. Lebanon's Home Rule Charter became effective on the first day of January 1975. In Pennsylvania, at least 65 communities have adopted a Home Rule Charter, and Mt. Lebanon was among the first five to do so, with its 1975 effective date.

Our community has amended our Charter five (5) times; additionally, the community turned down one proposed amendment. The last comprehensive review was completed in 1994.

On May 29, 2012, the Mt. Lebanon Commission formed and appointed members to the Ad Hoc Home Rule Charter Review Committee. Specifically, the Commission's charge:

The Commission is appointing a seven-member advisory committee to review each section of the charter and make suggestions as to possible modifications and improvements. The purpose of the committee is to conduct a comprehensive review of the Home Rule Charter and make recommendations to the Commission on any changes that the committee believes should be made to the charter.

The process followed by the committee shall be as inclusive as practicable. There should be a concerted effort to stimulate and obtain public input and response when conducting this review. The committee shall prepare a final written report for the Commission that summarizes the committee's work and gives the rationale for any proposed changes to the charter.

The committee's term was later extended by Commission action to December 31, 2013 from the initial term ending May 31, 2013.

According to DCED, 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.

Another way to say this: Home Rule means – The voters in the homes rule.

The Process

As noted above, the Commission's direction was to be as inclusive as possible. As with other Municipal Boards and Authorities, the meetings have been advertised in the local paper and on the municipal website. All proceedings have been open to the public.

There have been regular meetings. The committee first met in June 2012. Minutes of these meetings are included with this report.

The review process began with a section-by-section review of the Charter, including areas for review highlighted by the municipal staff. During this review the committee asked two fundamental questions:

- A. Is the section outdated or otherwise in need of change?
- B. Does the section represent "good governance" in the eyes of the committee?

Attached to this report is the side-by-side document that reflected the initial thoughts of the municipal staff and committee.

Subsequent to this initial review, there were specific provisions upon which the committee intended to focus and conduct more extensive discussion. These general areas included:

1. Gender Neutrality of the updated Charter
2. Public Notice (general)
3. Records: Is an electronic ordinance book an option?
4. Debt Service

- a. Number of Commissioners required to issue debt
- b. Public Notice (related to the issuance of debt)
- 5. Treasurer's Office
 - a. Should it be an elected or an appointed office?
- 6. Taxes
 - a. First Class Township Limit
 - b. Existing EIT/RET Linkage when increasing the EIT
 - c. 2-Mill Electoral Limit

A second document, also attached to this report, reflects these narrowed charter provisions, which the committee discussed in depth.

Public Forum

On May 15, 2013, the committee held a public forum to expressly gain the community's input on areas under discussion and any additional areas the broader community might suggest for review.

In advance of the public forum, the community magazine, mtl, ran a feature story on the Charter and the Commission's initiative to review the document. Additionally, the Public Information Office prepared and distributed a list of Frequently Asked Questions.

The Report

Following the public forum, the committee continued its deliberations until such time as it was prepared to issue its report to the Commission.

On December 16, 2013, the committee assembled to review its final report and advance the report to the Commission for its review and consideration. The report summarizes the committee's work and gives the rationale for any proposed changes to the charter.

Next Steps

Upon receipt of the committee's report, the Commission may consider the committee recommendations, elect to draft and consider ordinances implementing the committee's recommendations, or make other changes the Commission deems appropriate. The Commission may proceed in a time frame that best suits the municipality, in its judgment.

Should the Commission pass an ordinance to modify the charter, the question of amending the Home Rule Charter is ultimately put before the voters of Mt. Lebanon at either a primary or general election. The municipality will work with the County Department of Elections on the actual wording of the ballot question.

Committee Recommendations

Gender Neutrality

Current Status

The charter reflects an all too common reliance on the use of male pronouns.

Issue

While it is presumed no slight was intended, the charter represents the entire community, and as such, there is no reason to demonstrate any potential bias, in any manner. Further, the charter should be as inclusive and respectful of the community as possible.

Recommendation

The committee recommends the charter be amended to be "gender neutral" in all matters. Below is an example of how the use of the male pronoun might be eradicated throughout the charter. Each highlighted change reflects the previous use of a male pronoun in the sentence.

ARTICLE V MANAGER

Section 501. Appointment, Qualifications and Compensations

The Commission shall appoint a Manager for an indefinite term and shall fix **the Manager's** compensation. The Manager shall be appointed solely on the basis of **demonstrated** executive and administrative qualifications. **The Manager** need not be a resident of the Municipality at the time of appointment, but may not reside outside the Municipality while in office except with the approval of the Commission.

Section 502. Powers and Duties of the Manager

The Manager shall be the chief administrative officer of the Municipality. **The Manager** shall be responsible to the Commission for the administration of all municipal affairs **assigned** by or under this Charter. **The Manager** shall have the following powers and duties:

- 1) **To** appoint, suspend or remove all municipal employees, except as otherwise provided by law or this charter, and except that department directors shall be hired or discharged with the advice and consent of the Commission. **The Manager** may authorize any administrative officer who is subject to **the Manager's** direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- 2) **To** direct and supervise the administration of all departments, offices and agencies, except the Treasurer's department and except as otherwise provided by this Charter or by law.
- 3) **To** make such reports as the Commission may require concerning the operations of municipal departments, offices and agencies subject to **the Manager's** direction and supervision.
- 4) **To** prepare and submit the annual operating budget and capital budget to the Commission.
- 5) **To** submit to the Commission and make available to the public a complete written report on the finances and administrative activities of the Municipality as of the end of each fiscal year.
- 6) **Subject** to such limitations or policies as the Commission may by ordinance or resolution establish, **to** generally superintend and manage all of the day-to-day fiscal affairs of the Municipality except those entrusted to the Treasurer under Article IV of this Charter. **The Manager's** powers in this regard shall include, but not be limited to, the placement of municipal funds in such lawful investments as **the Manager** may choose. **The Manager** shall make certain that no money is paid out unless the same shall have been previously appropriated by the

Commission to the purpose for which it is to be paid. **The Manager** shall continually examine, review and settle all accounts in which the Municipality is concerned, either as debtor or creditor, where provisions for the settlement thereof have been made by the Commission. Where no provision, or an insufficient provision, has been made, **the Manager** shall examine such accounts and report to the Commission the facts relating thereto, with **an** opinion thereon. On the basis of a continuing examination and review, **the Manager** shall prepare and present to the Commission such written reports and financial statements as the Commission shall require.

7) **To** keep the Commission fully advised as to the financial condition and future needs of the Municipality, and make such recommendations to the Commission concerning the fiscal and all other affairs of the Municipality as **is deemed** desirable.

8) **To** be Secretary of the Municipality and cause appropriate records to be made, preserved and certified, as required by law or other action of Commission; **to** attest the execution of all instruments and record all ordinances; **to** have custody of the municipal corporate seal; **and to** appoint an Assistant Secretary to serve as Secretary in **the event of the Manager's** absence.

9) **To** attend all Commission meetings. **The Manager** shall have the right to take part in discussions, but shall not vote.

10) **To**, where authorized, acknowledge and execute documents on behalf of the Municipality. In addition, **the Manager** shall sign all properly **presented** papers, contracts, obligations and documents.

11) **To** preserve order in the Municipality.

12) **To** enforce the ordinances and regulations of the Municipality.

13) **To** represent the Municipality in deliberations with other governmental bodies.

14) **To** perform such other duties as are specified in this Charter or as may be required by the Commission.

Section 503. Removal

The Commission may remove the Manager at any time with or without cause.

Section 504. Acting Manager

The Manager may designate, in writing, an employee of the Municipality to exercise the duties of the Manager during **a** temporary absence or disability, subject to approval of the Commission. During such absence or disability, the Commission may revoke such designation at any time and appoint another officer of the Municipality to serve until the Manager shall return or **the** disability shall cease.

Public Notice

(excluding as related to the issuance of debt)

Current Status

Various sections of the Home Rule Charter require the Municipality to provide public notice of certain actions, and it is required that the notice be given in a “newspaper of general circulation in the Municipality.” It is used with reference to:

- hearings for ordinances requiring notice prior to adoption, including debt ordinances (Section 320);
- post-enactment advertising for ordinances (Section 324);
- budget notices (Section 905);
- capital program notices (Section 911);
- notice of initiative/referendum petition (Section 1206); and
- notice of comprehensive plan (Section 1401).

Issue

For example, Section 905 is titled “Adoption of Budget” and it provides that “The Commission shall publish in a newspaper of general circulation in the Municipality, the general summary of the budget and a notice” that provides “notice stating: 1) The times when and places where copies of the message and budget are available for inspection by the public, and 2) The place and time, not less than two (2) weeks after such publication, for a public hearing on the budget . . .”

The Municipality satisfies these public notice requirements by advertising in the Pittsburgh Post-Gazette. The Municipality spends approximately \$18,000 a year to place such advertisements in the Post-Gazette.

Recommendation

We recommend a change to these provisions to use the defined term “Public Notice,” and then include a new section in the charter that defines “Public Notice” as publication by (1) physical posting in a conspicuous location accessible to the public in the Municipal Building (such as on a bulletin board or electronic kiosk in the lobby), and (2) such other methods set forth by the Commission in the Administrative Code.

Discussion

With respect to the Commission-selected methods, the Commission would have the ability to satisfy the notice requirements by putting notice on the Municipality’s website and sending out Lebo Alerts. Note that state law requires that certain notices be published in a newspaper. The recommended change to the charter would not affect these requirements.

This change provides several advantages. Given the speed at which technology is currently advancing, the change would provide the Commission with flexibility for the notice requirements to keep up with the times. Under the change, in addition to using new methods, the Commission could provide notice to the newspaper, instead of purchasing advertisements. The newspaper would then have the option of addressing the relevant information if it so chooses. Besides the cost, focus should concern the effectiveness of the notice method. Regardless of the method selected, the notice will not reach every single resident. Nonetheless, a goal should be to reach as many as residents as possible while keeping costs down. It is this committee’s belief that use of widely-accepted technology will permit the notice to reach a greater percentage of the Municipality’s residents.

Public Notice Related to the Issuance of Debt

Current Status

Section 321 of the Charter is titled "Ordinances Authorizing Indebtedness," and it includes a public notice requirement. Besides requiring newspaper notice (which has already been addressed above), this Section imposes an additional requirement regarding the timing of the notice. Section 321 provides that there must be two public notices:

1. the first 15 to 30 days prior to the Commission meeting at which the debt issue ordinance will be raised, and
2. the second 7 to 15 days prior to that Commission meeting.

Issue

Pennsylvania state law only requires one such notice, and it must be between three and 30 days. Thus, under state law, the notice could be as short as three days. The way the charter is currently written, the fastest it could happen is 15 days, and there must be two notices, as opposed to one. Given the current Charter provision, the Municipality has faced issues. It has wanted to refinance debt to take advantage of low interest rates, but because of the delay caused by the public notice requirements, the Municipality could not lock-in the rates that it was hoping to obtain.

Recommendation

We recommend changing the timing requirements to require one notice of seven to 30 days.

Discussion

Such a change would allow the Municipality to approve indebtedness more quickly to avoid the issues it has had with respect to refinancing in the past. Although it affords the public less time to give the Commission input than the current provision, the change is stricter than the state minimum notice of three days.

Official Records

Current Status

Section 325 of the Charter is titled "Recording of Ordinances," and it provides that all ordinances and resolutions are to be entered in permanent record books.

Issue

Right now, the ordinance book is kept in the Manager's office, and the only way to review it is to enter the Manager's office. The library used to have a copy, but not anymore.

Recommendation

We recommend an additional clause to Section 325 that provides that the books (ordinance book and resolution book) "may be kept electronically."

Discussion

Providing for an official electronic record may allow the Municipality to simplify its record keeping, keep up with the times, and make it easier to make copies and distribute. The actual conversion to electronic records must, at a minimum, consider legal document retention requirements, the appropriate use of technology and the security of the records.

Procedures to Issue Debt

Current Status

Section 321 establishes the required number of Commission votes to authorize debt to be four (4) of the five (5) members. This represents a super majority (80%) of the commission.

Issue

From a historical perspective, the original wording may have been placed in the Charter as a reaction to a bond issue for the Recreation Center project. That project was authorized before the adoption of the charter; at that time a majority vote was required.

The supermajority requirement is an impediment to approval of projects that have the support of a majority of the commissioners. Other important issues such as taxation, zoning, etc. require only a majority vote.

Recommendation

The committee recommends a revision to the wording to state that authorization of new debt requires an affirmative vote of three commissioners. There could be a delay of the coming into force of this change of three years to insure that all commissioners are elected to office with the understanding that they will be able to act based on the new voting requirements.

Discussion

The recommended change allows majority rule, not a minority (observation from a resident at a community forum).

The proposed change puts this action in line with all other financial decisions – budgeting, taxation, etc.

This change makes this action consistent with the voting requirement of other governing bodies and provisions of the Federal Constitution, State Constitution, and School Board code.

It removes the possibility that a simple majority of commissioners could use other mechanisms to fund projects they support avoiding the use of debt but to the detriment of other budget items.

Every four years commissioners are elected from three wards – it is possible that at one election, those three commissioners favoring a proposal requiring new debt could be elected. If the other two commissioners were opposed, then it would take another two years to elect someone who would provide the fourth vote (observation from a resident at a community forum).

At the time of any municipal election two commissioners could be elected that oppose a particular project.

The current language sets a higher standard for borrowing which is an action of considerable expense and long lasting ramifications.

With this said, the existing language has not prevented many worthwhile projects (e.g. the library renovation, the public safety building, the acquisition of new park land) from proceeding using borrowed funds.

Elected Treasurer

Current Status

The Home Rule Charter currently states, "The Municipality shall have a Treasurer, elected at large and responsible for the collection of all property taxes, earned income taxes, occupational privilege taxes and other general taxes which the Commission may levy. The Treasurer shall be also responsible, as provided in Section 909, for signing all checks for the disbursement of municipal funds. He shall be entitled to complete and accurate information from the Manager or Acting Manager in regard to any check he is asked to sign."

Issue

Do we want to continue to elect a Treasurer to an office which performs merely clerical functions, or should we incorporate those functions into the Administration and dispense with this singular election?

Recommendation

Amend the Charter to make the treasurer function a responsibility of the Manager's office.

Discussion

It is generally assumed that elected officials are responsible for setting policy, e.g. the Commission. The elected Treasurer does not set policy. Recently, the Commonwealth mandated that the Earned Income Tax be collected by a third party, and our EIT is now collected by Jordan Tax Service. A lesser argument in favor of change is to avoid the future possibility for a politically motivated elected Treasurer to act, or decline to act, for specious or personal reasons.

A reason to maintain the status quo is that the occupants of the office have thus far carried out the functions in a responsible, non-partisan manner.

Committee discussions on whether or not to maintain the current status weighed preponderantly in favor of change, which would eliminate the Treasurer's elected office and add the duties to the Municipal Manager's office.

We asked ourselves if the change to an appointed (by the Manager) Treasurer would lend itself to better governance and the answer is "yes".

1st Class Township Limits

Current Status

As currently written, Section 914 of the Charter fixes the rate of all municipal taxes to those of First Class Townships which, in turn, are determined by the General Assembly in Harrisburg.

Issue

A principal rationale for adopting a Home Rule Charter in Pennsylvania is for the municipality to establish a prudent degree of self-rule, freeing itself from many of the blanket restrictions imposed by the General Assembly on various classes of municipalities such as Boroughs, Townships of the First Class, Townships of the Second Class, and so on. Section 914 effectively negates this fundamental rationale for adopting a Home Rule Charter and, therefore, substantially reduces the benefits of having such a Charter.

Recommendation

Our committee recommends that the Charter be amended to relieve the Municipality from the tax limits imposed by the General Assembly on First Class Townships.

Discussion

We are **NOT** in favor of removing all limits on tax rates in our community. Rather, we wish to place responsibility for those tax rates back in the hands of our citizens and our elected commissioners where such responsibility rightfully belongs under the rationale of a Home Rule Charter.

Our reasons for this recommendation are as follows:

- As currently written, Section 914 limits Mount Lebanon's flexibility on Deed Transfer Taxes and Property Taxes.
- With respect to generating revenue – arguably the most important feature of any governing document – Section 914 ties Mount Lebanon to its past (its legacy as a former First Class Township) not its future.
- In Pennsylvania, municipal classifications (Borough, Township, etc.) are based on population. Our committee believes that population alone should not be the sole determinant of tax policies. Rather, we the citizens of the municipality should have the right to determine our needs and to tax ourselves accordingly.
- As currently written, Section 914 essentially delegates Mount Lebanon's tax policies to the General Assembly in Harrisburg rather than entrusting its citizens and their elected commissioners with the autonomy to determine their own future.
- All of the above factors can conceivably prompt our elected officials to circumvent the First Class Township limits with revenue strategies that are lacking in fairness and transparency, such as the imposition of service fees and other mechanisms to generate needed revenue.

From the standpoint of logic and good governance, this proposed amendment has few, if any, inherent disadvantages. However, the following challenges should be considered:

- The township commissioners and the voters of the community will be charged with developing a new method or algorithm for limiting tax increases, a complex task that will consume time and energy. Minor expenses might be involved if the Commission chooses to retain the services of a municipal finance expert to consult with them on the development of a new proposal.
- The general public would need to be carefully and systematically informed to negate the impression that this proposal recommends removal of all tax limits. Rather, such limits should be at the discretion of the voters in our community.
- There is the remote possibility that voters will impose limits even more strict than those now imposed by the First Class Township restriction.

Earned Income Tax (EIT) Requiring Reduction in Real Estate Tax (RET)

Current Status

Section 914 of Mt. Lebanon's present Home Rule Charter ("HRC") contains a provision which links any increase of the Township's EIT to a corresponding reduction in the RET by an amount equal to the revenues estimated to be realized by the EIT increase. Specifically, section 914 states:

Section 914. Tax Rates

Except as provided below, in fixing the rate of any municipal tax which may be now or hereafter authorized by law, the Commission shall abide by the limits established by the General Assembly for first class townships. The Commission may increase the rate of the municipal earned income tax above such limits if the Commission shall in the same year reduce the real property tax rate by an amount estimated to reduce real property tax revenues in an amount equal to the earned income tax revenues estimated to result from such rate increase. Any increase in the real property tax levy of the prior year shall not exceed two (2) mills over the tax levy of the prior year without first obtaining a favorable referendum on the amount exceeding two (2) mills, in the manner set forth in the second paragraph of §1206 of this Charter. The action of the Commission on the ordinance shall follow the majority vote of such election. *(emphasis added)*

Issue

This linkage reduces the Municipality's flexibility in managing the balance of revenue streams.

Recommendation

After careful review of the language of this section, and the manner that it has been interpreted and employed by the municipality, the committee recommends that Section 914 be amended to eliminate this requirement.

Discussion

While we had no "legislative history" which discusses the purpose of this provision (other than the very good memories of the township's capable staff), the committee believes that this provision was originally envisioned as a mechanism to restrain future increases in the overall tax burden of Mt. Lebanon residents. However, while perhaps well-intentioned, we believe that these restraints are largely ineffectual and improperly remove the power to set tax rates from our elected officials. In addition, it unnecessarily reduces the municipality's financial flexibility.

In making this recommendation we note that, despite this provision, the Mt. Lebanon Commission has found creative ways to "work around" it in the past. In essence, through legislative maneuvering, the Commission has been able to raise the EIT without making a corresponding offset in the RET. This ability to circumvent the provision renders it essentially meaningless. Additionally, consistent with other recommendations of the committee, we believe that the power to determine tax rates should be decided by the elected commissioners and not dictated by the HRC. Ultimately, the elected commissioners will be accountable to the voters if their decisions regarding increases (or decreases) in the respective EIT and RET rates are not accepted or approved by the population at large. Lastly, we believe it unnecessarily constrains the municipality's options in the event additional revenue is needed.

2-Mill Real Estate Tax Increase Limit

Current Status

Section 914 of Mt. Lebanon's Home Rule Charter provides that "Any increase in the real property tax levy of the prior year shall not exceed two (2) mills over the tax levy of the prior year without first obtaining a favorable referendum on the amount exceeding two (2) mills, in the manner set forth in the second paragraph of Section 1206 of this Charter."

Issue

This provision was adopted in 1977 at a time when Allegheny County assessment policies generated property values that necessitated a much higher millage rate to yield the revenue required to fund government operations.

Recommendation

The committee recommends that the Commission amend the provision in Section 914 establishing a two (2) mill limit and set a new cap limiting millage rate increases to a level that generates revenue not to exceed 20% of the prior year's real estate tax levy (in 2013 20% = 0.90 mills).

Discussion

The issue is whether the provision for a 2-mill tax limitation should be updated to reflect the effect of changes in assessment policy. Prior to 2001, Allegheny County had a predetermined ratio (PDR) of 25%, meaning that property was valued at one-fourth of its market value. Beginning in 2001, the County adopted a PDR of 100%, which meant that property was now given an assessed value equal to the full market value. The switch to a 100% PDR also required taxing bodies to reduce their millage rates. The following table illustrates what the change meant for Mt. Lebanon's assessed values and tax rates:

Year	PDR	Market Value	Assessed Value	MTL Millage Rate
2000	25%	\$1,413,799,340	\$ 353,449,835	20.30
2001	100%	\$1,878,039,596	\$1,878,039,596	4.35

What did not change was the provision in the Mt. Lebanon charter that property taxes could be raised by 2 mills without voter approval. Prior to the change in the millage rate, the 2-mill cap limited a property tax increase to about 10% (2.00 mills + 20.30 mills = 9.8%). Based on the 2013 millage rate, the 2-mill cap now allows a property tax rate increase of 44% (2.00 mills + 4.51 mills = 44.3%) without voter approval.

The major alternatives discussed and considered by the committee included:

- Linking millage increases to an economic index such as the CPI-U;
- Limiting millage increases to an amount equal to a percentage of General Fund revenue (5%, 10%, etc.);
- Limiting millage increases to a percentage of current millage rates, 25% for example, to match the change in PDR;
- Setting a new absolute cap on millage rate increases such as one-half mill; or,
- Capping millage rate increases at a level that generates no more than a specified percentage of the prior year's real estate tax levy. This is the option the committee recommends.

In addition to its specific recommendation regarding a millage cap, the committee believes the Commission should retain the favorable referendum provision for increases above the cap.

Advantages to moving to a percentage-based millage cap include: limiting tax increases to a more reasonable level, i.e. 20% versus the 44% permitted now; disconnecting local tax policy from the effects of possible future changes in county assessment practices; and, utilizing a more appropriate and transparent strategy that detaches tax increases from the millage rate, which is a dated and often confusing approach. The disadvantage of amending the Section 914 millage cap provision is that, should an emergency or circumstances require it, the Commission loses the ability to raise taxes beyond 20% without going to a referendum.

Community Outreach



THE OFFICIAL COMMUNITY MAGAZINE OF MT. LEBANON MUNICIPALITY

April 26, 2013

good governance

Written by: Merle Jantz



Since 1968, the Pennsylvania Constitution has permitted municipalities to adopt home rule charters. About 65 municipalities now have home rule charters, but when Mt. Lebanon adopted a charter in January 1975, we were one of the first in the state to do so.

Home rule charters are like local “constitutions.” Municipalities with charters still need to comply with local and federal laws and state law pertaining to home rule municipalities, but they have more control over their destinies. While a township or borough without home rule can act only where authorized by the state constitution, home rule municipalities can act anywhere except where state law specifically limits them.

“The advantage of home rule is that it that it allows the community to take into account its own specific issues and concerns,” says Mt. Lebanon Municipal Manager Steve Feller.

Our home rule charter deals with things such as the timing of the fiscal year, who can run for commissioner, how the commission functions, and how vacancies will be filled. It specifies how public meetings will be advertised and conducted, deals with citizens’ rights to be heard, identifies specific types of actions that require passage of an ordinance, and sets forth how ordinances are passed and recorded. It also defines the structure and responsibilities of municipal officials including the treasurer, the manager, the various administrative department heads, as well as consultants, such as the engineer and solicitor.

The charter did not make a radical difference in the way Mt. Lebanon was organized and operated, but there were some significant changes, including: requiring a professional CPA firm hired by the Commission to conduct an annual audit; provisions for initiative and referendum; expansion of the elected treasurer’s responsibilities; a mandatory five-year capital expenditures program; criteria for removing a

commissioner; implementation of several new codes, and a provision that requires a vote of four out of five commissioners to incur debt and mandates voter approval of debt that exceeds 2½ times the municipality's annual revenue.

The charter has served Mt. Lebanon well—since 1975 it has been amended only five times. But the last time it was amended by referendum was almost 20 years ago, in 1994, when voters approved a change that requires real estate taxes to be lowered to balance out increases in property tax. It clearly is time to take a fresh look at our "constitution" to ensure that like other important document such as the zoning ordinance or comprehensive plan, the charter meets the needs of today's residents and will continue to serve the community well for the next 10 or 20 years.



The seven-member committee appointed last year to look at Mt. Lebanon's home rule charter is seeking public input on some of the focus areas they believe may need updating. They invite interested residents to a public meeting, Wednesday, May 15, at 7 p.m., in the municipal building. Committee members from left, front: Kevin Kearns, Mary Larsen, Chris Callihane. Back: Geoff Hurd, Nancy Carroll, Bill Matthews and Bradley Kitlowski.

"There is a general belief that democracy is more easily realized when government activities are kept closest to the people," Feller says.

Working toward that goal, a seven-member committee has been meeting since June 2012 to review the charter. Committee members are Bill Matthews, chair; Geoff Hurd, Kevin Kearns, Mary Larsen, Nancy Carroll, Chris Callihane and Bradley Kitlowski.

Mary Larsen, Washington Road, who served on the original home rule charter committee and later became a Mt. Lebanon Commissioner, is just as serious about the task now as she was nearly 40 years ago. The current ad hoc committee has applied a sort of litmus test to each chapter, she says: "In just about everything we looked at, the term 'good governance' came up—"Is this good governance?"

By the end of 2013, the committee will submit a report to the Mt. Lebanon Commission, perhaps recommending some changes in the charter. But their immediate objective is to get public input on

several focus areas they have identified that might need changing. They will hold a public meeting to discuss the focus areas this month—Wednesday, May 15, at 7 p.m. in the commission chambers of the municipal building.

The focus areas are: gender neutral language; methods of giving public notice; methods of keeping official records; procedures required to issue debt; whether the municipal treasurer should be appointed or elected, and the amount by which tax rates can be increased at the Commission's discretion.

After receiving public input, the committee will submit a report to Mt. Lebanon Commission, which will likely include several recommendations. If the commissioners agree with the recommendation, they would pass ordinances amending the document and work with the county elections bureau to word the ballot question or questions. Voters would need to accept or reject the changes in a referendum.

The committee has talked extensively about some of the possible changes. For instance, the charter currently requires municipal legal notices be advertised for five days in a local newspaper. Since technology now affords other means of communication, the committee is considering the implications of permitting electronic methods of advertising.

Another discussion centers on the possibility of further clarifying the sorts of expenses that, if not anticipated when the budget is passed in December, would require the passage of a mid-year budget amendment.



In evaluating how well our 38-year-old home rule charter serves the community today, the ad hoc committee has used the litmus test, "Is this good governance?"

The committee also is evaluating the impact of eliminating the requirement that the commission must reduce property tax to offset any increase in earned income tax.

"None of us have come to a consensus on anything," says Larsen. "We need to incorporate public opinion on the issues before we can move forward with any recommendations."

The committee, originally convened for one year, has received an extension from the commission, so it can gather ample public input and prepare a thorough report. It is likely that Mt. Lebanon voters would have the opportunity to vote on any proposed changes in the May 2014 primary election.

To learn more about the charter and possible revisions, view the existing home rule charter by clicking on "public documents" on the left menu of the municipal homepage, www.mtlebanon.org. You can review the ad hoc committee's agendas and minutes by clicking on "government," "boards and authorities" at the top of the same page.

If you can't attend the May 15 meeting but would like to share your comments or concerns, please contact Municipal Manager Steve Feller, who is the staff liaison to the committee, at sfeller@mtlebanon.org or 412-343-3620.

—mjantz@mtlebanon.org

Home Rule Charter Update: Q & A

An ad hoc committee appointed by the municipal Commission is reviewing Mt. Lebanon's Home Rule Charter and may recommend some changes that residents would ultimately have the opportunity to vote on. Here is what you need to know and how you can participate...

What is Home Rule? Since 1968, the Pennsylvania Constitution has permitted municipalities to adopt home rule charters, and the state legislature adopted law to implement the provision in 1972. A home rule charter is like a municipality's "Constitution." Home rule basically shifts the responsibility for local government from the state legislature to the local community. Home rule municipalities must comply with provisions in the U.S. and Pennsylvania constitutions and to state laws applicable to home rule municipalities. However, while boroughs and townships without home rule can act only where authorized by state law, home rule municipalities can act anywhere except where state law specifically limits them.

When did Mt. Lebanon become a Home Rule Municipality?

Voter adopted Mt. Lebanon's Home Rule Charter in November 1974 and it became effective in January 1975. At least 65 other Pennsylvania municipalities also are Home Rule municipalities, but Mt. Lebanon was among the first five. We have amended our Charter five times by referendum. One proposed amendment also was turned down.

What sorts of things are included in our Home Rule Charter? The Home Rule Charter deals with things such as the timing of the fiscal year, who can run for commissioner, how the commission will function, and how vacancies will be filled. It specifies how public meetings will be advertised and conducted, deals with citizens rights to be heard, identifies specific types of actions that require passage of an ordinance, and sets forth how ordinances are passed and recorded. It also defines the structure and responsibilities of municipal officials, including the treasurer, the manager, the various administrative department heads and consultants such as the engineer and solicitor.

Why is an ad hoc committee currently reviewing the charter?

The last time the charter was evaluated comprehensively was in 1994. It is important for governments to review and, if necessary, update important documents such as the Home Rule Charter, the Zoning Ordinance and the Comprehensive Plan, to ensure these documents continue to effectively serve the public and provide a viable framework for the community.

Who is on the ad hoc committee? The seven member ad hoc committee consists of Bill Matthews, chair, Kevin Kearns, Mary Larsen, Nancy Carroll, Chris Callihane, Geoff Hurd and Bradley Kitowski. All of these residents have been involved in the community. They bring different perspectives to the chore but are united in their desire to make sound recommendations to the commission.

What is the process that the ad hoc committee is following?

The committee has been meeting regularly since June 2012 to go over the Home Rule Charter from beginning to end. They have applied the litmus test—"Is this good government?"—to each chapter. They have identified a few "focus areas" that they think may need changing. After receiving public input, they will prepare a report including their recommendations and submit it to the Mt Lebanon Commission. Their meetings are open to the public. The agendas and minutes for the Home Rule Committee can be found on the boards and authorities section of the municipal website, www.mtlebanon.org.

What are the focus areas? The focus areas are: gender neutral language; methods of giving public notice; methods of keeping official records; procedures required to issue debt; whether the municipal treasurer should be appointed or elected, and the amount by which tax rates can be increased at the Commission's discretion.

What is the Commission's role? The Commission may accept or dismiss the ad hoc committee's recommendations. If they agree that one or more areas need changing, they would draft a proposed ordinance/ or ordinances reflecting those changes before moving forward. The next step would be to work with the Allegheny County Department of Elections to develop ballot questions. There may be more than one ballot question.

When would any proposed changes in the Charter appear on the ballot? The committee wants plenty of time to gather public input and to be sure its work has been thorough. Questions can go on the ballot in either November or May. It is likely that Mt. Lebanon voters will have the opportunity to vote on any proposed changes in the May 2014 primary.

How can I participate in this process? You can view the current Home Rule Charter on the municipal website, www.mtlebanon.org, in the public documents archive. To hear more about the focus areas and express your opinion, you should attend the public meeting scheduled for Wednesday, May 15, at 7 p.m. in the Commission Chamber of the Municipal Building, 710 Washington Road. You also may submit your comments to Municipal Manager Steve Feller, who is the staff liaison to the committee, at sfeller@mtlebanon.org.

This document was created by the Mt. Lebanon Public Information Office, March 2012

Public Meeting Outline May 15, 2013

Shall the Mt. Lebanon Home Rule Charter be changed, such that...

... the Charter is gender neutral?

... Public Notice may be accomplished other than by publication in a newspaper?

... official records may be retained in a means other than an official record book?

... a simple majority (3), rather than a super majority (4), is required to issue debt?

... Public Notice for debt issuance is required one time, seven (7) days before consideration?

... Treasurer is not an elected office, with the duties vested in the Manager?

... MTL tax structure is not governed by the limits of the 1st Class Township code?

... the Earned Income Tax rate may be increased without an offsetting decrease in Real Estate Tax?

... the current 2-Mill annual increase limit is modified?

Committee Minutes

Minutes - June 28, 2012
Ad Hoc Home Rule Study Committee

The Ad Hoc Home Rule Study Committee held an organizational meeting in Conference Room C of the Municipal Building. Members present included: Geoff Hurd, Kevin Kearns, Mary Larsen, Nancy Carroll, Chris Cahillane, and Bradley Kitlowski. Bill Matthews also participated via a conference telephone. Municipal Manager Steve Feller, who will be serving as staff liaison for the group, also attended the meeting.

Steve Feller thanked the members for volunteering their time and expertise by serving on the group. He explained that the Commission would like the group to conduct a comprehensive review of the Charter and make recommendations in writing to the Commission on any changes that should be made to the Charter. The final product should be a report that lays out the process followed, major issues, and recommended changes. The term of the Committee members ends on May 31, 2013. The meetings of the Committee will be public and the Municipality will advertise the meetings in the paper and on the web site and conduct the sessions in public. The Commission would like the work of the Committee to be as inclusive as possible. The public information office will be available to help promote the meetings and solicit public input. The Committee members previously received a packet of materials that included a full copy of the Charter, information concerning home rule laws in Pennsylvania, and reports from prior review efforts conducted in 1988 and 1994.

There was a good deal of discussion about the best way to approach the task. The Committee decided that they would like a section by section review of the document, and asked staff to prepare some logical grouping of topics to make the task manageable and better understood by the public. The consensus of the group was that the first step should be to meet with the Solicitor to better understand the legal issues and also review a list of possible changes that is to be prepared by the staff. The Committee anticipates a process that would include both "focus groups" of invited Community representatives and also a "town hall" type meeting for all interested residents. The Committee also anticipates a mid-term meeting with the Commission to ensure that they are moving in the right direction. They also asked if the Commission could appoint a liaison to periodically attend Committee meetings and then report back to the entire Commission.

Bill Matthews was elected Chair of the Committee and Mary Larsen was elected Vice-Chair. The Municipal Manager or his designee will keep meeting notes/minutes. The Committee asked the Municipal Manager for the following information prior to the next meeting:

- Invite the Solicitor to attend the next meeting to review the legal issues
- Distribute a copy to all members in a Word format
- Prepare a staff list of potential items in the Charter that may be adjusted
- Prepare a grouping of Charter sections that would provide for an efficient review schedule

The meeting adjourned at 9:10 p.m.

Minutes – September 19, 2012
Ad Hoc Home Rule Study Committee

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Geoff Hurd, Kevin Kearns, Mary Larsen, Bradley Kitlowski, Nancy Carroll, and Chris Cahillane. Municipal Manager Steve Feller, Solicitor Phil Weis and Assistant Manager Marcia Taylor also attended the meeting.

Mr. Matthews asked for citizen comments. Bill Lewis of 816 Ridgeview Drive asked about the legal status of the Municipal Traffic Engineer.

Mr. Kitlowski moved, and Mr. Kearns seconded to approve the minutes from the August 29, 2012 meeting. The motion passed 4 to 0 with two members (Mr. Cahillane and Ms. Carroll) abstaining from the vote because they were not present at the last meeting.

Solicitor Weis continued the discussion about the advertising requirements in the Charter. He distributed the attached memorandum on the subject.

The Committee then began a "section by section" review of the existing provisions in the Charter. They once again reviewed key provisions in Articles 1 through 5 of the Charter. The Committee then began a discussion of Articles 6 through 9 of the Charter. The issues they are currently considering are shown in the updated "side by side" comparison document.

The upcoming meetings of the Committee are scheduled for:

- Wednesday, October 3 beginning at 7 p.m.
- Wednesday, October 24 beginning at 7 p.m.

The meeting adjourned at 9:10 p.m.

Minutes – December 17, 2012 **Ad Hoc Home Rule Study Committee**

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Geoff Hurd, Kevin Kearns, Mary Larsen, and Bradley Kitlowski, Nancy Carroll, and Chris Cahillane. Municipal Manager Steve Feller, Solicitor Phil Weis, and Assistant Manager Marcia Taylor also attended the meeting.

There were no citizens present to provide citizen comments.

Ms. Larsen moved, and Mr. Kearns seconded to approve the minutes from the October 24, 2012 meeting. The motion passed 6 to 0 with Mr. Cahillane abstaining.

The Committee began by reviewing open items. They reviewed a "List of Select Charter Provisions to be Further Reviewed on 12-17-12." Solicitor Weis agreed to maintain the list of possible changes to the Charter, and work on possible ballot language to be proposed.

During the discussion of the elected Treasurer position, Solicitor Weis distributed relevant provisions from Charters in Easton, Erie County, Northampton County, and Upper St. Clair Township.

Geoff Hurd reviewed an approach to selling a comprehensive package to the voters dealing with tax reform issues that would involve making changes to the cap on property tax, earned income tax, and limits to other taxes imposed by the first class township code.

During the discussion on the two mill limitation in the current Charter, Ms. Taylor distributed a schedule showing the projected 2013 assessment and how the revenue compares with various limitation options, including: 1) 2 mill limit 2) 1 mill limit 3) ½ mill limit 3) 5% increase in RET 6) 10% increase in RET 7) 2.5% increase in GF budget and 8) 5% increase in GF budget.

The Committee agreed that the next meetings would be held on January 9 and February 6, 2013.

The meeting adjourned at 9:10 pm

Minutes – February 6, 2013 **Ad Hoc Home Rule Study Committee**

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Bradley Kitlowski, and Nancy Carroll. Chris Cahillane and Geoff Hurd were not present. Commission liaison David Brumfield, and Municipal Manager Steve Feller also attended the meeting.

There were no citizens present to provide citizen comments.

Ms. Larsen moved, and Ms. Carroll seconded to approve the minutes from the January, 9, 2013 meeting. The motion passed unanimously.

The Committee reviewed a memorandum dated January 30, 2013 from Mr. Weis concerning various issues raised at the January meeting.

The Committee was reminded that their presentation to the Commission would be scheduled for February 25, 2013 beginning at approximately 7:15 p.m. The Committee also tentatively scheduled a meeting for March 13 (Note: this date was subsequently changed to Wednesday, March 6 beginning at 7 p.m.

The meeting adjourned at 8:50 pm

Minutes – March 6, 2013 **Ad Hoc Home Rule Study Committee**

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Chris Cahillane and Geoff Hurd. Bradley Kitlowski, and Nancy Carroll were not present. Municipal Manager Steve Feller and Public Information Officer Susan Morgans also attended the meeting.

There were no citizens present to provide citizen comments.

Mr. Kearns moved, and Ms. Larsen seconded to approve the minutes from the February 6, 2013 meeting. The motion passed unanimously.

Ms. Morgans reviewed various options for promoting an upcoming public input session. Because of timing issues, the earliest edition of the Mt. Lebanon Magazine that could have a feature story on this topic is May, 2013, which will be in the homes by May 1st or May 2nd. Ms. Morgans also discussed: a) developing a frequently asked question and answer sheet on this topic, b) having on-line articles and utilizing LeboAlert and social media outlets, c) inviting stakeholders such as board and authority members, political party representatives, school board members, etc. to the public meeting, and d) asking the junior commissioner to invite a group of high school students.

The consensus of the group was to schedule the public input session for Wednesday, May 15, 2013 beginning at 7 p.m. in the Commission Chambers of the Municipal Building.

The next meeting of the Ad Hoc Committee will be on Thursday, March 28 beginning at 7 p.m. in conference room C of the Municipal Building. The primary topic for the next meeting will be to organize the public input meeting, including the development of a “pro and con” list of each of the major “focus areas.” The Committee would also like for Mr. Weis to give a legal update, including a recommendation on how to best develop a gender neutral document.

The meeting adjourned at 8:55 pm

Minutes – March 28, 2013 **Ad Hoc Home Rule Study Committee**

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Chris Cahillane Geoff Hurd, Bradley Kitlowski, and Nancy Carroll. Municipal Manager Steve Feller and Solicitor Phil Weis also attended the meeting.

There were no citizens present to provide citizen comments.

Mr. Cahillane moved, and Ms. Larsen seconded to approve the minutes from the March 6, 2013 meeting. The motion passed unanimously.

Mr. Weis updated the committee on legal issues. He described an approach on how the document could be made gender neutral, and also reviewed the history of an appeal taken by Mt. Lebanon many years ago on a Charter question.

The majority of the meeting was spent by the committee members developing a list of possible changes to the Home Rule Charter and the major pros and cons of making these changes. A first draft of these issues is attached to the minutes.

A photographer from the Mt. Lebanon Magazine took photographs of the Committee working on this project. The May edition of the Magazine will have an article that describes some of the major issues and invites residents to attend the May 15 meeting.

The next meeting of the Ad Hoc Committee will be on Wednesday, April 24 beginning at 7 p.m. in conference room C of the Municipal Building.

The meeting adjourned at 9:15 pm

Minutes – August 9, 2012 **Ad Hoc Home Rule Study Committee**

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7 p.m. Members present included: Geoff Hurd, Kevin Kearns, Mary Larsen, Nancy Carroll, Chris Cahillane, and Bradley Kitlowski. Bill Matthews chaired the meeting via a conference telephone. Municipal Manager Steve Feller and Solicitor Phil Weis also attended the meeting.

There were no citizens present at the meeting. Mr. Feller noted that the meetings have been properly advertised and posted in the paper and on the Municipal web site.

Mr. Kearns moved, and Ms. Larsen seconded to approve the minutes from the June 28, 2012 meetings. The motion passed unanimously.

Solicitor Weis gave the Committee an overview of the relevant sections of State law pertaining to amending a home rule charter. In summary, any amendment must be approved by the voters. The question(s) can be put on either a general or primary election ballot. There is also a provision for residents to initiate a ballot question through petition. In this case, the Ad Hoc Committee will submit a list of proposed changes to the Commission. The Commission will then adopt an ordinance describing the proposed changes and ballot questions. This ordinance must be sent to the County Elections Department at least 13 weeks prior to the election. The County frames the final ballot question(s). There is a limit of 75 words per question. Mr. Weis recommended that the questions be split up so that voters can decide on the specific item that is being proposed.

The Committee then began a "section by section" review of the existing provisions in the Charter. They made an initial review of Articles 1, 2, and 3 of the Charter. There was extensive discussion about the various provisions related to advertising requirements. The Committee, through Mr. Feller, asked Mr. Weis for some legal advice on the options for using alternative technology to properly notify the public.

There was also extensive discussion about Section 321 of the Charter dealing with indebtedness. The Committee asked Mr. Feller to prepare a document showing the per issue cap calculation and provide examples of how the cap would have impacted borrowing for major capital improvements.

The Committee decided to:

- Cancel the meeting previously scheduled for August 30
- Reschedule the next meeting (#3) to be held on Wed., Aug. 29 beginning at 7:15 pm. (Mr. Ferguson is invited to attend this meeting)
- Schedule a future meeting (#4) for Wed., Sept 19 beginning at 7 pm

The Committee felt that Mr. Weis' input was very valuable, and asked him to attend future meetings.

The meeting adjourned at 9:00 p.m.

Minutes – August 29, 2012 **Ad Hoc Home Rule Study Committee**

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:15 p.m. Members present included: Bill Matthews, Geoff Hurd, Kevin Kearns, Mary Larsen, and Bradley Kitlowski. Nancy Carroll and Chris Cahillane were not present. Municipal Manager Steve Feller, Solicitor Phil Weis and Assistant Manager Marcia Taylor also attended the meeting.

Mr. Matthews asked for citizen comments. Bill Lewis of 816 Ridgeview Drive introduced himself to the Board as an interested citizen.

Mr. Kearns moved, and Ms. Larsen seconded to approve the minutes from the August 9, 2012 meetings. The motion passed unanimously.

Solicitor Weis discussed the advertising requirements in the Charter. He believes that certain sections of the Charter can be changed to give the Commission the authority to advertise in newspapers, through posting, or electronic means. However, other sections (such as zoning, sunshine law, and borrowing) are prescribed in State law.

Marcia Taylor explained the borrowing base calculation and gave examples of when the cap has posed problems for the municipality.

Mt. Lebanon's elected Treasurer, John Ferguson, described the history of the office. He believes that the current system of electing a Treasurer provides for a division of labor and separation of duties that is advisable from a financial control perspective.

The Committee then began a "section by section" review of the existing provisions in the Charter. They once again reviewed key provisions in Articles 1, 2, and 3 of the Charter. They also reviewed Articles 4 and 5. The issues they are currently considering are shown in the updated "side by side" comparison document.

The upcoming meetings of the Committee are scheduled for:

- Wednesday, September 19 beginning at 7 p.m.
- Wednesday, October 3 beginning at 7 p.m.

The meeting adjourned at 9:00 p.m.

Minutes – October 3, 2012 **Ad Hoc Home Rule Study Committee**

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Geoff Hurd, Kevin Kearns, Mary Larsen, Nancy Carroll, and Chris Cahillane. Bradley Kitlowski also participated via telephone. Municipal Manager Steve Feller also attended the meeting.

Mr. Matthews asked for citizen comments. Bill Lewis of 816 Ridgeview Drive was present.

Mr. Cahillane moved, and Ms. Larsen seconded to approve the minutes from the September 19, 2012 meeting. The motion passed unanimously.

The Committee began by reviewing open items that were previously reviewed. Mr. Matthews led a lengthy discussion about the language in the Charter related to appropriation of funds, amendments to the budget, and disbursement of funds.

There was also a lengthy discussion on Section 914 concerning the 2 mill limitation, a requirement to abide by the limits for first class townships, and the requirement to reduce property taxes during a year that the earned income tax is increased.

The Committee then began a "section by section" review of the remaining provisions in the Charter. They reviewed Article X through Article XV. The Committee has now gone through the entire Charter from beginning to end.

The group expressed a desire to have an "expert" on Pennsylvania Home Rule Charters participate in the next meeting to review state-wide trends related to taxing limitations such as those found in Section 914 of Mt. Lebanon's Charter. Mr. Feller will work to find either someone from DCED or a university who has such expertise. The group also asked to be provided with a copy of the Ad Hoc Revenue Committee Report from 2002.

The upcoming meetings of the Committee are scheduled for:

- Wednesday, October 24 beginning at 7 p.m.
- Wednesday, December 5 beginning at 7 p.m.

The meeting adjourned at 9:20 p.m.

Minutes – February 6, 2013 **Ad Hoc Home Rule Study Committee**

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Bradley Kitlowski, and Nancy Carroll. Chris Cahillane and Geoff Hurd were not present. Commission liaison David Brumfield, and Municipal Manager Steve Feller also attended the meeting.

There were no citizens present to provide citizen comments.

Ms. Larsen moved, and Ms. Carroll seconded to approve the minutes from the January, 9, 2013 meeting. The motion passed unanimously.

The Committee reviewed a memorandum dated January 30, 2013 from Mr. Weis concerning various issues raised at the January meeting.

The Committee was reminded that their presentation to the Commission would be scheduled for February 25, 2013 beginning at approximately 7:15 p.m. The Committee also tentatively scheduled a meeting for March 13 (Note: this date was subsequently changed to Wednesday, March 6 beginning at 7 p.m.

The meeting adjourned at 8:50 pm

Minutes – April 24, 2013
Ad Hoc Home Rule Study Committee

The Ad Hoc Home Rule Study Committee held a meeting in Conference Room C of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Bradley Kitlowksi, and Nancy Carroll. Not present were Chris Cahillane and Geoff Hurd. Municipal Manager Steve Feller also attended the meeting.

There were no citizens present to provide citizen comments.

Ms. Larsen moved, and Mr. Kearns seconded to approve the minutes from the March 28, 2013 meeting. The motion passed unanimously.

The majority of the meeting was spent preparing for the May 15 public meeting. The committee reviewed the language of the 9 questions that will be shown on a flip chart at the front of the room. The committee made the following plans:

- The meeting will begin at 7 pm in the Commission Chambers
- The meeting will be video-taped and archived on the municipal web site
- Phil Weis should be present at the meeting
- Bill Mathews will lead the meeting and stand in the front of the dais and use a flip chart with 9 questions to guide the discussion
- Committee members were assigned questions in which to take the lead in summarizing the issue and offering suggestions on advantages and disadvantages for making the change. The lead Committee members should frame the issue for the audience. The assignments included:
 - Gender Neutral. Matthews
 - Public Notice. Kitlowksi
 - Official Records. Kitlowksi
 - Procedures to Issue Debt. Hurd
 - Notice on Debt. Kitlowksi
 - Elected Treasurer. Larsen
 - 1st Class Twp. Limits. Kearns
 - Linkage EIT Increase to RET Reduction. Cahillane
 - 2 mill Limit. Carroll
- There will also be a power point presentation on the overhead that shows the actual charter language. Committee members should let S. Feller know if there is any other information concerning “their issue” that should be included on the power point.

The next meeting of the Ad Hoc Committee will be on Wednesday, May 15 beginning at 7 p.m. in the Commission Chambers of the Municipal Building. The group will hold another meeting to review the comments on Thursday, May 23, 2013 beginning at 7 p.m.

The meeting adjourned at 9:00 pm

Minutes – May 15, 2013
Ad Hoc Home Rule Study Committee

The Ad Hoc Home Rule Study Committee held a meeting in the Commission Chambers of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Bradley Kitlowksi, Nancy Carroll, Chris Cahillane and Geoff Hurd. Municipal Manager Steve Feller and Solicitor Phil Weis also attended the meeting.

The purpose of the meeting was to gather citizen comments on possible modifications to the Charter.

The meeting was video-taped and archived on the municipal web site

Mr. Matthews led the discussion. He provided a summary of the background of the committee and the process that they have been following. He then led the committee description of 9 focus areas that were being considered for possible language changes. Residents had comments on each of these focus areas.

<u>Topic</u>	<u>Lead</u>
• Gender Neutral.	Matthews
• Public Notice.	Kitlowski
• Official Records.	Kitlowski
• Procedures to Issue Debt.	Hurd
• Notice on Debt.	Kitlowski
• Elected Treasurer.	Larsen
• 1 st Class Twp. Limits.	Kearns
• Linkage EIT Increase to RET Reduction.	Cahillane
• 2 mill Limit.	Carroll

The group will hold another meeting to review the comments on Thursday, May 23, 2013 beginning at 7 p.m.

The meeting adjourned at 9:40 pm

Minutes – May 23, 2013 Ad Hoc Home Rule Study Committee

The Ad Hoc Home Rule Study Committee held a meeting in the Commission Chambers of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Bradley Kitlowski, Nancy Carroll, Chris Cahillane and Geoff Hurd. Municipal Manager Steve Feller also attended the meeting.

There were no citizen comments.

Ms. Larsen moved and Mr. Kitlowski seconded to approve the minutes of both the April 24, 2013 and May 15, 2013 meetings. The motion passed unanimously.

The Committee members reviewed the comments from residents on the following topics:

- Gender Neutral. (*Matthews*)
- Public Notice. (*Kitlowski*)
- Official Records. (*Kitlowski*)
- Procedures to Issue Debt. (*Hurd*)
- Notice on Debt. (*Kitlowski*)
- Elected Treasurer. (*Larsen*)
- 1st Class Twp. Limits. (*Kearns*)
- Linkage EIT Increase to RET Reduction. (*Cahillane*)
- 2 mill Limit. (*Carroll*)

(The committee members who took the lead on the topic at the meeting are shown in italics above.)

The committee began discussing the format for a final report and recommendation to the commission. Each committee member was asked to develop an outline of the sections that they led at the May 15 public meeting. The final report will need to address:

- Current language
- Issue
- Recommendation

- Advantages of Change
- Disadvantages of Change
- Other

The Committee also asked for Mr. Weis to contact the School District Solicitor to better understand the impact on the School District if there was to be a change with the elected Treasurer position.

The next meeting of the committee will be on Thursday, July 11 at 7 p.m.

The meeting adjourned at 8:45 pm

Minutes – July 11, 2013
Ad Hoc Home Rule Study Committee

The Ad Hoc Home Rule Study Committee held a meeting in the Commission Chambers of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Nancy Carroll, and Geoff Hurd. Not present were Chris Cahillane and Brad Kitlowski. Municipal Manager Steve Feller also attended the meeting.

There were no citizen comments.

Geoff Hurd moved and Ms. Larsen seconded to approve the minutes of the May 23, 2013 meeting. The motion passed unanimously.

The Committee members reviewed the attached draft report to the Commission. They discussed various formatting options and agreed that each member would, by August 1, 2013 update the section of the report that they are taking responsibility for. The group will follow the format used by Bill Matthews. Mr. Matthews will also prepare a summary statement indicating how the group was convened, when it met, and the extent of public input during the process.

During the months of August and September Mr. Matthews and Mr. Feller will then review the work of individual committee members and finalize a draft report.

The final meeting of the committee will be scheduled for a time in October or November and the final report will be issued to the Commission before the end of the calendar year.

The Committee later decided to hold a final meeting on Monday, December 16, 2013 beginning at 7 p.m.

The meeting adjourned at 8:30 pm

Draft Minutes – December 16, 2013
Ad Hoc Home Rule Study Committee

The Ad Hoc Home Rule Study Committee held a meeting in the Commission Chambers of the Municipal Building beginning at 7:00 p.m. Members present included: Bill Matthews, Kevin Kearns, Mary Larsen, Nancy Carroll, Geoff Hurd, Chris Cahillane, and Brad Kitlowski. Municipal Manager Steve Feller, Solicitor Phil Weis, and Finance Director Andrew McCreery also attended the meeting.

There were no citizen comments. Joseph Senko was present at the meeting.

Nancy Carroll moved and Kevin Kearns seconded to approve the minutes of the July 11, 2013 meeting. The motion passed unanimously.

The Committee members reviewed a “final” draft report to the Commission. They discussed various formatting and terminology changes, and also agreed to the following adjustments:

- Revise the headings from advantages and disadvantages to read “discussion”
- Delete section on Solicitor’s Memoranda

Kevin Kearns moved, and Nancy Carroll seconded, to approve the report for submission to the Commission, subject to final technical edits by Chairman Matthews and Manager Feller. The motion passed unanimously.

Bill Matthews noted that the term of the committee expires at the end of 2013. The final report and recommendations will be forwarded to the Commission as soon as possible. The Commission is tentatively scheduled to review the final report at a discussion session on January 27, 2014 and all members of the committee are invited to attend this meeting.

Mr. Feller thanked the committee members for their service to the community.

The meeting adjourned at 8:15 pm

**Department of Community
and Economic Development
Home Rule Charter Background**

DCED: Home Rule for Pennsylvania Local Governments

Adoption of a new local government article to the Pennsylvania Constitution in 1968 guaranteeing the right of all Pennsylvania counties and municipalities to adopt home rule charters and exercise home rule powers was hailed as a watershed in the history of local government in Pennsylvania. Proponents of home rule saw local control as opening a new era of effective and responsive municipal government. Opponents warned of chancy experiments in untested legal areas. Thirty-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.

Meaning of Home Rule

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."¹ Commissions often liken a charter to a local constitution for the municipality. "It is a body of law, a framework within which the local council can adopt, adapt and administer legislation and regulations for the conduct of business and the maintenance of order and progress."²

But home rule does not set a municipality adrift from the rest of the state. It is subject to restrictions found in the United States and Pennsylvania constitutions and in state laws applicable to home rule municipalities. Local autonomy under home rule is a limited independence, but the thrust has been changed. Local governments without home rule can only act where specifically authorized by state law; home rule municipalities can act anywhere except where they are specifically limited by state law.

Enactment of the Home Rule Law in 1972 culminated a long movement toward increased local autonomy. It was concurrent with increased emphasis on delegating both federal and state programs to county and municipal governments. But this legislative trend toward increased local autonomy has been coincident with a countervailing trend – an increased legislative tendency to meet problems with uniform state laws overriding local discretionary authority. Recent examples have been in areas of local officials ethics, condominium conversion and energy conservation standards for buildings. Thus home rule is not a static concept. Local powers under home rule charters will expand and contract in the future with the course of state legislative activity and judicial interpretation.

References

1. A Final Report and Proposed Home Rule Charter for the Borough of Edinboro, February 18, 1974, p. 14.
2. A Report on the Activities and Finding of the Youngsville Government Study Commission, August 30, 1974, p. 12.

Development of Home Rule

Implementation of home rule in Pennsylvania has been a slow, lengthy process, generally lagging behind other states. Final adoption of the Home Rule Law in 1972 came almost a century after Missouri became the first state to grant constitutional home rule in 1875.

Pennsylvania Background. William Penn's Charter granted by Charles II in 1681 authorized the proprietor to create counties, towns, boroughs and cities. Early practice vested sovereign power over local government in the provincial, and later, state government. Abuse of legislative interference in local matters in the nineteenth century led to prohibition of special and local laws in the Constitution of 1874.

The progressive movement of the early twentieth century spread the concept of a constitutional guarantee of home rule for municipalities across the country. Home rule first came to Pennsylvania in 1922 when the Constitution was amended to allow the General Assembly to grant cities the right to adopt

home rule charters. But the legislature did not take action until 1949, and then only authorized home rule for Philadelphia.¹ Philadelphia citizens were quick to take action, and a proposed home rule charter was adopted by the voters in May 1951.

A second step by the General Assembly was the adoption of the Optional Third Class City Charter Law in 1957.² This law offered third class cities a selection of governmental forms provided in the law and granted a measure of home rule power. Between 1957 and 1972, 17 cities adopted optional charters under the authority of this law. Thirteen still operate under their optional charters; Wilkes-Barre adopted a home rule charter in 1973, Johnstown in 1993 and Allentown in 1996.

Home Rule Law. Home rule for all local governments became an issue again in the studies of various commissions leading up to the Constitutional Convention of 1967-68. Home rule was one of the central points of the new local government article proposed to the voters and adopted in 1968.

"Municipalities shall have the right and power to frame and adopt home rule charters ... A municipality which has a home rule charter may exercise any power to perform any function not denied by this Constitution, by its home rule charter or by the General Assembly at any time."³

The legislature met the constitutional mandate to enact implementing legislation within four years by adoption of the Home Rule Charter and Optional Plans Law [afterwards referred to as Home Rule Law] on April 13, 1972.⁴ The Home Rule Law establishes the procedure for adoption of a home rule charter. The voters of a local jurisdiction elect a government study commission, charged with studying the existing form of government, exploring alternatives and deciding whether or not to recommend change. If the commission decides to recommend home rule, it drafts a charter that is presented to the voters for their decision. Adoption of a home rule charter comes only with the approval of a majority voting in a referendum.

The Home Rule Law also contains restrictions on the exercise of home rule powers. In certain subject areas, home rule municipalities are restricted to powers set forth in state law. In addition, home rule municipalities are subject to uniform state laws applicable in every part of the Commonwealth.

The Home Rule Law had been amended 14 times by September 1, 1999. In most cases, the amendments clarified procedures, but one significant amendment in 1974 placed home rule municipalities under the provisions of the Pennsylvania Municipalities Planning Code.⁵ In 1996, the entire text of the Act was reenacted as part of Title 53 of the Pennsylvania Consolidated Statutes. This involved renumbering all the sections and restructuring the headings.

Optional Plans. The General Assembly chose to implement the constitutional mandates for home rule and for optional plans of government for municipalities in a single piece of legislation.⁶ Adoption of an optional plan is through the same government study commission process as for home rule, except the government study commission merely selects one of the optional plans provided in Sections 2971 through 3171 of the law. These include a council-manager plan; an executive-council plan with three variations and a plan for small municipalities where the elected executive doubles as president of council. Municipalities adopting optional plans gain no home rule powers; they remain subject to the provisions of their municipal code, except where it is superseded by the structural provisions of the optional plan.⁷

The optional plans have not proven very popular with Pennsylvania municipalities. As of September 1, 1999, only 22 government study commissions recommended optional plans to the voters, as opposed to 136 recommending home rule charters. Only 12 optional plans have been adopted, and one of those was repealed in 1981. Hampton Township found its executive-council optional plan politically unworkable and replaced it with a home rule charter.⁸

Municipal Consolidation or Merger Act. Enacted in 1994, this law permits an alternative procedure for adoption of a home rule charter or optional plan of government as part of the process of consolidating or merging municipalities.⁹ For the first time, a home rule charter or optional plan can be adopted by action by the voters as part of the consolidation or merger process without the election of a government study commission. This law permits the proponents of a consolidation or merger to use an existing home rule charter or optional plan already in place in one of the municipalities, a new optional plan selected from the plans available in the Home Rule Law or a new home rule charter formulated and approved by the governing bodies of the municipalities. The option to draft a new home rule charter is available only in cases where the proposal is initiated by ordinance of the governing bodies. Any consolidated or merged

municipalities whose government is determined by this process will have the same powers as those whose charters or optional plans are adopted under the procedures of the Home Rule Law.

The first three proposals using this act appeared on the ballot at the May 1995 primary election. Consolidation proposals which include a council-managers optional plan were disapproved by the voters in the DuBois and State College areas.

Second Class County Charter Law. In 1997, the General Assembly enacted an amendment to the Second Class County Code providing for the one-time appointment of a charter drafting committee.¹⁰ The committee was limited to drafting a home rule charter with an elected county executive, an appointed professional county manager and an elected county council. The drafting committee was appointed in July 1998 and submitted its report in February 1998. The proposed home rule charter drafted by the committee was approved by the voters of Allegheny County in May 1998. All provisions of this law expired when the first officials elected under the charter were sworn into office with the exception of sections, subsections relating to charter limitations and the time frame restriction for changing the adopted form of government.¹¹

References

1. 53 P.S. 13101 et seq ; First Class City Home Rule Act.
2. 53 P.S..41101 et seq ; Optional Third Class City Charter Law.
3. Pennsylvania Constitution, Article IX, Section 2.
4. 53 Pa.C.S. 2901 et seq.; Home Rule Charter and Optional Plans Law.
5. 53 Pa.C.S. 2962(10); Home Rule Charter and Optional Plans Law, Section 2962(10).
6. Pennsylvania Constitution, Article IX, Section 3.
7. 53 Pa.C.S. 2971; Home Rule Charter and Optional Plans Law; Section 2971.
8. Report of the Government Study Commission, Hampton Township, August 27, 1981, p. 3.
9. 53 Pa.C.S. 731 e t s e q ; Municipal Consolidation or Merger Act.
10. 16 P.S. 6101-C et seq.; Second Class County Code, Section 3101-C.
11. 16 P.S. 610 7-C, 16 P.S. 6111.C(c), Second Class County Code.

Citizen Involvement in Reorganizing Local Government

Through the government study commission process, Pennsylvania citizens for the first time have the power to make basic decisions about the shape of their local government. The government study commissions are elected by popular vote. Approximately 1,600 Pennsylvanians have actively served as members of commissions. Thousands more have served on committees, testified before commissions, answered questionnaires and campaigned for or against commission recommendations. The final decision on adopting or rejecting the proposed charter is in the hands of the local voters. Once adopted, home rule charters can be amended or repealed by action of the voters.

Since 1972, 233 government study commission questions have appeared on the ballot. These questions have appeared in 192 different jurisdictions, located in 44 different counties. The greatest activity occurred right after the passage of the Home Rule Law.

Government Study Commission Questions on Ballot:

Years	Number
1972-75	140
1976-79	18
1980-83	22
1984-87	16
1988-91	15
1992-95	17
1996-98	5
1999-02	4

Government study commissions have made reports in 180 cases. The election of one commission was voided by a court case. Two commissions failed to file reports before their term expired. Nineteen

commissions recommended no change. Twenty-two proposed optional plans; the voters approved 12 and defeated 10. One optional plan was later repealed and replaced by a home rule charter. One of the defeated optional plan proposals involved repeal of an existing home rule charter and its replacement by an optional plan. One hundred thirty-six commissions wrote home rule charters; 70 were approved by the voters and 66 defeated. One of the defeated charter proposals involved the repeal of an existing charter and its replacement by a new charter. Two commissions recommended a series of amendments to existing charters.

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