

**MUNICIPALITY OF BETHEL PARK
PUBLIC HEARING**

Home Rule Study Commission

Date of Hearing: February 18, 2015

Time of Hearing: 7:00 P.M.

Place of Hearing: Municipal Building

Mr. McLean said:

“Good evening. I would like call to order the meeting of the Bethel Park Home Rule Study Commission for February 18, 2015. My name is Jim McLean. I am the Chair of the Home Rule Study Commission. We are here tonight primarily to conduct a Public Hearing with respect to one particular potential change in the Home Rule Charter that has been under consideration by the Commission, that being whether to change the Home Rule Charter to provide that the Chief of Police, which now reports to Council, should be changed to instead report to the Municipal Manager. Our meeting this evening was advertised and in a moment we will take any comments from anyone who is present and have a discussion with respect to that particular proposal. To begin though, I would like, Mr. Spagnol, if you can take a roll call of the members.”

1. Roll Call:

Present: Home Rule Study Commission Members James McLean, James Hannan, Lorrie Gibbons, Brandon Colella, Carol Stewart, Connie Serdi, Joe Consolmango, Tom Klevan, Michael Dobos, Christine McIntosh

Absent: Mr. Dixon, Ms. Stewart

Also Present: William Spagnol, Municipal Manager, Robert L. McTiernan, Solicitor

2. Approval of Minutes:

Motion by Mr. Hannan and seconded by Mrs. Gibbons to approve the minutes of the January 20, 2015 Committee meeting. Motion passed unanimously.

Mr. McLean said:

“The next item on our agenda is to consider any comments from the public with respect to the proposal to change the Home Rule Charter with respect to how the Chief of Police reports. To provide the public, including those who may be watching on TV, with a little bit of background, this Commission was appointed by Council at the end of last summer with the purpose of taking

a look at and reviewing the Bethel Park Home Rule Charter that was adopted about 35 years ago and hadn't undergone a complete and thorough review since that time. So we have been meeting since October to do that, to go over that review of the Charter and have been at this point just identifying possible changes for discussions and consideration. But one item that came out during those discussions was this possibility of changing how the Chief of Police reports. And the thought that developed was that since right now the Municipality is in between Chiefs with the former Chief having resigned in September and we've been in the process of selecting a new Chief, we thought this would be the right time to undertake the consideration of whether we want to change how the Chief reports. It being something that we thought you should consider based on the merits of whether the reporting should be to Council directly or to the Manager, not based on an assessment of who the particular Chief was at the time. So with that in mind, what was considered was conducting now a Public Hearing on that proposal while we continue as a Commission hereafter to continue to consider other possible changes to the Charter which we will continue to do. So what we have done for purposes of this consideration and for the hearing tonight is we provided notice that we are considering this change for inviting comments. We have done a draft of what the proposed Ordinance would looklike and it is fairly straight forward but just so that folks in the public know what it is we are actually thinking about doing. Right now, Article 6 of the Bethel Park Home Rule Charter states that the Police Department shall be administered by a Chief of Police. He shall be appointed by Council and shall be directly responsible to Council. The Police Department shall have all powers and duties granted to it by Council under the applicable Ordinances and the applicable provisions of law. The Chief of Police shall not be governed by the provisions of Civil Service. What is proposed to be changed is only the second sentence of that particular provision and the change would be to say that the Chief of Police shall be appointed by Council, but that wouldn't change, and shall be directly responsible to the Municipal Manager. The only thing that would be changing is who the Chief of Police reports to directly. We also asked so that people can have an idea what this change would mean and also not mean, we ask that the solicitor, Mr. McTiernan, to go through the provisions of the Charter as they relate to the Chief of Police and just give us an overview of where things would differ if this change were adopted, then also where they would not differ, where they would remain the same. Mr. McTiernan, if you could maybe give us the overview that you've done of the Charter and the impact of the proposal."

Mr. McTiernan said:

"The most important thing to point out is the impact that the change will be minimal with respect to the day-to-day operations of the Police Department. The Chief of Police has a special expertise and in fact a certification and license from the Commonwealth that would affect law enforcement as does every certified Police Officer at Bethel Park. So, issues, for example of training, of assignment, of weapon selection, of things like that that the officers would carry, of equipment, of vans, of response time, the integration of the Police Department with emergency response to other police departments. That would all remain within the purview of the Chief. Those would be law enforcement decisions. The main impact frankly would be on the Manager. What exists under the current situation is a little bit of an anomalous situation. The Manager has overall responsibility for all departments. It is actually, in effect, somewhat sealed off from the Police Department. So for example, the Manager is responsible for the budget with respect to all departments. With this reporting change, the Chief would have to keep the Manager informed

with respect to budget issues. Now, Council adopts the budget, but the issue of how the expenditures are going, major expenditures being that the Police Department to make sure it conforms to the budget, issues of monitoring how the progress of spending is going. That would be one area where the Manager would have more overall knowledge of what's going on with the Police Department. The other area would be most significantly, I think, is human resources. Right now, the Manager has a lot of experience and a lot of responsibility for human resources. He has to administer the Collective Bargaining Agreements, for example. What happens now is that of course if there is ever an issue affecting an individual officer, the first person that would make that assessment would be the Chief of Police. But the Manager would be, because of reporting requirement, able to oversee procedures to make sure things are along the collective bargaining agreement. And one of, sort of, unusual situations in Bethel now because of the Home Rule Charter, for example there is a Collective Bargaining Agreement where some of the employees are in different departments and report to the Manager who oversees the administration of the Collective Bargaining Agreement, not for operations, but for things like vacation and calculation of overtime, assignment of holidays, but that is completely without and beyond the Manager in respect for interpreting the contract, for example the police dispatchers. They are not police officers, but they are under the Police Chief. So you can have situations that are contradictory interpretations of the Collective Bargaining Agreement. Also, things like records, all Police records, will always remain in the Police Department, they are police investigative documents, they are highly confidential and the only people who have access to them are the Police Chief and certified Police officers. In issues such as personnel files, it would definitely be centralized, anything related to separate medical files and all of workers' compensation, those would be centralized. So, basically Council would go to the Manager or President of Council, they would be able to get information of how's the budget going throughout the community, what's the situation with a new policy, for example, the Chief might have a new policy, how does that fit in. The interpretation of Family and Medical Leave Act maybe, it should be interpreted the same way for all employees. So, I don't mean to run on but the budget area and personnel area and then the communication where instead of the Chief meeting with Council once a month, there would be that ongoing communication between the Manager and the Chief about budget issues and personnel issues and policy issues and things that come up. But with respect to the Chief, I think other than keeping the Manager informed, those decisions, again, the law enforcement decisions, would stay with the Chief. To touch on a couple of other areas, some Home Rule Charters are very different from Bethel's, some Home Rule Charters are different from state law, but Council has, and the Mayor, very limited roles with respect to Police. But those would be unchanged. The Mayor in the Home Rule Charter has a very important function, he's the figurehead to the community, but unlike a borough, he has no responsibility to the Police Department which is something to make all of you aware. Council's certain narrowed importance of responsibilities will be unchanged. For example, the whole process of the selection of the new Chief ultimately rests with Council. They have to be comfortable with the decision. The removal of the Chief, under the Home Rule Charter, would be with Council. And then Council makes certain personnel decisions that are very, kind of narrowly, governed. For example, the Council appoints new officers but only from the top three scores as certified by the Civil Service Commission. That would be unchanged. Similarly, the promotions must be from the top three scores and the examination, application, testing and ranking of those candidates, is all done by the Civil Service Commission, which is independently appointed by Council, but the members of the Commission serve a fixed, staggered term of

office to assure their independence very much like other communities under State law, and they would still have that basic authority of applications and screening and ranking and testing and Council's important function will be circumscribed by the Civil Service rules. So those would be the main points. And again, Civil Service Commission procedures would be essentially unchanged. If there was an issue of discipline, the issue might also be made internally but there's the right to appeal through the collective bargaining process, arbitration or the Civil Service Commission. So essentially the powers of each element of municipal government are pretty much the same but I think what you're going to have is more, and again I'm not an advocate here but think the idea of discussing would be with greater consistency, greater unity and knowledge and single source of information about policies and naturally in the law enforcement issues, Council would very well go directly to the Chief and the Manager, I am sure in some cases would recommend that a law enforcement issue, an assignment issue, crime prevention issue. So again, I appreciate your patience and I hope I didn't go on too long, but that's essentially what I see from a legal standpoint."

Mr. McLean said:

"Two questions I wanted to ask. One, the Charter currently says that the Police Department shall have all powers and duties granted to it by Council under the applicable ordinances and applicable provisions of law. There would not be any change in that particular provision, so that would remain the same?"

Mr. McTiernan said:

"Correct. Different ranks within the police Department, all those kind of essential issues would still remain with Council and the philosophy of that is that they are elected officials who are directly responsible to voters. So the basic structural issues would rest with Council."

Mr. McLean said:

"Well then the other question I have, maybe it's more of a statement than a question. All the other department heads under the Home Rule Charter report now to the Municipal Manager. Is that right?"

Mr. McTiernan said:

"That's correct. And they each have their area of expertise. Naturally, the Manager is not making engineering decisions, but the engineer reports to the Manager. The Planner, the Public Works, the issues of a lot of things that are done internal, of planning snow routes, all those departments, Public Works, Planning, Engineering, Finance, all report to the Municipal Manager, although they have their own responsibilities within their area of expertise."

3. Public Comments

Mr. McLean asked if anyone was in favor or opposed.

Pauletta Beehler, 134 Meadowbrook Drive, Bethel Park, said:

"I overall am very, very concerned with transparency, accountability and unity and I was privileged to be at one work group that you had where one manager, I think it was the manager from Mt. Lebanon was present and he spoke about their system there. I think this particular provision would provide unity so that each department will be accountable in the same way. If I understand it correctly, the way the Police Department has functioned, the Police Chief has sort of either fish nor fowl, not Council and not actually treated like other department heads having to report to the Manager, and that's just sort of one's out there in left field and one is over here. I think that's a good thing, I really do. I think it not only provides for accountability, but it also provides for transparency and I always hate to use this term, but I'm going to use it anyway, is a big brother type situation that somebody is minding the store. Right now, there are what, nine on Council? Your nine, those nine people are the boss of the Chief. The Chief could talk to one Council person and kind of get a go ahead on something, but it's not really a Council decision. I think it leaves space for ambiguity and things that fall through the cracks and having been there and having heard that particular discussion, I would say to anybody listening at home and hasn't been to a meeting. I was critical at one of the Council meetings about the study group, and I was invited, well anybody can actually come to your work sessions, but I did come to one and I was interested, a lot of what you're doing is pretty mundane, I would not want to have to sit there and figure out all the commas, and changing the date for reporting this and reporting that, most people would fall asleep for that portion. But I think this would be a good thing for Bethel. I really do. Thank you."

Mr. McLean said:

"Pauletta, I'll note you weren't really critical, you just had some legitimate questions. And for benefit of people watching, what Pauletta is also referring to, our last meeting we had the Municipal Manager from Mt. Lebanon come in because Mt. Lebanon is a community where their Chief has been reporting for decades to the Municipal Manager and we just wanted to get a sense from him in the position of Municipal Manager in the community where the reporting is done, how it works and what it's like. It was not intended to be well just because we could find a community that does it, we'll do it, too. But it was helpful to us to get the sense of how it works."

Mr. McLean asked if there was anyone else in favor or opposed. There was not.

Mr. McLean said:

"I will add that I did get one email from Richard Kraft who had indicated that he might try to be here at the meeting tonight but that if he couldn't he wanted to provide his comments. The one comment he made was that he wouldn't want the change if we made it to the Charter to be done in a way that would cause or allow a Municipal Manager to get too powerful as he said and begin to micromanage the Police Department. I think, as Mr. McTiernan indicated before, we aren't changing nor would this change alter the

fundamental way in which the department is run and organized nor change any of the fundamental oaths and certifications that the Chief has to abide by in terms of exercising the duties, but it would be similar to the same way the Manager is overseeing and receives the reporting from the other departments. And as we covered in our discussion, we are not changing the other ways in which the department is still governed in some ways by, as Mr. McTiernan said, the narrow but important role would remain the same.”

Mr. McLean asked if there were any other comments or questions from the Commission or from Mr. McTiernan. There were none.

Mr. McLean said:

“I should maybe mention to folks that if they were concerned that this change would maybe put a little bit of distance between Council and the Chief, all of the department heads currently attend both of our Caucus and Public Meetings and are available to members of Council when we need to answer any question that any of us would have, so in that sense the Chief of Police’s attendance at our meetings would not change, it would be exactly the same. What we’re really doing is adding in that reporting function to the Municipal Manager.”

4. Motion by Mr. Hannan and seconded by Mrs. Gibbons to adjourn the Public Hearing at 7:22 p.m.
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