

**Report and Recommendations  
Of The  
Bethel Park Home Rule Study Commission**

**January 5, 2016**

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## **I. Appointment of the Commission**

The Bethel Park Home Rule Study Commission was appointed by the Municipal Council of Bethel Park to undertake a review and study of the Bethel Park Home Rule Charter. The Home Rule Charter was originally adopted by the voters of Bethel Park in 1976 (effective January 1, 1978) and has been in place for more than 35 years. Although particular provisions of the Home Rule Charter have been amended five times since its adoption, the Municipality had not undertaken a comprehensive review of the Home Rule Charter since its adoption. It was the consensus of Council that with the passage of more than 35 years, it was appropriate to undertake a comprehensive review of the Home Rule Charter and consider whether any changes should be considered for presentation to the voters of Bethel Park.

## **II. Members of the Bethel Park Home Rule Study Commission**

The following individuals served as members of the Bethel Park Home Rule Study Commission and participated in the meetings conducted by the Study Commission and in the preparation of this Report:

Brandon Colella

Joseph Consolmagno

Michael Dobos

Lorrie Gibbons

James P. Hannan, Vice-Chair

Thomas Klevan

James G. McLean, Chairperson

Christine McIntosh

Connie Serdy

Carol Stewart

William Spagnol, Municipal Manager

Robert McTiernan, Solicitor

(\* In addition to the foregoing members, Paul Dixon was initially appointed to the Study Commission but due to scheduling conflicts was not able to attend early meetings and the Study Commission conducted its business with the 10 members listed above).

### **III. Mission Statement of the Bethel Park Home Rule Study Commission**

#### Mission Statement

The Bethel Park Home Rule Study Commission was appointed by Bethel Park Municipal Council as an *ad hoc* committee to undertake a review of the Bethel Park Home Rule Charter and, with input from the citizens of Bethel Park, consider whether it is appropriate to recommend changes or amendments, if any, to the Bethel Park Home Rule Charter. The committee is to report on any recommended changes or amendments to Municipal Council and any such changes or amendments, if adopted by Council, are to be submitted in accordance with law to the voters of Bethel Park and to become effective only if the requisite votes are cast by the voters in favor of the changes or amendments.

(Mission Statement adopted November 18, 2014)

#### **IV. Meeting Dates and Dates of Public Hearings**

### **Home Rule Charter Study Commission Meeting Dates**

The Bethel Park Home Rule Study Commission met to discuss the Home Rule Charter and other related issues on the following meeting dates:

**Tuesday, October 7, 2014 – 8:00 P.M.** – Organizational meeting; overview of Pennsylvania “home rule” law

**Tuesday, November 18, 2014, 7:00 P.M.** - Review existing Home Rule Charter, Articles 1 – 9;

**Tuesday, January 20, 2015, 7:00 P.M.** - Review existing Home Rule Charter, Articles 10 – 14;

**Wednesday, February 18, 2015, 7:00 PM** – Public hearing on proposed change regarding reporting by Police Chief

**Tuesday, March 17, 2015, 7:00 P.M.** – Review and discussion of examples of Home Rule Charters of other communities;

**Tuesday, April 21, 2015, 7:00 P.M.** - Review and discussion of examples of Home Rule Charters of other communities;

**Tuesday, May 26, 2015, 7:00 P.M.** - Public Hearing in Municipal Council Chambers

**August 18, 2015, 7:00 P.M.** – Consider any proposals for changes, additions or modifications to Charter;

**October 20, 2015, 7:00 P.M.** – Consider any proposals for changes, additions or modifications to Charter;

**Tuesday, December 15, 2015, 7:00 PM** – Review and discussion of draft Report and Recommendations;

**Tuesday, January 26, 2016, 7:00 PM** – Public hearing on proposed Report and Recommendations

**V. Statement of Expenses**

Advertising Costs (to advertise meeting dates and public hearings)	\$702.15
Allegheny County Fee - Special Election	\$315.84
Legal expenses	\$4,770.00

These are expenses through November 30, 2015 and include fees and expenses incurred in connection with the proposed change in the Home Rule Charter to have the Police Chief report to the Municipal Manager including the drafting and adoption of the Council Ordinance proposing the change, communications with the County Elections Department and the placement of the question on the ballot for the November 2015 general election.

**VI. Minutes of Meetings and Public Hearings**

Minutes of the meetings and public hearings held by the Home Rule Study Commission were published on the Bethel Park website ([www.bethelpark.net](http://www.bethelpark.net)) and are attached to this Report at Appendix B.

## **VII. Overview and Summary of Meetings**

### **a. Overview.**

The Home Rule Charter Study Commission (“Study Commission”) met 11 times at regular intervals between October 2014 and January 2016, and held three public hearings, one each in February 2015, May 2015 and January 2016. All of the Study Commission’s meetings were advertised and open to the public. As set forth in the Study Commission’s Mission Statement, the objective of the Study Commission was to review the Bethel Park Home Rule Charter after 35 years, consider whether any provisions merit consideration for change, receive input from citizens and residents regarding the Home Rule Charter and make recommendations to Municipal Council.

The Study Commission undertook its mission by pursuing the following agenda:

- 1) Review the general background on Home Rule law in Pennsylvania;
- 2) Review specifically each of the current provisions of the Bethel Park Home Rule Charter;
- 3) Review and compare the home rule charters of other municipalities in Pennsylvania;
- 4) Receive input and commentary from citizens of Bethel Park;
- 5) Review and discuss in detail, weighing pros and cons, specific possible changes to the current Home Rule Charter; and
- 6) Prepare a final Report and Recommendations for submission to Municipal Council.

A “Questions and Answers” page summarizing the basic background to the Home Rule Charter and the work of the Study Commission was published and available on the Bethel Park website during the Study Commission’s period of work and is attached to this Report at Tab C.

In addition to its general review of the Home Rule Charter, while the Study Commission was undertaking its review, Municipal Council requested that the Study Commission consider whether the Home Rule Charter should be amended to provide that the Police Chief, who under the original Charter reported directly to Council, should instead report to the Municipal Manager as do other department heads. As discussed in more detail in this Report below, following its review, the Study Commission recommended that the Home Rule Charter be changed to provide that the Police Chief report to the Municipal Manager and that change to the Home Rule Charter was adopted by Council for submission to the voters who approved the amendment in the November 2015 election.

b. **Members of the Commission.**

The members of the Study Commission (listed in Section II above) consisted of a broad representation of the Bethel Park community and included members of the Planning & Zoning Commission, Zoning Hearing Board, Bethel Park Community Foundation, Bethel Park Recreation Board, Bethel Park Library and current and former members of Municipal Council. The perspective of each of these individuals was invaluable to the work of the Study Commission. The Study Commission was also greatly aided by the input it received from the current Municipal Manager, William Spagnol, and the Municipal Solicitor, Robert McTiernan. In particular, it was important to have both the experience of elected officials with first-hand knowledge of the manner in which many of the provisions of the Home Rule Charter impact the governance of the Municipality as well as the insight and perspective of citizens who are not elected officials. It is recommended that any Study commission appointed (or elected) in the future include this same mix of elected officials and citizens.

c. **Summary of the Study Commission's Meetings.**

The following segment of this Report includes a summary of the meetings of the Study Commission. The Minutes of each of the meetings and public hearings held by the Study Commission are included in this Report at Appendix B.

The Study Commission began its review by looking at the background of Home Rule Charter law in Pennsylvania. At its initial organizational meeting in October 2014, the Study Commission elected James Hannan as Vice Chair, reviewed a proposed Mission Statement (which was later adopted at the November 2014 meeting), and reviewed the background information contained in Tab F of this Report regarding Pennsylvania law in general on home rule charters. The Municipal Solicitor, Robert McTiernan, also provided the Study Commission with an overview of the Home Rule Charter and Optional Plans Law in Pennsylvania. In 1968, the Pennsylvania Constitution was amended to grant municipalities the right to study and adopt their own "home rule" form of government. This was in contrast to the requirement that municipalities be either a borough or a township or a city with specific forms of governing bodies dictated by the legislature.

Four years after the Pennsylvania Constitution was amended to provide for "home rule", the Pennsylvania General Assembly passed Act 62, known as "The Home Rule Charter and Optional Plans Law". The Act sets forth six possible, suggested forms of government, and a community can, if it chooses, select one of those forms of government. A community is not, however, limited specifically to those six forms of government and may adopt its own home rule charter with a distinct form of government. In fact, in the 1970's, the voters of Bethel Park initially elected a Home Rule Study Commission to consider whether Bethel Park should adopt

one of the six forms of government set forth in Act 62. The outcome of the study undertaken by that Home Rule Study Commission, however, was to not recommend any of the six forms, but to instead suggest that Bethel Park consider adopting its own form of government. As a result, the voters re-elected the Study Commission in May 1974 to pursue the adoption of a specific form of government. At the General Election in 1976, the voters were presented with and approved the current Bethel Park Home Rule Charter which became effective in January 1978 and establishes a council-municipal manager form of government with the office of Mayor holding certain limited specified powers as set forth in the Home Rule Charter.

The Bethel Park Home Rule Charter has been amended five times since it became effective in January 1978. In November 1980, the voters approved changes to Article 11 to delete Paragraph 2 under A and to delete Paragraph 2 under B, and added Section 1207(B) relating to the referendum process as follows: “If a majority of the qualified electors voting on the question vote no, the ordinance shall be considered repealed upon certification of the election results from the Election Bureau.”<sup>1</sup> In May 1993, the voters approved a re-written final paragraph of Section 1403 relating to filling of vacancies to read as follows:

Within forty-five (45) days of a vacancy in any elected office, Council shall fill such vacancy by appointment until the office is filled at the earliest possible election. If Council shall refuse, fail or neglect or be unable, for any reason whatsoever, to fill such vacancy within forty-five (45) days after the vacancy occurs, then the Court of Common Pleas of Allegheny County shall, upon petition of any Council member or any five (5) electors of the ward wherein the vacancy exists in the case of a vacancy on Council, or upon petition of any five (5) electors of the Municipality in the case of a vacancy in the office of Mayor or Auditors, fill the vacancy in such office by appointment until the office is filled at the earliest possible election.

In November 1998, the voters approved the addition of the following two sentences to Section 1203 (Petitions)(B) on the Form and Content of Initiative and Referendum Petitions: “In

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<sup>1</sup> This is the language in its current form as rewritten by a ballot question approved in the November 1998 election.

addition, the proposed ballot question required to implement the vote provided for in Article 12, Section 1206 B shall be contained within or attached to each page of the petition throughout the circulation of the petition. The ballot question shall be framed so that a no vote on the question is a vote to repeal the ordinance.” The voters also authorized the addition of the following sentence to Section 1207A: “In the case of a petition, the proposed ballot question contained within or attached to the petition, pursuant to Article 12, Section 1203 B, shall be the ballot question submitted to the Allegheny County Elections Department.”

In May 2013, the voters approved the adoption of a dedicated Fire Company tax by the addition of the following provision as Section 1004: “The Council of the Municipality of Bethel Park shall make an annual appropriation of revenue to the Bethel Park Volunteer Fire Company in an amount equal to .34 mills. The Council shall determine the manner in which the appropriation is made.”

In its next several meetings, the Study Commission undertook a provision-by-provision review of the current Bethel Park Home Rule Charter. In order to review the Home Rule Charter thoroughly, the Study Commission reviewed the Home Rule Charter over two meetings considering Articles I through 9 at its meeting in November 2014, and Articles 10 through 14 at its January 2015 meeting.

In October 2014, Municipal Council requested the Study Commission to consider whether there should be a change in the Home Rule Charter for the reporting of the Police Chief. Prior to the adoption of the Bethel Park Home Rule Charter in 1978, under Bethel Park’s prior form of government, the Police Chief reported directly to the Mayor. When Bethel Park adopted its own home rule charter form of government in the mid-1970’s, it adopted the municipal

council-manager form of government and removed the oversight of the Police Department from the responsibility of the Mayor's office. The Home Rule Charter did not, however, provide for the Police Chief to report to the Municipal Manager, although all other department heads (Public Works Director, Finance Director, for example) did report directly to the Municipal Manager. Council asked the Study Commission to consider whether at this point in the Municipality's history it was appropriate to have the Police Chief report to the Municipal Manager rather than Council.

The Study Commission, as requested by Council, undertook its consideration of this proposed change and held a public hearing in February 2015 to receive input from residents on the proposed change. The consensus of the Study Commission was that the change should be considered by the voters. Experience over the last 3 decades with the prior system of the Chief reporting directly to Council had shown complications with the Police Chief, in effect, reporting to nine separate superiors. In addition, the Municipal Manager already performed some, but not all of the administrative tasks related to the administration of the Police Department.

In connection with its consideration of the proposed change regarding the reporting of the Police Chief, the Study Commission invited Steven Feller, the then Municipal Manager of Mt. Lebanon, to attend to one of its meetings. Different than Bethel Park, Mt. Lebanon had for some time had its Police Chief reporting directly to the Municipal Manager. The Study Commission was interested in learning the specifics of Mt. Lebanon's experience with that administrative arrangement. The Study Commission found the discussion with Mr. Feller extremely informative and helpful to its consideration of the proposal. We specifically thanked Mr. Feller for his willingness to attend our meeting and for sharing with us the benefits of Mt. Lebanon's experience.

Based on these considerations, the Study Commission recommended the change to Council. At its meeting in April 2015, Municipal Council adopted an ordinance requesting that the proposed change be placed on the ballot for vote by the residents. The proposed change appeared in the November 2015 election ballot and was approved by the voters by a vote of 3,357 in favor to 3,265 opposed.

In the next segment of its undertaking, the Study Commission undertook a review of the current home rule charters of a number of other communities in Pennsylvania. Over three meetings, individual members of the Study Commission reviewed the home rule charters of other communities and then presented a report on that particular charter to the Study Commission members for their consideration and discussion. This review of other home rule charters, which consisted of communities located across Pennsylvania of various sizes (many similar in size to Bethel Park) was extremely informative to the Study Commission's undertaking and helped us to compare and contrast the provisions of the Bethel Park Home Rule Charter with those of other communities. Attached hereto at Appendix G is a chart listing the other home rule charters the Study Commission reviewed and summarizing the provisions of these home rule charters that the Study Commission considered.

In May 2015, the Study Commission had a public hearing and received input from residents and citizens. Each of the Study Commission's meetings was open to the public, was advertised and public input was accepted at all of the meetings. We did have a number of citizens appear at our meetings and received suggestions. In particular, one resident suggested that the Study Commission consider establishing one or more "at-large" Council positions in addition to the ward-by-ward Council positions that are currently in place. The suggestion was to possibly divide Bethel Park into five wards (instead of the current nine wards) which would

each be represented by a Council member and then in addition, have four at-large members. Members of the Study Commission found the suggestion intriguing. However, as explained to us by the Solicitor, Robert McTiernan, a change in the constituency and makeup of Council would constitute a basic change in the “form of government.” Under the Pennsylvania Home Rule Charter and Optional Plans Law, a change in the form of government can only be proposed by a home rule study commission that is elected by the voters of Bethel Park and not one that is appointed by the Municipal Council as this Home Rule Study Commission was. There may be some merit to the possibility of at-large Council members and there may also be some negative or less desirable consequences to such a change, but given the constraints of Pennsylvania law, the Study Commission did not undertake any further specific analysis of the possibility and takes no position on the matter.

In its final four meetings, the Study Commission took up a consideration of possible changes to the Bethel Park Home Rule Charter and developed its recommendations with respect to those topics. The Study Commission’s recommendations as to specific topics are covered in Section VIII of this Report. In addition to the topics covered in Section VIII, there were other topics mentioned during the Study Commission’s meetings but not given further consideration for various reasons. For example, the Study Commission noted that some communities have provisions in their home rule charters imposing term limits on the offices of elected officials and other charters had provisions that establish minimum attendance requirements for meetings and consequences including removal from office for failure to comply with the requirements. The consensus of the Study Commission was that the decision of whether an elected official should continue to serve, and for how long, is best left to the voters who are free to choose, through their

exercise of the voting franchise, to remove or not their elected representatives and to vote them in office for as many terms as the electorate should choose.

### **VIII. Topics Considered and Pros and Cons of Each Topic Discussed**

As indicated, the Study Commission gave particular and detailed consideration to a number of possible changes to the Bethel Park Home Rule Charter. As to each topic, the Study Commission considered the current Bethel Park Home Rule Charter provision and the pros and cons of possible changes. A summary of these discussions, as well as the Study Commission's recommendation with respect to each topic, is contained in the following pages.

In addition to the change it recommended regarding the reporting by the Police Chief (discussed above), the Study Commission reviewed and discussed in detail the following topics. A summary of the discussions and the pros and cons of each potential change follows.

1. Gender references in the Home Rule Charter
2. Budget and capital budget submission deadlines
3. At- large council members
4. Powers of the Mayor under the current Home Rule Charter
5. Initiative and referendum provisions
6. Starting time for the organizational meeting
7. Election after a vacancy is filled by appointment
8. Effective date of adopted ordinance
9. Comprehensive Plan – interval for updates

## 1. TOPIC: Gender references in the Home Rule Charter

DESCRIPTION/CURRENT PROVISIONS: Currently, the Bethel Park Home Rule Charter uses male references exclusively. See for example, the opening sentences of Section 2 of the Home Rule Charter regarding the Mayor, which read: “The Mayor shall be recognized as the spokesman of the Municipality. He shall be in attendance ....” Throughout the Charter, all gender references are to “he” and “his”.

POSSIBLE CHANGE: Amend the Charter to make it gender neutral by changing the current references from “he” to “he or she” and from “his” to “his or her” or by proposing some other method for making the change.

### PROS

- Making the change would makes the Home Rule Charter gender neutral
- Making the change would be more accurate and be more inclusive

### CONS

- Difficult to place on ballot if need to restate entire Charter to specifically set forth every place in the Charter where the gender reference occurs and need to be changed

NOTE: The Study Commission felt the Municipality may need the input of the County Elections Department as to possible ballot options. For example, is it possible to submit a proposal along the following lines to the voters: “That all references in the Bethel Park Home Rule Charter to “he” are changed to “he or she” and all references to “his” or changed to “his or hers”, or to propose an amendment to the Charter that adds the following provision to the Charter reads: “All references in this Charter to the male gender are deemed to refer to the male and female genders.”

CONSENSUS: The consensus of the Study commission was to amend the Home Rule Charter to include a provision that provides essentially as follows (subject to the approval of the County Elections Department): “All references in this Charter to the male gender are deemed to refer to the male and female genders.”

## 2. TOPIC: Budget and capital budget submission deadlines

DESCRIPTION/CURRENT PROVISIONS: Currently, Section 1002 of the Bethel Park Home Rule Charter requires the Municipal Manager to submit a proposed budget to Council by September 1. Section 1003 requires the capital program to be submitted two months earlier, i.e. by July 1. The topic for consideration is whether these deadlines are too early in the calendar year.

POSSIBLE CHANGE: Amend the deadlines to allow later submission to Council of the budget or the capital program or both.

### PROS

- A September 1 deadline means that the budget is prepared in July/August and submitted when key budgetary events have not yet occurred, including collection of real estate taxes and expenses that are not incurred until later in third quarter or fourth quarter.
- The current submission deadlines also mean that the Capital Budget must be prepared in June of each year for the following year.
- The current deadline, because they occur before some information is available, can reduce the accuracy of the initial budget estimates and necessitate updating and correction during the budget review process.
- Most of the charters of other communities the Study Commission reviewed have later submission deadlines for budgets and capital programs

### CONS

- The process seems to have worked with the current deadlines
- Making the submission too late can reduce the time for Council and the public to review the budget.
- The Bethel Park Home Rule Charter has a 30-day effectiveness requirement for ordinances meaning that the ordinance adopting the budget must be adopted by November 30 so that it is effective by January 1. Other charters do not have this 30 –day effectiveness requirement and it means that Bethel Park’s budget must be submitted earlier than in other communities.

CONSENSUS: The consensus of the Study Commission was to amend the Home Rule Charter to provide that the Capital Budget be submitted to Council by August 30 and the Budget be submitted to Council by September 30.

### 3. TOPIC: Election of at-large council members

DESCRIPTION/CURRENT PROVISION: Currently, under Section 302 of the Bethel Park Home Rule Charter, the composition of Council is nine (9) members elected from each of nine (9) wards.

POSSIBLE CHANGE: A resident appeared before the Study Commission and suggested that the Study Commission consider a revised composition consisting of fewer wards (for example, 5 wards) and a number of at-large council members (for example, 4 at-large)

#### PROS

- The revised structure would preserve the ward representation by retaining a council member for each ward (with fewer total wards) but add council members who are elected by the entire community.

#### CONS

- The current system is working.

NOTE: The Commission discussed this suggestion and also reviewed it with the Municipal Solicitor. A change in the composition of Council would be considered a change in the “form of government”. Under the Pennsylvania Home Rule and Optional Plan act, a change in the form of government can only be proposed by a Study Commission that is first elected by the voters (the same process that was undertaken when Bethel Park adopted its Home Rule Charter initially in the 1970’s). As such, any change of this nature was beyond the authority of this Study Commission to recommend, and therefore the Study Commission took no position on the suggestion.

CONSENSUS: The Study Commission did not take a position either in favor of or against this possible change, due to the limits on the Study Commission’s authority. See Note above.

#### 4. TOPIC: Powers of the Mayor under the charter

DESCRIPTION/CURRENT PROVISIONS: Under the current Bethel Park Home Rule Charter, the Mayor is not a regular voting member of the legislative body but does have a number of specific powers under the Home Rule Charter. These powers include the power to veto any ordinance (Section 206), the power to vote in the event of a tie vote on Council (Section 207), and the authority to negotiate intergovernmental co-operative agreement subject to ratification of Council (Section 208(F)). If the Mayor exercises his veto of an ordinance, it requires a vote of 2/3's of Council to override the veto.

POSSIBLE CHANGE: Eliminate the Mayor's power to veto any ordinance.

#### PROS

- The Mayor is not a regular voting member of Council and should not have the power, as one elected person, to veto an ordinance adopted by a majority of the elected members of Council, as the legislative body.
- The decision of a majority of the elected representatives could be thwarted by a veto of the Mayor.
- The charters of other communities did not provide for a Mayoral veto in the Council-Manager form of government.

#### CONS

- The charter has had this provision for 35 years, and while little used, it provides a check on the legislative power of the Council.
- The Mayoral veto is more likely to be used where the vote of Council is close (e.g., 5 to 4) since if the vote was a wider margin (e.g., 6 to 3 or 7 to 2), the votes would be there to override the veto. Having the power of veto in the Mayor could be important where the issue is one that divides the Council and the community.

CONSENSUS: The consensus of the Study Commission was to not recommend any change in the provisions of the Home Rule Charter relating to the powers of the Mayor. In particular, the Study Commission was of the view that the veto power of the Mayor should be preserved as the only at-large elected official in the Municipality, and that power provides a valuable check on the ward-by-ward elected officials of the Council in circumstances where the Mayor would choose to exercise the veto and thereby require Council to override the veto with a two-thirds vote to sustain the action taken.

## 5. TOPIC: Initiative and Referendum

DESCRIPTION/CURRENT PROVISIONS: The current provisions of the Bethel Park Home Rule Charter addressing Initiative and Referendum are set forth in Section 12 of the Home Rule Charter. The provisions, as currently in effect, set forth procedures for the proposal of ordinances (initiative) or reconsideration of adopted ordinances (referendum). Under Section 1202, any 5 qualified electors can begin the initiative or referendum process by forming a committee. If a committee is formed, the initiative or referendum petitions must then be signed residents equal in number to 20% of those voting within the Municipality for the office of Governor in the last gubernatorial election<sup>2</sup>. Section 1205 provides that when a referendum petition is filed, the ordinance sought to be reconsidered is suspended from taking effect until the initiative/referendum process is concluded. For example, if a referendum petition is filed, it would prevent an ordinance adopting a budget or setting the tax rate from taking effect until the referendum process is completed, which can take months and possibly a substantial part of a calendar year. During that time, the budget would not be in effect or the taxes could not be collected.

POSSIBLE CHANGE: Should the Home Rule Charter be amended to revise the types of ordinances that can be the subject of initiative or referendum? Should changes be made to the provision that suspends an ordinance when a referendum is filed?

### PROS

- The suspension of an ordinance relating to fiscal matters including a tax levy could have disastrous financial implications to the Municipality. For example, when Council adopts an annual ordinance setting the tax mileage, the total mileage is set forth in a single ordinance. A referendum intended to challenge an increase in the mileage (a part of the total mileage) would have the effect of suspending the entire ordinance and the Municipality would be unable to levy any taxes during the pendency of the referendum process. Under the Home Rule Charter provisions, the referendum process could take months to conclude and could involve a vote in the November general election, well past the time for levy and collection of taxes.
- Under Section 1205 of the Home Rule Charter, the ordinance is suspended when the referendum petition is filed. A referendum petition can be filed by 5 qualified voters. Allowing 5 voters to suspend an entire ordinance that has been adopted by a majority of the elected representatives is contrary to the principles of democratic government to the extent it allows a small minority (5 voters on the filing of the

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<sup>2</sup> For example, in the last gubernatorial election in 2014, a total of 11,516 voters cast ballots in Bethel Park, and therefore an initiative or referendum petition submitted now would require the signatures of 2,205 registered voters.

petition and 20% of the number who voted in the last gubernatorial election) to prevent or delay implementation of duly adopted ordinances.

- The right of citizens to petition their government is an important right but a small number of residents should not be able to prevent the Municipality from functioning or from providing basic health, safety and welfare services.
- Some of the home rule charters reviewed by the Study Commission have no initiative or referendum provisions at all. Other charters set limits on the subject of any initiative or referendum and specify subjects such as tax levies and adoption of budget that cannot be the subject of initiative or referendum.

## CONS

- The ability of the citizens to propose initiatives and referendums is an important right of the people and serves as a check on the actions of the elected representatives.
- The Municipality has operated and functioned for 35 years with these initiative and referendum provisions in place. No disastrous consequences have occurred.

CONSENSUS: The consensus of the Study Commission was to recommend that the Home Rule Charter be amended to provide that the rights of initiative and referendum, and the process set forth in the Home Rule Charter, be preserved in its current form, but that a provision be added to Article 12 of the Home Rule Charter setting forth a limited number of ordinances, key to the basic functioning the Municipality, that when duly and properly adopted would not be subject to the initiative and referendum procedures of Article 12. The types of ordinances that would not be subject to the referendum provisions would include the adoption of annual budgets, appropriation or borrowing of monies, levy of taxes or setting of millage rates for collection of taxes or setting of sewer/utility rates and ordinances affecting the operations of the Municipality or safety of the public, the suspension of which would have a detrimental impact on the operations of the Municipality or on public safety. The additional provision would not otherwise limit the initiative or referendum process. The proposed language suggested by the Study Commission is as follows:

### **Section 1209 Scope of Article**

***The initiative and referendum procedures set forth in this Article 12 shall not apply to any ordinances that adopt a budget or capital program, appropriate or borrow monies or levy taxes or sewer/utility rates or any ordinance that addresses an emergency situation or identified existing risk to health or safety.***

**6. TOPIC: Starting time for term of office/organizational meeting**

DESCRIPTION/CURRENT PROVISIONS: The Bethel Park Home Rule Charter currently provides, in Section 303, that the terms of the Council members begin at 8:00 PM on the first Monday of January following the year in which elected. The effect of this provision is that the organizational meeting that occurs on the first Monday of January cannot begin until 8:00 PM when Council meetings typically begin at 7:30 PM. Proposal for consideration is to change the time in Section 303 from 8:00 PM to 7:30 PM.

PROS

- Change would conform to current practice that meetings begin at 7:30 PM
- Change would avoid waiting until 8:00 PM to begin organizational meeting

CONS

- The Charter has worked the way it is currently written.

CONSENSUS: The consensus of the Study Commission was to recommend that the Home Rule Charter be amended to change the start time for the organizational meeting from “8:00 PM” to “7:30 PM”. However, reflecting the lesser importance of this recommendation, the consensus of the Study Commission was not to submit this proposed change by itself to the voters, but to include this item as a proposed change in an election only when and if another change or changes are submitted to the voters.

## 7. TOPIC: Election after vacancy filled

DESCRIPTION/CURRENT PROVISIONS: The Bethel Park Home Rule Charter currently provides, in Section 1403, that a vacancy in the office of Mayor or member of Council is filled by appointment “until the office is filled at the earliest possible election.” That provision has been applied to mean at the next occurring general election, which allows candidates from each party to be selected in a primary election and the voters to elect the official at the general election.

POSSIBLE CHANGE: The proposal for consideration is to change the provision to provide that the election to fill the seat be held at the next occurring election whether that is a general election or a primary election

### PROS

- Making the change would allow voters to vote at the earliest possible time for the position that was filled by appointment

### CONS

- A vote to fill the position at a primary election could be confusing to the voters since positions are not typically finally voted on in a primary election.
- The voter turnout at primary elections is often less than in general elections.
- While having the seat filled at the general election means a potentially longer period between votes by the voters, the office is filled by appointment during the interim and the office is not vacant during this time.
- Several vacancies have occurred and been filled under the Home Rule Charter as written and the process has worked.

CONSENSUS: The consensus of the Study commission was to recommend that no change be made in this provision.

## **8. TOPIC: Effective date of adopted ordinance**

DESCRIPTION/CURRENT PROVISIONS: The Bethel Park Home Rule Charter currently provides, in Section 1107 that the effective date of an ordinance shall be no sooner than 30 days after its adoption or ten days after publication whichever is later, unless a later date is specified in the ordinance or required by law.

POSSIBLE CHANGE: Remove the provision that automatically provides that every ordinance is not effective for 30 days after its adoption.

### PROS:

- The current provision automatically delays the effectiveness of every ordinance adopted by Council for 30 days without regard to its subject. This has the effect of delaying the implementation of duly adopted ordinances including ordinances that affect health, safety and welfare (for example, street and traffic regulation), contracting and fiscal matters such as budgets and tax levies.
- The fact that a referendum petition has the effect of suspending an ordinance should not mean that every ordinance is delayed for 30 days from becoming effective.
- In the last 35 years, very few referendum petitions have been filed.
- Council could in appropriate situations provide that any particular ordinance is effective in a number of specified days.
- No other home rule charter reviewed by the Study Commission, including those with initiative and referendum provisions, had a provision that delayed the effective date of an adopted ordinance.

### CONS

- The provision delays the effectiveness of ordinances to allow the possible initiation of the referendum process under Article 12, which provides in Section 1203D that a referendum petition must be filed within 30 days of the adoption of an ordinance.
- If that referendum petition is filed it has the effect under Section 1205 of suspending the ordinance. If the 30-day effectiveness provision is eliminated then the ordinance would become effective but then be suspended if a referendum petition is filed.

CONSENSUS:

It was the consensus of the Study Commission that this provision of the Home Rule Charter should be modified in conjunction with changes to Article 12 on Initiative and referendum to provide that ordinances that authorize traffic signals or controls would be effective immediately and ordinances that are not subject to the initiative and referendum process would not be subject to the provision delaying the effectiveness of ordinances for 30 days.

Possible language: to be added to Section 1107:

***“ . . . provided that ordinances authorizing traffic signals or controls and ordinances not subject to the initiative and referendum process under Section 1209 shall be effective immediately unless a later date is specified in the ordinance or is required by the laws of the Commonwealth of Pennsylvania.”***

**9. TOPIC: Comprehensive Plan – interval for updates**

DESCRIPTION/CURRENT PROVISIONS: The Bethel Park Home Rule Charter currently provides, in Section 802, that the Comprehensive Plan should be reviewed and updated at intervals no longer than five (5) years.

POSSIBLE CHANGE: Revise this Section of the Home Rule Charter to provide that the Comprehensive Plan is reviewed and updated at intervals of no more than 10 years.

PROS:

- The requirement to review and update the Comprehensive Plan at intervals of five years is an impractical burden that has proven difficult to meet, and there is no tangible benefit to reviewing the Plan every 5 years.
- The process of reviewing and updating the Comprehensive Plan, which is done by the Planning Commission, takes a year or more to complete and therefore there is little meaningful time between reviews with a five-year interval.
- Under Pennsylvania law (the Municipalities Planning Code), a communities' comprehensive plan is required to be updated every 10 years.
- With more time, the review and update of the Comprehensive Plan could be more detailed and therefore more helpful to the Municipality's planning and development.
- The review and update of the Plan has expenses associated with it that would be reduced by providing for a 10-year interval.
- Revising this provision of the Charter would not stop the Planning Commission from doing the review and update in less than 10 years, or prohibit Council from requesting/directing it be done on less than 10 years.

CONS:

- The requirement for review at 5-year intervals ensures that the review is undertaken and not unduly delayed.
- This provision has been in the Home Rule Charter for the last 35 years.

CONSENSUS: The consensus of the Study commission was to recommend that the provision be amended to provide that the Comprehensive Plan be reviewed and updated at intervals of not less than 10 years.

**IX. Summary of Recommendations to Council**

- a. Gender references in the Home Rule Charter

CONSENSUS: The consensus of the Study commission was to amend the Home Rule Charter to include a provision that provides essentially as follows (subject to the approval of the County Elections Department): “All references in this Charter to the male gender are deemed to refer to the male and female genders.”

- b. Budget and capital budget submission deadlines

CONSENSUS: The consensus of the Study Commission was to amend the Home Rule Charter to provide that the Capital Budget be submitted to Council by August 30 and the Budget be submitted to Council by September 30.

- c. At- large council members

CONSENSUS: The Study Commission did not take a position either in favor of or against this possible change, due to the limits on the Study Commission’s authority.

- d. Powers of the Mayor under the current Home Rule Charter

CONSENSUS: The consensus of the Study Commission was to not recommend any change in the provisions of the Home Rule Charter relating to the powers of the Mayor. In particular, the Study Commission was of the view that the veto power of the Mayor should be preserved as the only at-large elected official in the Municipality, and that power provides a valuable check on the ward-by-ward elected officials of the Council in circumstances where the Mayor would choose to exercise the veto and thereby require Council to override the veto with a two-thirds vote to sustain the action taken.

- e. Initiative and referendum provisions

CONSENSUS: The consensus of the Study Commission was to recommend that the Home Rule Charter be amended to provide that the rights of initiative and referendum, and the process set forth in the Home Rule Charter, be preserved in its current form, but that a provision be added to Article 12 of the Home Rule Charter setting forth a limited number of ordinances, key to the basic functioning

the Municipality that when duly and properly adopted would not be subject to the referendum procedures of Section 1201B. The types of ordinances that would not be subject to the referendum provisions would include the adoption of annual budgets, levy of taxes or setting of millage rates for collection of taxes or sewer/utility rates and ordinances affecting the operations of the Municipality or safety of the public, the suspension of which would have a detrimental impact on the operations of the Municipality or on public safety. The additional provision would not otherwise limit the initiative or referendum process. The proposed language suggested by the Study Commission is as follows:

**Section 1209 Scope of Article**

***The initiative and referendum procedures set forth in this Article 12 shall not apply to any ordinances that adopt a budget or capital program, appropriate or borrow monies or levy taxes or sewer/utility rates or any ordinance that addresses an emergency situation or identified existing risk to health or safety.***

- f. Starting time for the organizational meeting

CONSENSUS: The consensus of the Study Commission was to recommend that the Home Rule Charter be amended to change the start time for the organizational meeting from “8:00 PM” to “7:30 PM”. However, reflecting the lesser importance of this recommendation, the consensus of the Study commission was to include this item as a proposed change only when and if another change or changes are submitted to the voters.

- g. Election after a vacancy is filled by appointment

CONSENSUS: The consensus of the Study commission was to recommend that no change be made in this provision.

- h. Effective date of adopted ordinance

CONSENSUS:

It was the consensus of the Study Commission that this provision of the Home Rule Charter should be modified in conjunction with changes to Article 12 on Initiative and referendum to provide that ordinances not subject to the initiative

and referendum process would not be subject to the provision delaying the effectiveness of ordinances for 30 days.

Possible language: to be added to Section 1107:

***“ . . . provided that ordinances authorizing traffic signals or controls and ordinances not subject to the initiative and referendum process under Section 1209 shall be effective immediately unless a later date is specified in the ordinance or is required by the laws of the Commonwealth of Pennsylvania.”***

i. Comprehensive Plan – interval for updates

CONSENSUS: The consensus of the Study commission was to recommend that the provision be amended to provide that the Comprehensive Plan be reviewed and updated at intervals of not less than 10 years.

### **Note from the Chairperson**

The recommendations of Bethel Park Home Rule Study Commission contained in this Report will be submitted to Municipal Council. Council will review the recommendations and decide what changes, if any, to propose to the voters of Bethel Park and the voters will ultimately decide what changes are made to the Home Rule Charter. The Study Commission has performed a vital service in this process by undertaking the first comprehensive review of the Home Rule Charter since its original adoption more than 35 years ago. I have been privileged to serve as the Chairperson of the Study Commission, and wanted to offer some comments on the work of the Study Commission.

First, on behalf of the Study Commission, I want to thank those residents and members of the public who attended our meetings and provided their input, including Gus Oakley, Robert Swiech and Pauletta Beehler, and Dick Kraft who provided us with written comments. Ms. Beehler attended a number of our meetings, provided helpful input and suggested that the work and final report of the Study Commission should be included in the curriculum of high school civics classes to show students how local government functions.

Second, I want to commend the members of the Study Commission. The ten individuals who served on the Study Commission devoted a number of their evenings to our meetings over the last year and a half, and spent significant additional hours outside the meetings reviewing the provisions of the Home Rule Charter, the charters of other communities and the additional information we considered. Their contributions should not be underestimated.

Beyond their time, however, the members brought a seriousness to their task and a genuine interest in understanding and improving the functioning of their local government. They also shared an openness to considering the pros and cons of each topic we discussed. This was particularly so with regard to the six members of the Study Commission who are not members of Council and made up a majority of the Study Commission. These people came with a sincere interest in advancing the betterment of their community. They are each already active in the Bethel Park community, and their perspectives were essential to the work of the Study Commission.

What was most impressive was the way the Study Commission approached its discussions on each topic we considered for possible change. The members were not without differences of opinion on various topics and there were disagreements. The members however handled the discussions, and the weighing of arguments for and against a particular proposal, with intelligence and openness and respect. Two examples will demonstrate the point. One of the topics we discussed was whether to remove from the Charter the right of the Mayor to veto ordinances adopted by Council. Because the Mayor does not head any administrative departments and is not a regular voting member of Council (voting only when there is a tie), I thought a sound argument could be made that the Mayor should be heard on all issues (as the

Charter provides) but should not have the power to veto ordinances passed by a majority of Council. The Study Commission weighed the pros and cons and the consensus, with key input from the members of the Commission who are not on Council, was to recommend that the veto power of the Mayor be retained. The Study Commission's consideration of the initiative and referendum process was similar. The consensus of the Study Commission was that the referendum process should not be applicable to ordinances that implement the basic and essential functions of the government such as adopting a budget, setting sewer rates or collecting taxes. One option considered (which I favored) was to limit use of referendum as to a continuation of a prior tax or sewer rate but provide that referendum be available to the extent of an increase in rates. The Commission, however, again with the input of all of its members, reached a consensus to propose the changes as set forth in this Report. The key point is that despite the differences in opinion, I respect the decision of the Study Commission, and the Study Commission and its members are to be commended for both the fullness of their consideration and the respectful way it was conducted.

Stated most simply, I found it refreshing to witness that the people of a community can have robust discussions about important issues, even to the point of disagreement, without losing the friendship in their voices. For this and all their dedicated work, I want to thank each of the members of the Bethel Park Home Rule Study Commission.

Jim McLean  
Chairperson