

Allegheny County Council

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Committee Meeting Minutes

Wednesday, January 10, 2007

5:00 PM

Conference Room 1

Special Committee on Government Reform

Rich Fitzgerald, Chair -- Committee of the Whole

I. Call to Order

Summary: *Meeting was called to order at 5:00 p.m.*

Invited Guests:

John Weinstein, County Treasurer

Joseph Rizzo, Deputy County Sheriff

Jim Flynn, County Manager or Designee

Representative, Allegheny County Deputy Sheriff's Association

Summary: *Invited Guests or Designees Present: Jim Flynn, County Manager; Deputy Sheriff Rizzo; Mr. Chester*

Council Staff Present: Joe Catanese; Jennifer Liptak; Jared Barker; Stephanie Buka

II. Roll Call

Roll Call: Present: Jim Burn, Susan Caldwell, Joan Cleary, John DeFazio, Matt Drozd, Bob Macey, Dave Fawcett, Michael Finnerty, Brenda Frazier, Vince Gastgeb, Chuck Martoni, Jan Rea, and Chair Rich Fitzgerald
Absent: William Lestitian, and William Robinson

III. Agenda Items

Ordinances

2513-06

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, providing for the creation of an Allegheny County Citizens' Election System Advisory Panel in order to identify, anticipate, and remedy any issues arising from the implementation of a new voting system in Allegheny County.

Sponsors: William Russell Robinson

Summary: *Chairman Fitzgerald said unless there are any questions, he wanted to release this Bill from Committee.*

Councilman Martoni wanted to hear from Councilmen Fawcett and DeFazio.

Councilman Fawcett said it is an important issue and he didn't mind having another advisory panel created, in addition to the Elections Board.

Councilman DeFazio asked whether or not this panel would report back to Council and Chairman Fitzgerald responded in the affirmative. DeFazio agreed that it's an important issue and didn't have any problem with a new panel.

Councilwoman Cleary said it's a good idea, but it's important that people understand that the Elections Board sets the agenda and makes the policy.

Councilwoman Frazier asked whether this panel would consist of condensed meetings or lengthy gatherings. Councilman DeFazio said they usually limit people to 3 minutes

of speaking time and said there should be a time limit on speakers.

Action: Released from the Committee

2901-06

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania directing that a referendum question amending Article III, Section 2 of the Allegheny County Home Rule Charter, pursuant to the Home Rule Charter and Optional Plans Law and Second Class County Charter Law, be placed on the May, 2007 Municipal Primary ballot. (Sheriff)

Sponsors: Chief Executive

Summary: *County Manager Flynn said the Sheriff's position is currently an elected office and the Administration would like to have a ballot question for voters to decide whether or not they want the Sheriff to be an appointed position. At this point there has not been a decision concerning merging the County Police and Sheriff's Departments. The Sheriff's have the responsibility of building guards, clerks, etc. If approved by the voters, the collective bargaining agreement would need to be worked out.*

Chairman Fitzgerald said the public may want to know the plan ahead of time and what the cost savings would be if this went through. Maybe Amy Griser, Director of Budget & Finance could answer some of these questions.

Flynn said it depends on the final organizational structure. If the County consolidates to an appointed position, obviously you wouldn't need two management staffs. Operating efficiency would appear to be valuable, but we haven't done a fiscal analysis.

Chairman Fitzgerald said now the recommendation is to go from four Row Offices down to three. Flynn said the projected savings were completed prior to the Row Office Reform that did occur.

Councilwoman Frazier asked whether or not the County could do this legally because of the 5 year time frame. Flynn said the County Law Department told him they were permitted to place this question on the ballot and change it from an elected position to an appointed position.

Councilman Finnerty said that contradicts what Council Members were told in their internal briefing report. He said the case law cited is contradictory to what the Law Department told the Administration.

Councilman Burn said there's a constitutional argument, that there was a 5 year period before they could revisit this matter, and he remembered that it was a strong argument when discussing Row Office Reform.

Councilman Fawcett said the functions of the Sheriff's Department and County Police are different and asked how merging the two would effect the agencies.

Flynn said it would allow for cross-training and a coordinated effort. Councilman Fawcett expressed his view that it would be a good thing, but asked to keep it flexible and look at the cost-savings. Flynn said both entities have their own statutory functions. The Constitution says we must have a Sheriff, but it doesn't say whether it must be

elected or appointed.

Councilman Drozd said he is looking at efficiency and thinks benchmarks are needed. He asked who this would affect and who has equity in this legislation?" He said he wants to see input from the municipalities. He said he thinks it could be a good idea, but wants to look at other regions to see what they do. He told Mr. Flynn that additional data that would be helpful.

Councilman Martoni said the statistics show that it's less than 1% across the nation for Sheriff's that are appointed. He said the concept of Sheriff and common law has a long history and reminded the group that they were talking not only about changing the elected position but also merging the County Police and Sheriff's Department. He said they need to talk to the law enforcement community especially. The County has great law enforcement capabilities. He asked others to think about saving money.

Chairman Fitzgerald said they are up against time and they need to act by Council's February 6th Regular Meeting, but he agreed that they do need to take a closer look at this.

Flynn said the Chief Executive proposed this because he'd like to combine policing services in Allegheny County. Whether it's the Sheriff's or County Officers, they will be called upon more and more with municipalities struggling to maintain their forces.

Councilman Gastgeb said there are two issues: First, do we want to allow a ballot question and second, should we merge services? He said the electorate should be aware of the entire plan. He wasn't sure the timing issue is that critical. He said the County went from 10 Row Offices down to 4 and they owe it to the electorate to explain this more thoroughly. On the five year moratorium, Attorney David Armstrong said they had to wait five years and Council agreed with that conclusion. He said it's Council's obligation to show citizens that they can save money and posed the question, "Are we giving the people the best possible package?"

Councilman Gastgeb discussed issues relating to explanation of the long term plan for law enforcement, lack of data regarding cost savings, and the need to do this before May rather than November, and the 5 year moratorium.

County Manager Flynn said they wouldn't need two solicitors, two purchasing departments, etc. and the timing is good.

Councilman Fawcett said Council has an opportunity and they should take advantage of it. He understands the need for more information, but said that's part of the electoral process and the public will see arguments on both sides between now and May.

Councilwoman Cleary has reservations about the 5 year moratorium. She said it doesn't matter who's in office at the moment, it matters what's the best choice with regard to the operation of the office. She said it may end up costing the County, and wasn't sure how anyone could make an intelligent choice with what's in front of Council today.

Flynn explained that the Sheriff's and County Police both participate in the County pension plan, and both have additional pension plans, but both are subject to CBA's, which we negotiate.

Councilwoman Cleary said throwing multiple agencies into one environment would seem to create contentions and added that Council doesn't know how it all fits together until they can see the complete plan.

Councilwoman Rea thinks the electorate could be brought up to speed fairly rapidly and Council should proceed.

Councilman Martoni reminded the group that the legislation does not deal with consolidation issues.

Councilman Drozd said Council owes the electorate as much information as they can provide.

Councilman Gastgeb said he doesn't want to mislead the voters into thinking they're getting one thing, when the long term plan or actual results give them something radically different. This is why the companion consolidation bill is important; it fills in some of these blanks. He said there would be a loss of positions, because some of your efficiencies are through less personnel.

Manager Flynn responded saying that they could take those extra people and complete other work that needs to be worked on.

Chairman Fitzgerald said once the entities are consolidated, they could reach out into the communities to help those municipalities that have no ability to police themselves.

Councilwoman Cleary asked if approved, whether or not they would have any input into the office restructuring. The next bill would contain delineation of the office, and Council would vote on that legislation according to Manager Flynn.

Councilman Finnerty asked whether or not Council would have any authority to make the appointment of the Sheriff and Manager Flynn said no, because the Charter states appointments are to be made by the County Manager.

Councilwoman Caldwell asked if they could amend the question to allow for confirmation by Council and the Chairman responded in the affirmative but said not in this Committee.

If Sheriff's are placed in the same job description or same department as County Police then they should be paid equally and that could mean costs per Councilman DeFazio.

Manager Flynn said if they're merged to be completely interchangeable, he would agree. If, however, they're kept semi-segregated, that might be a different situation.

Chairman Fitzgerald invited Mr. Rizzo and Mr. Chester to the table, and sent wishes from Council to Acting Sheriff William Mullen for the best in his recovery.

Acting Chief Deputy Rizzo said Sheriff Mullen agrees that it should ultimately be up to the voters to decide how they want their Sheriff to be selected. With regard to a merger, he said they have an excellent relationship with the County Police. He said the courts have provided them with regular police authority. He said the Sheriff's can do a lot more than just providing courtroom security and if there is a merge, they should use everyone to the fullest extent.

Mr. Chester asked that Council consider the California example. The voters will always vote to increase government services and to decrease government revenue, just as they have in California. Appointed government officials tend to operate less efficiently than elected ones. With regard to the five year moratorium, you're probably looking at litigation from someone if this passes, regardless. Really, the only comparison we have is the Coroner to Medical Examiner change, and we have absolutely no idea yet how that is working, because we have no data for that office. Before leaping forward, it might be worth studying whether there are in fact efficiencies to be gained. As of today, the Sheriff makes mid-60's, front line deputies make mid-50's, and Directors in the County make mid-90's. If this becomes an appointed position, you'd expect to bump his salary, which is a \$30k cost. He said he believes the consolidation would actually increase costs by millions of dollars.

Councilman Fawcett asked Mr. Chester what role he plays because as he understands, Mr. Chester is paid by the Sheriff's Association to represent them. Fawcett said Mr. Chester was giving opinions on County finances that he wasn't sure were appropriate for an attorney representing a client. Fawcett asked Mr. Chester if he was also a County resident.

Chester responded to Councilman Fawcett stating that he was representing the Association. He said he doesn't have the economic answers, but nobody in the room does either.

We're trying to make a decision based on data that mostly doesn't exist and the question remains, do we have enough time to even begin to gather that information posed Councilman Burn.

Councilwoman Rea felt that the Chief Executive would not bring a bill forward that he expected to cost the taxpayers money.

Action:

Held in Committee

2967-06

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, directing that a referendum question amending Article III, Section 2 of the Allegheny County Home Rule Charter, pursuant to the Home Rule Charter and Optional Plans Law and Second Class County Charter Law, be placed on the May, 2007 Municipal Primary ballot. (Treasurer)

Sponsors: Dave Fawcett

Summary:

Chairman Fitzgerald read the legislation to the Committee and Councilman Fawcett asked for more information from the Treasurer.

In response to questions from Mr. Fawcett, Weinstein indicated that he has 68 employees, he's held the position of Treasurer for about 8 years, and that the vast majority of his funding comes through the County.

Fawcett said it appears that there are basically three categories of duties; ministerial (clerk type work), discretionary (person has leeway to act or apply policy), and policymaking. It looks to me like most of the office employees have ministerial duties.

Mr. Weinstein said the office as a whole is discretionary, because he's empowered by law to invest as he sees fit, but agreed that people within the office do tasks that relate to ministerial duties.

Councilman Fawcett asked if cashiers, clerk positions, etc. would have any discretion relative to investments and Mr. Weinstein said some might be investment clerks.

Councilman Fawcett asked if customer service employees dealt with people who come into the office, while data clerks are basically record keepers and Mr. Weinstein agreed.

Mr. Weinstein said that the higher a person's salary, the more autonomy that employee enjoys, generally speaking.

Councilman Fawcett said the real discretion in the office involves where and with whom money is to be invested, and asked Mr. Weinstein if he is the final decisionmaker. Mr. Weinstein said yes and added that there are a few people involved in the investment process, all of whom are Treasurer's Office employees.

Councilman Fawcett asked why it's important to have an elected Treasurer and Mr. Weinstein replied because of independence; we handle billions of dollars a year, and an elected Treasurer provides for a check and balance system which doesn't answer to the Chief Executive.

Mr. Weinstein said he has cut staff by 30 percent in 7 years, and all of the employees are cross-trained, so you could have people moving between positions as the need occurs.

Councilman Fawcett said there are conceptually two types of functions, book keeping and investment. Mr. Weinstein said there are multiple functions that overlap.

Councilman Fawcett said with the book keeping function, the law says you have to keep your books open for the controller, who can audit you at will and Mr. Weinstein agreed.

Mr. Weinstein explained that there is a statutory investment board on which he sits with the Controller and Executive, and that sets the investment policy. He said the advisors are chosen at the discretion of the investment committee, and there are no written requirements, because it depends on what type of investment we're making, prevailing rates at the time, etc. He said while there is not a standard form for choosing, there is a screening process.

Councilman DeFazio addressed Mr. Weinstein; in 1999, the Commissioners tried to eliminate the 2 percent discount, and you were the person who said no and saved the

taxpayers millions. You also were an advocate for not allowing a windfall through the millage rate. When was your last raise?

Mr. Weinstein said in 2000, it went up to \$65k. The row officers have had one raise in the last 10-15 years.

Councilman DeFazio asked what other treasurers make salary wise and Mr. Weinstein said about \$125k. He said he's investigated appointed vs. elected Treasurers across the country, and would be happy to show Council the results.

Councilman DeFazio asked about the investment policy and Mr. Weinstein said we are the only County in Pennsylvania that has one, and the department has won awards for the last 3 years.

Councilman DeFazio said Mr. Weinstein is clearly doing a good job, and Council should let him stay.

Councilman Fawcett asked how they pick from however many reputable, qualified people and if there was a written policy.

The Treasurer said yes, and would provide a copy before the next meeting. When he first took office in 1999, he said Mellon Bank handled every County deposit. We now do business with 26 banks and savings and loans, many of which are small community entities, and that shows that it's efficient and fair.

Councilman Fawcett asked if there was any policy regarding whether people doing business with the County are permitted to contribute to the Treasurer's campaign.

Mr. Weinstein said he didn't know if there was a Countywide policy on the issue, but the office does not have one.

Councilman Fawcett asked if Mr. Weinstein's campaign files his finance reports. Mr. Weinstein said yes.

Councilman Burn said they should debate the pros and cons of an elected vs. appointed position and not the individual.

Councilman Fawcett said he didn't think this was about the individual; these aren't accusatory questions, but the electorate should have information about what the officials they elect can or cannot do. My position is that any Treasurer should not be permitted to serve if he or she can put people in the position of investing the County's money and accept contributions from them.

Chairman Fitzgerald said that is a different issue, and if we want to talk about that policy, it's a different discussion. This is about the referendum.

Councilman Macey said these types of questions can be asked of an appointed official as well. My own experience with the office is that it functions very well and oversight is important. Yes, we have the Controller, but we need to be sure that the discretionary

investment functions are independent from the rest of the County.

Councilwoman Cleary said ethics may be something to look at and maybe any company that does business with the County should be precluded from donating to any elected official.

Chairman Fitzgerald asked Councilman Fawcett what he wants to know and if the question is could Mr. Weinstein have done what he has accomplished if he was appointed rather than elected.

Councilman Fawcett said yes, he wants to know what goes on so he can tell whether consolidation can be accomplished or if there are efficiencies to realize.

Mr. Weinstein said in 2001, the Executive wanted him to send tax bills out, and I held off, and in the long run, had we sent those bills, we would have owed 600,000 taxpayers refunds because the bills were wrong. I personally could say make it appointed because I think the Executive would appoint me. But that's irrelevant, the right thing to do is elect the Treasurer. There's a reason the state Treasurer, Auditor General, and Attorney General are elected, and that's the right thing to do; none of them has to do what the Governor asks or demands.

Councilman Gastgeb said it is the office that is the issue. He said it wasn't Mr. Weinstein that wrote the law that put the Treasurer on the retirement board or wherever else. But he said he would wonder why anyone would give me any money at all for my campaign unless I had something to offer. Right or wrong, Mr. Weinstein's position on the retirement board or your investment discretion can be perceived as making the Treasurer worthy of contributions in the hopes of deriving some benefit back. If some of the money that you get in contributions ends up getting paid back to the contributor like that, and if we can remove that by making it an appointed position, maybe we should.

Councilman Drozd said independence is important. Should Mr. Weinstein or any treasurer be allowed to solicit and accept campaign contributions from anyone who does business with the County, state, city or wherever?

Mr. Weinstein said whenever any policy is adopted regarding campaign finance, he would follow it.

Action: Held in Committee

IV. Adjournment

Summary: Meeting adjourned at 6:54 p.m.