



Council/Mayor Roles, Duties & Powers

February 19, 2015

Your Cooperation is Needed

*Please mute your phone *6*

To ask questions and open your line *6

This will help all of our friends!

PSAB's Blended Training

- ✓ *Webinars*
- ✓ **Traditional Classroom Sessions**
- ✓ **One-on-One Assistance**

Upcoming Training

Webinars

Encouraging Positive Public Involvement	Feb 25*
Municipal Insurance 101	Feb 26
The Heart and Lung Act	March 4
The Open Records Act	March 11

*** Free to PSAB Members**


**** Evening Session**

Upcoming Classroom Training

Your Role as Municipal Secretary/Administrator
Police Civil Service Training
Establishing a Rental Property Inspection Program
The Course in Community Planning
The Course in Zoning
The Course in Subdivision & Land Development Review
The Course in Zoning Administration

Reserve Your Seat for 2015!

Pennsylvania State Association of Boroughs
2015 Annual Conference
April 26-29, 2015
Lancaster, Pa
www.boroughs.org



Council/Mayor Roles, Duties & Powers

Presented by Shelley A. Houk
Director of Research
PA State Association of Boroughs





Borough Structure

- Strong Council Form of Government-939 boroughs;
- Home Rule Boroughs-19
- “Home Rule Municipalities can act anywhere except where they are specifically limited by state law.”
Advantage higher EIT rate.
- May have a strong mayor, or a strong executive form of government.



Borough Structure, Cont'd.

- Council Legislates-1006 (4) B.C.
- Mayor Enforces- 10A07 B.C.



Officers of Council

- President and vice president elected at mandatory reorganization meeting.
- Both serve at the pleasure of council-section 1001 B.C. Council has no statutory authority to set term limits for the officers.



President of Council's Duties

- Presides at council meetings and maintains order-1001 B.C.
- Serves as Parliamentarian (Robert's Rules of Parliamentary Procedure).
- Phrases the question before council votes.
- President initiates recount when vote is inconclusive.



Duties of President

- Signs all checks, papers, written contracts, orders for borough expenditures-1006 (4) B.C.
- Shall serve as mayor in the mayor's absence/incapacity-10A08 of B.C.
- Votes as mayor, not as council member.
- Receives mayor's compensation while serving as acting mayor.

Powers that president does not have:

- The president cannot without council:
 - enter into any contracts on behalf of the borough;
 - hire/discharge personnel; or
 - set borough policies or procedures without a vote of council.



President's Powers

- Appoints council members to committees and selects the chair person for each.
- Under Parliamentary Procedure does have the right to make motions/second motions after handing the gavel to the vice president.
- Has the right to call Special meetings or must honor if 1/3 of council makes written request.



President's Powers

- President is “ex officio” member of all committees.
- If President attends a committee meeting his attendance does count towards the quorum and the meeting must adjourn unless it has been advertised.

Committees-Common Questions

- Can a council member refuse to serve on a committee? It's part of his elected duties.
- Can the mayor serve on a committee? That is an internal administrative decision for each borough because it's not addressed in the B.C.



Vice President of Council

- Presides over council meeting whenever the president is absent or when the president is serving as mayor while the office is vacant or the mayor is absent for long term (winters in Florida or in the hospital).
- Serves as mayor in the absence of both the president and mayor-10A08 of the Borough Code.



Vice President (cont'd.)

- Serves temporarily as president when the president wants to make a motion or second a motion.
- Does not automatically serve as president if the president resigns as an officer or the whole council seat. The council must hold a reorganization even if they favor the vice president. Mayor does not preside over these in between “reorganization meetings.”



Duties of Council

- Shall hold advertised monthly meetings-1006 (2) of the B.C.
- Ensures that records of its proceedings are kept and retained through the borough secretary-1006 (3) of the B.C.
- Establishes rules, bylaws, enact/repeal ordinances-1006 (4) of the B.C.
- Sets bonds of certain officials-1006 (7) of the B.C. and review annually.



Duties of Council (cont'd.)

- Sets compensation for officials and employees -1006 (6) and 1001 of the B.C.
- Directs non-police personnel or can delegate to manager-1142 of the B.C.
- Hires and discharges employees-1104 (g) of the B.C. and conducts annual reviews.
- Prepares budget/allocates funds, levies taxes and sets fees.




Powers of Council

- Invests money-1316 B.C.
- Land Use/Zoning-PA Municipalities Planning Code.
- Community Services-Parks and Recreation-2708 (a) B.C.
- Public Safety-Police/Fire-1121 B.C.
- May create, abolish or contract for police services.




Powers of Council (cont'd).

- Public Works-Maintain streets, infrastructure
- Solid waste/Recycling-1202 (8) B.C.; Act 101.
- Makes appointments to boards, commissions, municipal authorities and oversees police civil service.
- Mandated to provide public safety services 1202 (56) B.C.
- Oversees civil service and makes appointments to boards, commissions, etc.




Mayor's Duties

- Presides over reorganization meeting until the officers are elected in January of the even-numbered years-1003 B.C.
- Administers oaths and affirmations-10A06 (a)
- Enforces ordinances via a police department and serves as administrator when borough has its own police dept.-10A07(1), 1121 B.C.



Mayor's Duties

- Votes to break tie/split votes except when it involves hiring, and discharging personnel or if the mayor has a conflict-of-interest-1003 B.C.
- Right to approve/veto ordinances-3301.3 (a) (1) B.C.
- Can take part in discussions subject to same rules of council-1003 (c)B.C.



Mayor's Duties

- Cannot make motions/seconds and can attend executive sessions unless the mayor is suing council or vice versa.
- Can declare emergencies for riots and restrict certain activities during the emergency-10A06(b)(1)-(5) B.C.
- PA Emergency Mgt. Services Code (35 PS 7501) states that local agency declares the emergency.



Mayor's Powers

- This has been known to vary borough to borough in regards to whom declares a weather emergency.
- Currently there are no cases to further clarify this power.
- Be sure to check with borough solicitor for legal guidance.

Mayor's Powers-Marriage Ceremonies

- Can perform marriage ceremony and charge no more than \$150 per ceremony-10A05 (b) B.C.
- Must submit letter in writing to council that he intends to perform ceremonies and retain fees;
- Must give quarterly reports of couple's names, date, and amount charged.

Mayor's Power-Marriage Ceremonies cont'd.

- A former mayor (who has not resigned, did not lose an election or was not convicted of a serious crime) still has authority to perform ceremonies and retain the fees. No report is required. Act 18-2009.
- No statutory provision addressing what title used to sign marriage certificates.



Council-Police Depts.

- Determines whether it will create a traditional police department, contract, join a regional or use the state police-1121 B.C.
- Determines the total number of hours, the ranks and the duties of the ranks-1121 B.C.
- Appoints, removes, suspends, promotes and demotes police officer subject to Civil Service or Police Tenure Acts-1121 B.C., 1190 B.C.



Council-Police Depts.

- Designates the Chief of Police-1121 B.C.
- Establishes wages and benefits (subject to Act 111 if a union exists)-1125 B.C.
- Determines operating budget-1310 B.C.
- Assigns Chief and other officers to attend training-1121 (a)(4) B.C.
- Appoints school police-1127 (a) B.C.



Mayor-Police Depts.

- Assumes full charge and control of the Chief and other officers-1123.1 B.C.
- Preserves order, enforces ordinances, regulations-10A07 (1) B.C.
- Directs the time, place and manner in which the Chief and other officers perform their duties-1123.1 (b) B.C.



Mayor-Police Dept.

- May temporarily suspend police officer for serious infractions up to 10 days-1124 B.C.
- Appoints Special Police Officers during emergencies-1123.1 (d)B.C.
- May delegate supervisory authority to Chief or other high ranking officer-1123.1 (c)B.C.
- May delegate supervisory authority to the manager-1142 (b) (5) B.C.
- The mayor as administrator of the police department and as the Chief Law Enforcement Officer of the borough does have access to PA Criminal History Records Act files and to the police department.



Mayor's Restrictions:

- Cannot hire or discharge personnel or supervise non-police personnel;
- Cannot make contracts or purchases;
- Cannot sell borough personal or real property;
- Cannot sell police department's fire arms-according to (Bureau of Alcohol, Tobacco, & Firearms).



Mayor Court Cases

- Mayor is permitted to attend executive session unless he/she is suing council or vice versa. *Rendina v. Psenicska, No. 382 G.D., C.P. Fayette County, 1989.*
- Mayor cannot use tie-breaking vote to hire/fire police officer. *Almy v. Borough of Wilkinsburg, 416 A.2d 638, Cmwlt. 1980.*



Court Cases- Administration

- Council's actions relating to administration of municipal affairs need not be submitted to mayor. *Eddy v. Ashley Borough, 125 A. 308, 1924.*
- If mayor suspends police officer for short period before the next council meeting, council cannot change. *Moore v. Borough of Ridley Park, 581 A.2d 711, Cmwlt. 1990.*



Removal of Officials

- Removal of elected officials from office only upon conviction of embezzlement of public moneys, felony, perjury, or an infamous crime.
- Article VI, Section 7 of the PA Constitution
- An “infamous crime” was defined by the Pa State Supreme Court in *Com. ex rel. Kearney v. Rambler*, 32 A. 3d 658, 2011 when it vacated Commonwealth Court’s decision.



More Cases

- Council designates appropriate duties of each rank. *Salopek v. Alberts, 209 A.2d 295, 1965.*
- The mayor has the right to access Criminal History Records File. *Theresa Greene v. Borough Council of Prospect Park Borough Council, 46 Pa. D. & C. 3d 558 (1987).*



Other Cases

- Upheld again in *Hoffman v. Borough of Macungie*, 63 A. 3d 461, Cmwlth. Court, 2013. Court stating mayor was “Chief Law Enforcement Officer of the Borough.” PA Supreme Court denied appeal (7/19/13).



Final Case

- Mayor vetoed the motion to furlough police officers and contract with neighboring borough.
- He argued that the action was legislative in nature and not administration. The Allegheny Court of Common Pleas upheld. Was not appealed. *Fazekas v. Versailles Borough*.



The End

- Thank you for your kind attention.
- Contact information:
- shouk@boroughs.org
- 717-236-9526 x 1018