



CITY COUNCIL

Committee of the Whole

Monday, May 23, 2022

5:30 pm

Hybrid Meeting

Agenda

The City Council Committee of the Whole meetings are filmed and can be viewed LIVE while the meeting is taking place via the attached Zoom link and dial-in phone number, on Facebook and on BCTV MAC Channel 99 or at your convenience at <https://www.readingpa.gov/content/city-council-video>.

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Please click this URL to join.

<https://readingpa.zoom.us/j/84132571371?pwd=YIFMMFo0ZUo4NGRORHRsOGVKWHZWQT09>

Passcode: 806201

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US: +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656 or +1 253 215 8782 or +1 346 248 7799 or +1 720 707 2699 or 888 475 4499 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 841 3257 1371

Passcode: 806201

- I. Amendment to Electric Code – Electrical Inspector**
- II. Update re River Road Extension/W. Windsor St**
- III. Government Study Commission - see attached materials pages 2-12**
 - 1. Legislation Sponsors?**
- IV. Review Upcoming Topic List – see attached list page 13**
- V. Agenda Review**

Discussion at the March 14th COW

II. Government Study Commission

Mr. Waltman stated that Council began discussing this issue prior to COVID.

Ms. Kelleher stated that process information is attached to the agenda, noting that the Commission can be started through a citizen petition or a Council ordinance.

Mr. Waltman questioned if the Commission would be comprised of nine members. Ms. Kelleher stated that Council can select the number of members – 7, 9 or 11.

Mr. Waltman noted the need for Council to enact an ordinance to start the process. He stated that ultimately the electorate decides whether or not to change the form of government.

Ms. Kelleher stated that if an ordinance was enacted interested parties would need to run for the seats and circulate petitions between the 13th Tuesday and 10th Tuesday prior to Election Day.

Mr. Waltman stated that a Government Study Commission occurred in the past and questioned when that occurred. Ms. Reed stated that it has not been done since 1993 when Reading changed from the Commission form to a Home Rule Charter.

Ms. Goodman-Hinnershitz noted that it is critical to educate the public about this process. She stated that the Commission may get on the ballot but not without extensive education on government processes. She stated that much study will be needed.

Ms. Reed stated that it is also critical for the public to understand that the Commission members will be elected at large.

Mr. Waltman agreed with the need to consider some modification of the current structure.

Ms. Reed noted her support of empaneling the Commission. She expressed the belief that this form of government does not work and that this is why Reading is not progressing. She stated that Council staff brings the only continuity as administrations change. She stated that she is hopeful that another form of government can be found that is more viable for Reading.

Ms. Cepeda-Freytiz questioned if the process begins with the electorate voting affirmatively to empanel the Commission. Mr. Waltman stated that after the ordinance is enacted a ballot question inquiring if a Commission should be formed is listed AND those seeking seats on the Commission are listed.

Ms. Cepeda-Freytiz questioned how Council members and other elected officials would transition if the form of government changed. Mr. Waltman explained that the transition takes multiple

years. Our current Charter was approved by the electorate in 1993 and the form didn't change until January 1, 1996.

Ms. Reed stated that during the last transition, some Councilors finished their terms and some changed from full-time to part-time.

Ms. Reed stated that the voters make the final decision.

Ms. Goodman-Hinnershitz noted the need for residents to understand why the form of government may change. She stated that assumptions cannot be made that the electorate will agree with the need to change the form of government or that the Commission would determine the need to change. She stated that there are no guarantees.

Mr. Waltman agreed noting that there were three Commissions in the past that recommended a change in government form but the electorate approved only the last recommendation.

Ms. Reed noted the need for the Commission to examine other forms of government and compare them to the current form.

Ms. Cepeda-Freytiz questioned how other forms of government would be analyzed. Mr. Waltman stated that the Commission would look at other home rule charters and other forms of government allowed in PA. He noted the need to determine if the current form of government is effective and to weigh the pros and cons of each possibility. He stated that the voters will make the final decision.

Ms. Kelleher stated that those interested in serving on the Commission must be elected. She noted the need to circulate petitions in accordance with the Statute.

Mr. Butler questioned if Council chooses the number of Commission members. Mr. Waltman stated that it does.

Mr. Butler stated that he reviewed the three possible questions to establish the Commission. He stated that they are very similar and questioned the difference between them. Mr. Gombar stated that the ordinance passed by Council will put the question on the ballot.

Ms. Kelleher reviewed the three questions:

- a. Shall a government study commission of (seven, nine or eleven) members be elected to consider the advisability of the adoption of an optional plan form of government
- b. Shall a government study commission of (seven, nine or eleven) members be elected to consider the advisability of the adoption of a home rule charter
- c. Shall a government study commission of (seven, nine or eleven) members be elected to consider the advisability of the adoption of an optional form of government or a home rule charter

Mr. Waltman stated that if two members of Council are ready to move this forward he will put the ordinance on the table. He stated that he is unsure if there is enough Council support at this time.

Ms. Reed stated that she will sponsor the ordinance. Mr. Waltman noted the need for a second sponsor.

Ms. Cepeda-Freytiz questioned if Council must move the question to the ballot. Mr. Waltman stated that the need to form a Commission must be on an election ballot.

Ms. Goodman-Hinnershitz questioned if the ballot question must specify the form of government to be studied. Ms. Kelleher and Mr. Gombar stated that it must.

Ms. Goodman-Hinnershitz questioned which question Council should choose. Mr. Gombar expressed the belief that it would be the first option, an optional plan form of government; or the third question, an optional form of government or home rule charter.

Mr. Waltman requested that the sponsors work with Mr. Gombar.

Mr. Gombar stated that Ms. Kelleher is correct that the question and the Commission members must appear on the same ballot as the question about the Commission.

Ms. Reed questioned if Commissioners are elected but the question does not pass if the Commission members do not serve. Mr. Gombar stated that this is correct.

Ms. Kelleher stated that if another form of Home Rule is recommended by the Commission it would require Charter amendments rather than a new form of government. Mr. Lachat stated that PA DCED has a publication that explains this process clearly.

Ms. Cepeda-Freytiz used an example of Council moving back to full-time as a change in the form of government. Mr. Waltman agreed and noted the need for two sponsors and for the sponsors to work with Mr. Gombar to move this initiative forward.

Starting the Government Study Commission

PA Title 53 SUBCHAPTER B PROCEDURE FOR ADOPTION OF HOME RULE CHARTER OR OPTIONAL PLAN OF GOVERNMENT

2911. Submission of question for election of government study commission.

2. Ordinance of the governing body or petition by citizens to place a question on the ballot:

- a. Shall a government study commission of (seven, nine or eleven) members be elected to consider the advisability of the adoption of an optional plan form of government
- b. Shall a government study commission of (seven, nine or eleven) members be elected to consider the advisability of the adoption of a home rule charter
- c. Shall a government study commission of (seven, nine or eleven) members be elected to consider the advisability of the adoption of an optional form of government or a home rule charter

2912. Election of members of commission.

(a) General rule.--A governmental study commission of seven, nine or eleven members, as designated in the question, shall be elected by the qualified voters at the same election the question is submitted to the electors.

(b) Nomination of candidates.--Each candidate for the office of member of the commission shall be nominated and placed upon the ballot containing the question without any political designation. No nomination paper shall be signed or circulated prior to the 13th Tuesday before the election nor later than the tenth Tuesday before the election.

(c) Instructions to electors.--Each elector shall be instructed to vote on the question and to vote for the designated number of members of a government study commission who shall serve if the question is or has been determined in the affirmative.

(d) Insufficient number of candidates or members.--If an insufficient number of nominating papers is filed to fill all of the designated positions on the study commission, the question of establishing a commission shall be placed on the ballot, and, unless a sufficient number of study commission members are elected by receiving at least as many votes as signatures are required to file a nominating position, then the question of creating a study commission shall be deemed to have been rejected.

PA DCED Publication re Home Rule Government

II. Beginning Government Study Commission Process

The decision of whether or not to study a municipal government and consider the advisability of change is made by the voters. At the same time this decision is made, the voters elect a group of citizens to conduct the study and report their recommendations back to the electorate for final decision. The entire process can be begun either by the governing body of the municipality, or by a group of citizens through the initiative process.

Placing the Government Study Commission Question on the Ballot

The Home Rule Law provides two alternate methods for placing the question of having a government study commission on the ballot. **The question may be initiated either by (1) an ordinance of the municipal governing body** or (2) a petition of the registered voters of the municipality. The ordinance or petition must designate one of the three questions permitted by the Home Rule Law.

Government Study Commission Questions. The Home Rule Law contains three questions — one must be selected to be placed on the ballot in drawing up the ordinance or petition. The choice of the question will

restrict the government study commission to a consideration of an optional plan, a home rule charter, or allow it to choose either an optional plan or a home rule charter. The text of the questions as set forth in the Home Rule Law follows.

- (1) “Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality; to consider the advisability of the adoption of an optional form of government and to recommend whether or not an optional plan of government should be adopted?”
- (2) “Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of a home rule charter; and if advisable, to draft and to recommend a home rule charter?”
- (3) “Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality; to consider the advisability of the adoption of an optional form of government or a home rule charter; to recommend the adoption of an optional form of government, or to draft and recommend a home rule charter?”

In addition to choosing one of the three questions, the petition or ordinance must designate whether the proposed government study commission is to have seven, nine or eleven members.

Initiation by Ordinance. An ordinance to place a government study commission on the ballot must be adopted by the governing body of the municipality, that is, the county commissioners, city council, borough council, or township commissioners or supervisors. There is no required form for the ordinance. However, it must specify one of the three questions to be placed on the ballot and designate the number of members to be elected to the government study commission.

Within five days after the final enactment of an ordinance, the municipal clerk or secretary must file a certified copy of the ordinance with the county board of elections, together with a copy of the question to be submitted to the voters. The county board of elections will submit the question to the voters at the next primary, municipal or general election occurring not less than the thirteenth Tuesday after the ordinance is filed. The deadline for filing an ordinance to appear on the next election is thirteen weeks before the date of the election.

Electing Members of the Government Study Commission

At the same election where the question of having a government study commission is on the ballot, voters are also asked to elect the designated number of members for the commission. Even voters opposing having a government study commission are to vote for members of the commission.

The Home Rule Charter and Optional Plans Law establishes a detailed procedure for simultaneously presenting to the electors two related questions – the first, whether a home rule study should be undertaken and secondly, the election of members to a study commission if the vote is favorable to such a study.

Eligibility. The only eligibility requirement for candidates for the office of study commissioner is that they be registered voters of the municipality.² Current officeholders, including local, school, county and state officials are eligible to serve as members of government study commissions. As the office is nonpartisan, persons covered by local or state civil service regulations are also eligible to serve.

Nomination Papers. Candidates are nominated by filing nomination papers. The nomination papers must include the name and address of the candidate, identify the person as a candidate for the office of government study commissioner, and state the signers are legally qualified to vote for the candidate. The nomination papers may not carry any political party designation or slogan.

Nomination papers may be circulated and signed within a time period between the thirteenth and the tenth

Tuesday before the election. Candidates must obtain signatures of registered voters equal to at least two percent of the number of votes cast for governor in the last gubernatorial general election within the municipality, or two hundred registered voters whichever is less. Each voter signing a nominating paper must list their residence, including street number and post office address. Each voter may sign nominating papers for as many candidates as the number of members proposed for the government study commission. Each nomination paper must be accompanied by an affidavit of one or more of the signers, affirming the paper was signed by each signer in their proper handwriting, that to the best of the signer's knowledge all signers are registered voters of the municipality, and that the purpose of the paper is to endorse the candidate named for the office of government study commissioner.

Filing Nomination Papers. Nomination papers must be filed no later than the tenth Tuesday prior to the date of the election. Each nomination paper must have attached an affidavit signed by the candidate, consenting to stand as a candidate at the election, and promising to take office and serve, if elected.⁹ Candidates filing nomination papers for government study commissioner do not have to pay a filing fee since they serve without compensation.

Ethics Law Disclosure Statement. The State Ethics Commission has ruled candidates for government study commission must file ethics law disclosure statements. Forms are available from the county board of elections.

Campaign Finance Reports. Candidates for government study commissioner are subject to campaign finance reporting requirements. Most candidates for government study commission will have minimal, if any, campaign receipts or expenditures. Candidates spending less than \$250 are required only to file a notarized statement attesting that fact with the county board of elections. When candidates file their nomination papers, they will be given the appropriate form by the board of elections.

Drafted by _____ City Clerk
Sponsored by/Referred by City Council
Introduced on _____
Advertised on _____

BILL NO. _____ 2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, AUTHORIZING A REFERENDUM ON THE QUESTION OF ESTABLISHING A GOVERNMENT STUDY COMMISSION TO CONSIDER THE ADOPTION OF AN OPTIONAL FORM OF GOVERNMENT OR A HOME RULE CHARTER FOR THE CITY OF READING.

WHEREAS, the City Council of the City of Reading ("Council") is a governing body under the Home Rule Charter and Optional Plans Law (P.L. 1158, No. 177, Act of December 19, 1996 (53 Pa.C.S.A. §2901, et seq.)) authorized through ordinance to place before the electors of the City of Reading (the "City") the question of whether a government study commission should be established to study the form of government of the City and to compare it with other available forms under the laws of the Commonwealth; and

WHEREAS, Council believes it is in the best interest of the citizens of the City for a government study commission to be elected for purposes of determining whether or not the government of the City would be strengthened or made more clearly responsible or accountable to the people or the government more economical or efficient under a changed form of government.

NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the City Council of the City of Reading, Berks County, Pennsylvania, as follows:

1. The Preamble set forth above is incorporated herein as a statement of the legislative intent and purpose of this Ordinance.
2. An election shall be held on the following question, which question shall be provided to the electors at the next municipal or primary election to be held on November 12, 2019:

“Shall a government study commission of (*seven, nine or eleven*) members be elected to study the existing form of government of the municipality; to consider the advisability of the adoption of an optional form of government or a home rule charter; to recommend the adoption of an optional form of government, or to draft and recommend a home rule charter?”
3. Within five (5) days of final enactment of this Ordinance, the City Clerk of the City of Reading shall file a certified copy of this Ordinance with the Berks County Board of Elections, together with a copy of the question to be submitted to the electors.

ENACTED AND ORDAINED this ____ day of _____, 2022.

ATTEST:

By: _____
Linda A. Kelleher CMC, City Clerk

By: _____
Jeffrey S. Waltman, Sr., Council President

Sent to Mayor _____
Date: _____
Signed by Mayor _____
Date: _____
Vetoed by Mayor: _____
Date: _____
Over-ridden by Council:
Date: _____

DCED Publication on Home Rule Government

III. Operations of a Government Study Commission

Once elected, the members of the government study commission serve as representatives of the community at large in examining the current local government, considering alternatives, reaching decisions on how the local government might best be run, and presenting their recommendations to the voters. The process is a local process; although outside help is available, local citizens do the bulk of the work, and the decisions reached are their responsibility. The process is also a citizen process. The commissioners are elected by the citizens and are to conduct their affairs with the maximum feasible public involvement and discussion. The role of the government study

commission has been summed up very aptly by the Ferguson Township Government Study Commission.

1. To conduct an in-depth study of municipal government.
2. To probe deeply into procedures and inter-relationships of different parts of government so as to discover weaknesses or defects.
3. To look outside the municipality to discover improved practices that might be applied and adopted.
4. To evolve from its studies an arrangement for better government.
5. Upon the development of the major elements to set them down in a clear, logical and consistent form as a Charter.
6. To conduct its affairs in a manner which will win the respect of the citizens and educate and stimulate citizens groups and officials to get the Charter adopted. Membership in a Study Commission does not necessarily imply expertness. Wisdom, practical judgment and amateur enthusiasm are as fundamental to a successful Charter Commission as are legal, social and political expertise.¹

Role of the Government Study Commission

Candidates elected to a government study commission have an important and serious task to perform. In some ways, commission members will be performing for their community many of the functions traditionally exercised by the General Assembly. Pennsylvania courts hold home rule charters have the force and status of legislative enactments.² The seriousness and commitment the commissioners bring to their deliberations will greatly determine the impact of their recommendations.

The commissioners must be aware their work is likely to have a long-term influence on the affairs of their community. They are not being asked to examine trivial matters relating only to a narrow scope of activity, nor are they making recommendations with no direct opportunity for implementation. They are charged with the task of comprehensively reviewing, studying and analyzing the very governmental structure for their own community. But it is not just a study, because the commission's recommendations are promptly placed before the voters for decision.

Governments do not ordinarily subject themselves to comprehensive self-examination; they are too busy with daily activities. The government study commission process affords municipalities the opportunity to initiate the kind of governmental review not otherwise possible. Divorced from needs to operate the government or to position for partisan advantage, the citizen members of the government study commission can turn their full attention to the improvement of governmental machinery.

Pennsylvania local government structures are based in the distant past, embellished by accretions mandated over the years by the General Assembly or created locally to meet a pressing need. The government study commission often makes the first complete review of this structure. The results of their study, analysis and decision making will form a proposal to be either ratified or rejected by the voters. Seen in this perspective, the work of the government study commission may be one of the most formative acts in the life of the community.

Government study commissions have often been likened to constitutional conventions. Just as state conventions are occasionally called to revise, amend or rewrite the basic body of law for the state government, so also are municipal government study commissions charged with reviewing the governmental structure of their municipality and making recommendations for basic change.

In this role, study commissioners are asked to “represent” all citizens in the community. Since each voter cannot take the time to study the complete governmental operation of their municipality, the study commission plays an important representative role. In a true sense, the commissioners are acting not for themselves, or their colleagues on the commission, but for all citizens living within the community.

Each government study commission assumes a character unique to itself, and the operations of one are not strictly comparable to the work of another. Such variability is inevitable, for commissions will differ according to types of individual member, organizational style, community values and the kinds of problems unique to each municipality. Government study commissions will work within the community's municipal traditions, the local political culture and the vision for the future. Communities will employ different attitudes and resources in coping with physical, social or economic change. The very size and breadth of governmental activity will greatly determine the scope of the commission's work.

Study. The first substantive task of the government study commission is a thorough review of the structure and operation of the existing form of government. Each commissioner must gain familiarity with the current administrative organization and methods of operation. The initial fact-finding process is important, for the commissioners should not begin their deliberations with any preconceived notions. They should neither support change for the sake of change, nor oppose change simply because it is change. The commissioners must base their deliberations on the information they gather, and the initial fact-finding process is an important stage in their work. Part of the information gathering is examining alternative approaches used in other areas or new structural proposals to meet emerging needs.

Deliberation. The Home Rule Law specifies the kinds of questions the study commissioners ought to ask as they collect information on the existing form of government. The commission is charged with comparing the municipality's government with other forms available under law. The commission has the duty to judge whether or not the municipality's government could be strengthened and made more clearly responsible or accountable to the people, or whether its operation could become more economical or efficient under a changed form of government. Definition of these terms, and thus definition of their charge, is left to the members of each commission. Local values will determine the definition of a strong, responsible, accountable, economical and efficient local government.

In meeting this responsibility, the commission must look for structural and operational weaknesses and review those areas where improvement appears desirable. In this process, the commission can look to other municipalities whose experiences may provide some useful guides. In all cases, the commission must try to determine the kind of government which will best suit the unique needs of their own community. It must balance the desirability of change against the advantages of continuity and familiarity.

Drafting. As elected delegates to the functional equivalent of a municipal constitutional convention, the study commissioners drafting a home rule charter undertake a task likely to have long-range implications for the functioning of their community. With only eighteen months to accomplish their work, the study commissioners are charged with producing the single most important document regulating the government of their municipality. The work of study commissioners is not easy. They are forced to make choices to ultimately determine their municipal government's capability to operate and respond to the wishes of its citizens.

The success of the study commissioners in meeting their task greatly depends on the amount of information and assistance they seek. The study commissioners cannot hope to write a home rule charter without tapping the resources and information others have to offer. The Department of Community and Economic Development, the local government associations and local educational institutions provide information resources the study commission can tap. The study commissioners should consider engaging the services of local government and legal experts early in their deliberations. A consultant can advise on what a sound charter should contain, and also on the pace and schedule of work for the commission if recommendations are to be made before the statutory deadline. The study commissioners should always actively seek out the judgments of present and past municipal officials, as well as the views of all individuals and groups wishing to make a contribution to the charter drafting process. Often, neighboring communities contain individuals with valuable experience in the study commission process.

The commissioners are being asked to recommend a system of local government designed to serve its citizens more efficiently and responsibly than the existing system. Since each community is likely to have its own unique needs and traditions, the precise shape of a charter will differ from all other charters, even though basic elements are common to many. The real task the study commissioners face is to produce a workable home rule charter to enable the local government to respond to the needs of its own citizens with flexibility and economy. Drafting the charter will be a challenging task, but the rewards municipal self-government offer will more than compensate the efforts of the study commission. The Youngsville Borough Government Study Commission has ably stated the nature of this task.

Our aim has been to ensure that our form of municipal government is modern, able to assume all the powers available to it, and organized in such a way that it can use those powers to the fullest extent necessary to maintain democratic, efficient, economical and progressive action consistent with the needs and will of the community.

We recognize that what we are proposing is in fact a blueprint of the machinery of government for tomorrow. Although we have no crystal ball to tell us what changes and problems may arise in the next ten, twenty or fifty years, we have attempted to develop a formula that is flexible, adaptable, broad without being vague, and precise without being restrictive.

4 References 1. Ferguson Township Local Government Study Commission Final Report, March 14, 1974, p. 6. 2. Mount Lebanon v. County Board of Elections of Allegheny County, 368 A.2d 648, 470 Pa. 317, at 320, 1977; Commonwealth v. Bellis, 472 A.2d 194, 324 Pa.Super. 506, at 518, 1984. 3. 53 Pa.C.S. 2918; Home Rule Charter and Optional Plans Law. 4. A Report of the Activities and Findings of the Youngsville Government Study Commission and a Proposed Home Rule Charter for the Borough of Youngsville, August 30, 1974, p. 2



Upcoming COW Topic List

- 6/6/2022 Fire Escrow & Fire Damaged Properties
Fire Marshal Update & FEMA
Certification
Redevelopment Authority Update
- 6/13/2022 RAWA - breakdown on services charged on the water bills
RAWA - why is the service fee charged to vacant properties
Council Staff Evaluation

6/20/2022 **Dangerous Intersection Update**
Parking Study Results

6/21/2022 ARPA Update

6/27/2022 5G Zoning Amendment

7/5/2022 2nd Class City Upgrade Pros/Cons
Expanding Public Pools

7/11/2022 IMA Update
Franchise Agreement Update

7/18/2022 Adding Mold to Property Maintenance
Code

7/19/2022 ARPA Update

07/25/22

08/01/22

08/08/22

08/15/22

08/16/22 ARPA Update