

POLICY BRIEF

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Charter Members

The respective partisan caucuses of Allegheny County Council will soon be meeting to select members to fill the two vacancies caused by Council members who vacated their seats in order to run for the office of County Chief Executive. The Home Rule Charter of the County, in essence the local “Constitution”, spells out how vacancies on Council have to be filled (Article III, Section 9b) and that Council members who want to run for another office must first resign their seat (Article III, Section 6b). Therefore, by all indications we have an instance of the Charter being followed as written.

Unfortunately, there have been episodes where the Charter has been ignored. The appointment of two new members (one district seat, one at-large seat) provides a golden opportunity to review some of the critical language of the Charter for both the new Council people as well as those currently serving. A simple multiple choice test will be provided in this *Policy Brief* to highlight some of the important aspects of the Charter approved by the voters in May of 1998.

Let’s begin with a recent example. Council, wanting to get involved in the ongoing dispute on Port Authority funding, proposed a resolution that would have reduced the amount of money put in as a local match from \$27 million to \$22 million. Doing so would have required an amendment of the County’s 2011 budget. Along with a 2/3rd vote of the seated members of Council, who else would have had to approve of such an amendment?

- a) A Common Pleas Judge
- b) The Governor of PA
- c) The Chief Executive of Allegheny County
- d) The County Ethics Committee
- e) No one, Council can act alone to amend the budget

The correct answer is “c” according to Article VII, Section 7c of the Charter. That’s why the proposed resolution, after getting a terse reaction from the CEO of the Port Authority, withered and was considered “DOA” once the Chief Executive noted that he would not support the resolution. Just a reminder to new and future members: it might be wise to discuss budget amendments with the Chief Executive first.

Another recent incident involved the Charter-mandated duty of the sunset review, in which the County Manager examines County operating departments, determines their mandate for carrying out services and whether the public would be better served by an alternative means of delivering the service, and reports any recommendations to the Council and the Executive in writing. It is then Council's job to take actions to continue the department, abolish it, or reorganize it. How often does the Charter say a sunset review is to be carried out?

- a) Every year
- b) Every year ending in an even number
- c) Every four years
- d) Every ten years
- e) Every time majority membership on Council changes

Again, the correct answer is "c", with the appropriate Charter citation at Article VII, Section 11, but with other references scattered in the preamble, and Articles IV and VI. It seems that something was amiss when the time period between the first sunset review (which came in 2003) and the most recent was not four years but seven. Administration officials explained it away by saying that row office reform created new offices and they wanted to give time for evaluation, and even some members of Council either said that they essentially did sunset review when they approved budgets or had no role at all and should not be attributed any blame in the matter. Council should have been inquiring as to where the review was at some point near the deadline.

One last question, this in light of the reassessments that are coming in 2012 and will take up a lot of agenda time for current and new Council members. There may be a lot of talk about tax shifts, new revenues, how Allegheny County and other counties are limited in raising revenues, etc. A few years ago Council put a question on the ballot that asked "Shall the county enact an ordinance to increase real estate taxes in order to repeal the alcoholic drink tax?" This question proceeded through the courts all the way to the Pennsylvania Supreme Court, where it was struck down. What was the specific problem with the question in relation to the Home Rule Charter?

- a) The Charter says Council-driven referendum questions have to be in all capital letters
- b) The Charter says Council-driven referendum questions have to be in all lowercase letters
- c) The Charter says Council-driven referendum questions can only be for amending the Charter
- d) The County does not levy a drink tax, they only thought they did
- e) All of the above

The correct answer is "c" and the appropriate Charter language is contained in Article XII, Section 3a. Voters have the right to petition Council to consider an issue as well as to bypass Council and put questions directly on the ballot. The only time Council can devise its own ballot question is to pass an ordinance calling for a referendum on a Charter-amending question.

Given the foregoing, Council might want to think about amending the Charter to change the oath of office so that Council members and the Executive have to swear or affirm to uphold the Home Rule Charter. They don't do that now: whether that is the cause of some or all of the Charter-defying behavior is anyone's guess. Council should also require that members read the Charter before they take an oath to obey, defend and protect it.

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