Roles & Responsibilities of a Council Member

September 4, 2013

Call in number: 1-800-309-2350
Pass Code: 2369526#
Your Cooperation is Needed

Please mute your phone *6

To ask questions and open your line *6

This will help all of our friends!
The Duties & Responsibilities of
Borough Council Members
What we’ll cover

• How Boroughs Govern
• Personal Responsibilities
• Duties of Borough Council
• Best Practices
HOW BOROUGHS GOVERN
Boroughs are governed by the state

- PA Constitution
- Borough Code
- Other laws:
  - Municipalities Planning Code
  - Sunshine Act
  - Open Records Act
  - Uniform Construction Code
  - and many more
There’s also federal oversight

Examples:

• National Incident Management System (NIMS)
• EPA regulations
• Department of Labor – Fair Standards Act
• Homeland Security – hiring requirements
• Internal Revenue Service
The Borough Code is your ‘bible’

The Code defines

• Creation and alteration of boroughs
• All duties and powers of borough officials
• Public improvements
• Budget and taxation
• Police civil service

And much more
## Follow the code – or else!

### How do you know what the Code says on a specific issue?

<table>
<thead>
<tr>
<th>Good</th>
<th>Better</th>
<th>Best</th>
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<tbody>
<tr>
<td>• look it up yourself</td>
<td>• ask PSAB staff</td>
<td>• talk to your Borough Solicitor</td>
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<tr>
<td>• ask a fellow council member</td>
<td>• check with PSAB discussion group</td>
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<td>• ask your Borough Manager or Secretary</td>
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Dillon’s Rule or home rule?

Dillon’s rule: applies to most PA municipalities

– Borough may do \textit{only those things authorized} by the state

– Must follow Borough Code and state laws

Home rule: only 19 boroughs in PA

– Borough may do \textit{anything not prohibited} by the state

– Uses local charter, but cannot conflict with Borough Code or other state laws
How do Boroughs govern?

Ordinance – a local law, usually permanent

*Examples: Parking regulations, snow removal, land use*

Resolution – used when dealing with specific items, often temporary

*Examples: Honor a citizen, approve a contract, set fees*

Motion – formal method for adopting an ordinance or resolution, also used to conduct ordinary business

*Examples: Approve bills to be paid, hire personnel, award bid*

When in doubt, check with your solicitor
How to enact an ordinance

1. Advertise proposed ordinance in accordance with Borough Code
   *No more than 60 days or less than 7 days before voting*

2. Adopt ordinance by a motion of council

3. Send to Mayor for signature

4. If Mayor vetoes, override the veto
   *Requires majority of Council + 1 vote*

5. Borough Secretary records ordinance in ordinance book
   *Some also submitted to county*
How to get rid of an ordinance

Sunset provision

– If the ordinance includes an end date, it automatically expires on that date

Repeal when adopting new ordinance

– The new ordinance includes language repealing the existing ordinance (or parts of it)
– When the new ordinance takes effect, the repeal does too

Rescind the ordinance

– Council takes action to rescind ordinance
– Same process as when enacting an ordinance
Know what’s on the books

Codification

• Optional, not required by Borough Code
• Often done by consultants
• Collects and organizes all your ordinances in one document
• Easy to find specific ordinances
• Indexed so you can look up specific topics, such as ‘alleys’
• Eliminates repealed ordinances
• Usually done in print and electronic versions
  – Ordinances can be posted to Borough website
Ordinance administration

Council does not administer ordinances (not a legislative function)

Options for administering ordinances:

A. Manager or administrator
B. Code enforcement officer
C. Zoning officer
D. Police department
E. All of the above
Resolutions

Language in new Borough Code establishes the purposes for resolutions:

– ceremonial or congratulatory expressions of the good will of the council
– statements of public policy of the council
– approval of formal agreements of the borough
– filling of borough-appointed positions
– approval of administrative rules, regulations and bylaws
Motions

A motion is a formal mechanism for voting

– Used to adopt ordinances and resolutions
– Most actions of Council require a vote
– Ensures that the action of Council is recorded in the minutes

How to vote

– Roll-call not required
– Abstentions allowed only for conflict of interest (must state the conflict)
– All votes must be public
  • No Executive Session votes
  • No secret ballots
<table>
<thead>
<tr>
<th></th>
<th>Public notice requirement</th>
<th>Does Mayor sign/veto?</th>
<th>How is it recorded?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance</td>
<td>No more than 60 days or less than 7 days</td>
<td>Yes</td>
<td>In ordinance book</td>
</tr>
<tr>
<td>Resolution</td>
<td>None</td>
<td>No</td>
<td>Certified by secretary</td>
</tr>
<tr>
<td>Motion</td>
<td>None</td>
<td>No</td>
<td>In Council minutes</td>
</tr>
</tbody>
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PERSONAL RESPONSIBILITIES
Avoid conflicts of interest

The State Ethics law

• prohibits you from doing business with your borough valued at more than $500
  
  *when in doubt, ask your solicitor or the State Ethics Office*

• requires you to file an annual Statement of Financial Interest

• You may request the State Ethics office to issue an opinion on your specific question
Work in the Sunshine

You can be held **personally** liable for violation of the Sunshine Law

*All actions and deliberations of the governing body occur in the sunshine unless specifically excused by law*

What does this mean?

– All meetings must be advertised, even executive sessions
– Limited reasons for calling executive sessions
– No deliberation unless at a publicly advertised meeting. Ever.
How to hold an executive session

• State the purpose for going into executive session
• Make sure the purpose is allowed by the Sunshine Law
  If you don’t think it’s right, don’t participate
• Do not vote in executive session
• Do not take minutes in executive session
• Document the session in your meeting minutes
  What time you went into executive session
  The purpose of the executive session
  What time you reconvened in public session
Frequently asked questions

Are council committees subject to Sunshine law?
   – yes

How about boards and commissions?
   – yes

How many council members or supervisors can attend a community meeting?
   – all of them, as long as they do not deliberate

Can we discuss agenda items before the meeting?
   – No, unless the number of people involved is clearly not a majority

What about email?
   – Just like talking. Avoid ‘reply all’
Tips for staying in compliance

• Be visible in the community. You may attend meetings together
  
  *but do not discuss potential actions with fellow officials*

• Send all email communications through the manager or secretary – do not ‘reply to all’

• Do not use social media for discussions

• When in doubt ask your solicitor
Another responsibility: NIMS

• **National Incident Management System**
  – ensures everyone speaks the same language: fire, police, government

• establishes process and protocols to follow in the event of an emergency or disaster

• NIMS training required for every council member and supervisor
  – training is free, online

• Additional training required for emergency responders
DUTIES OF BOROUGH COUNCIL
Council meetings

• Borough Code requires one meeting per month
• All meetings require public notice
• Public must be allowed opportunity to speak before action is taken
• Council must keep minutes of all meetings
  – Council may amend minutes prior to approval
  – Secretary records approved minutes in minute book
  – Approved minutes are a public record
Participation at a distance

• You may participate by telephone if
  – Illness of yourself or family member
  – Family or business travel
  – Emergency

• Borough must adopt written policy

• You must be able to hear all proceedings

• Everyone at the meeting *including public* must be able to hear you

• There must be a quorum of members physically present
  – Unless someone has to abstain

• Does not apply to mayor
Council Officers

• Council **must** hold an organizational meeting in January of even-numbered years to elect officers of council
  – President, vice-president, secretary, treasurer
• Council may reorganize as often as it chooses
• Council may appoint non-Council member as Secretary and/or Treasurer
  – often Borough Manager
• Council may appoint Assistant Secretary and Assistant Treasurer
President

- Presides at council meetings
- Signs ordinances, resolutions, and contracts
- Votes, unless he/she has a conflict of interest
- Serves as mayor if the mayor is incapacitated
  - votes as mayor, not as council member
- Has the authority to call a special meeting
Vice-President

- Presides over council meetings in the absence of the president
- Serves as mayor if both mayor and president are incapacitated
Secretary
(and Assistant Secretary)

• Attends all meetings of council
• Keeps full minutes of council proceedings
• Records all resolutions and ordinances
• Preserves the records of the borough and has custody of the corporate seal
• Certifies copies of any record or proceeding of the borough
• Attests the execution of all instruments
Treasurer
(and Assistant Treasurer)
Receives and deposits all moneys due the borough
Pays out all moneys as directed by council
Keeps accurate accounts
Annually submits the accounts to the elected auditors, independent auditor or controller for settlement
Preserves the account books, papers, documents and other records of the office
Council must appoint boards and commissions

- Vacancy Board
- Open Records Officer
- Planning Commission
  - Governing body may serve as Planning Commission
- Zoning Hearing Board
  - If there’s a zoning ordinance
- Civil Service Commission
  - If there are 3 or more full-time police officers
- Historical & Architectural Review Board
  - If a PA Certified Local Government historic district
- Codes Appeal Board
  - If administering Uniform Construction Code
You also need an emergency management coordinator

- Nominated at your organizational meeting, appointed by the Governor
- Requests emergency or disaster declaration from municipality
- Reports to municipality and county EMA on extent of disasters
- Receives annual training, coordinates with county EMA
Committees of Council

• Not addressed in Borough Code, may be established as council chooses

• Typical committees:
  – Streets, public works, finance, personnel, executive, public safety, parks and recreation

• Usually appointed by Council President

• Committees may meet as desired or needed, but all meetings should be advertised

• Minutes should be kept

• May include citizens
Open Records (Right to Know Act)

- Municipality must have written policy on open records
- Must appoint Open Records Officer
- All records are public unless proven otherwise
  - 30 exceptions, most protect individual privacy
  - Burden of proof lies with the Borough
- When someone requests a record you must follow the law in detail
  - How long you can take to respond to request
  - How much you can charge for reproducing records
- PA Office of Open Records handles appeals
Bidding requirements

Borough Code governs purchasing

– Under $10,000, no requirements in code
– Over $10,000 requires 3 quotes (may use phone or email quotes)
– Over $18,500 requires sealed bid

Limits to be adjusted by State annually
Exemptions from bid requirements

• Purchases through state contract COSTARS, COG or other inter-municipal arrangement

• Professional services
  - solicitor, insurance, engineer, other consultant

• Utility services
  - electric, telecommunications, natural gas

• Computer software
  - specialized software programs
Fiscal Responsibilities
from DCED Fiscal Management Handbook

You must do these jobs yourself

• Set taxes
• Set fees
• Adopt budget
• Approve expenditures
• Make investments
• Approve borrowing
• Designate fund depositories

You must see that these jobs are done properly

• Accounting and payroll
• Legal notices and advertising
• Payment of approved invoices
• Collection of taxes
• Financial reports
The status of your budget today

Adopted last year (by December 31)

– Your municipal budget was adopted
– Your municipal tax rates were set

What you can do about it now

– Make a supplemental appropriation if you need to add money to the budget
– Transfer money between line items
Budget adoption process

1. Begin working on budget in the summer
2. Adopt draft budget in October or November
3. Advertise budget and make copy available for public review
   • at least 10 days before passage
4. Advertise tax ordinance
   • at least 7 days before passage
5. Adopt final budget by motion by December 31
6. Adopt tax ordinance by December 31

Consult and follow the PSAB Budget Bulletin
BEST PRACTICES
Agenda

• Not discussed in Borough Code: use what works for you

• A detailed agenda is helpful
  – Members are better prepared for meeting
  – Transparency is important to citizens
  – News media more likely to get it right
  – Your municipal secretary will love you

• Consider an annotated agenda for elected officials
  – Lists actions required or requested

• Print public comment policy on agenda
Rules of council: not required but recommended

• Robert’s Rules or other procedures

• Communications guidelines for council
  – Responding to public comment at meetings
  – Talking to the news media
  – Social media activity
  – Contacting solicitor or engineer

• Agenda
  – how set, when distributed

• Committees
  – purpose, members
Chain of command

Set a policy for council and staff and stick to it

– When do employees talk to elected officials?
– When do elected officials talk to employees?
– How do supervisors fit in?
– Remember to include police department

Citizen complaints

– All elected officials should deal with these in the same way
Confidentiality

• Understand what constitutes confidential information
• Establish policies in your rules of council
• Add confidentiality guidelines to your personnel policies and job descriptions
Performance reviews

Everyone should be evaluated annually

- Employees, Manager, Chief of Police
  - Determine who will conduct the evaluation
  - Use a formal written evaluation tool
  - Tie wage/salary increases to performance

- Governing body
  - Consider a self-evaluation
  - Many examples available
Invest in your employees

Encourage their professional development
- Invest in training: spend money and time
- Pay for membership in professional or trade associations
- Provide subscription to professional or trade publications

Celebrate their success
- Length of service awards
- Commendations for exceptional service
- Annual picnic or holiday dinner
  Partner with community to avoid spending public funds

Think about it: who’s likely to be there longer, you or your employees?
Intermunicipal cooperation

Benefits of working with your neighbors

• Don’t have to bid projects
• May be able to avoid prevailing wage
• Share manpower and equipment
• Share information – don’t ‘re-create the wheel’
• Often done informally
• Can lead to more cooperation in the future

Start by meeting regularly to build relationships.
PSAB Resources

- www.boroughs.org
- Borough News magazine
- PSAB discussion group
- PACOG
  - PA Association of Councils of Government
- Workshops and webinars
- County Boroughs Associations
- PSAB conferences
PSAB

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