

City of New Castle

Final Report of the Home Rule Charter Study Commission

Home Rule Charter Attached
February 24, 2021

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Respectfully Submitted to the Citizens of New Castle, Mayor and City Council

From the Home Rule Study Commission

February 24, 2024

On November 5, 2019, the citizens of the City of New Castle overwhelmingly (3,195 yes and 984 no) voted to create a Home Rule Study Commission. The Commission was given the task to study our current government structure if and how it could be improved to better serve the needs of the citizens.

After nine months of extensive research and study, the Commission concluded that the adoption of a Home Rule Charter form of government would significantly improve the ability of the City Government to meet the needs and expectations of City Residents and Business Community. This is particularly needed considering the City's current financial situation.

Over a period of 16 months the committee met over 35 times, conducted 2 public hearings, an on-line survey and conducted over 30 interviews of and discussions with local government officials both elected and appointed, as well as key community leaders. In addition, we extensively studied numerous city government forms across the state to better understand the options and benefits of those forms of governments.

The Commission respectfully submits the attached proposed charter and final report explaining the proposed charter and detailing our activities. We believe the proposed charter will permit flexibility in tax revenue sources so as not to create a burdensome real estate tax rate, increase accountability to the residents, encourage a harmonious political environment and provide an efficient and professional organizational structure.

The question of adopting the Home Rule Charter will appear on the May 18, 2021 ballot. We enthusiastically encourage every resident to study this report and charter to make an informed decision. As a Commission, we encourage you to vote "Yes" in favor of the Charter. We believe this charter creates a framework for the economic and quality of life services for the long term.

Respectfully submitted

The New Castle Home Rule Charter Commission

Susan Linville, Chairperson

Shannon Crisci-Brock

Eric Ritter, Vice Chairperson

Michael Tempesta

Marco Bulisco, Secretary

Richard Conti

Gary Bucci, Treasurer

Summary of Recommendations

The Home Rule Charter will become effective January 2022, with full implementation by January 2024.

The position of Mayor is retained with a redefined role. The independently elected Mayor would also be a member and Head of Council. The position of Mayor would continue with significant authority and responsibility. The Mayor would serve as the City's Chief Elected Official to receive input from citizens, devise and coordinate solutions and development of policy and represent the City as its key elected official with the Commonwealth of Pennsylvania and its agencies.

City Council would be increased from 5 to 7 members with 6 Councilmembers and the Mayor as a member of Council elected at-large. The greater number will permit more opportunities for representation by all cohorts of the community.

The Council and Mayor would appoint all City Department Heads, including a City Administrator and all boards and commissions.

The positions of elected Controller and Elected Treasurer would be discontinued and replaced with increased oversight by the Mayor and Council as well as an appointed Chief Financial Officer (CFO).

The proposed Charter specifies increased financial reporting to the Council and public by the CFO.

Day to day operations of the City, including supervision of staff would be assigned to a City Administrator, who will report to the Mayor and Council.

Increased ethics requirements intend to minimize politics in the hiring process and general operations.

Enhanced ability of residents to participate in City government on a regular basis and to impact legislation through the initiative and referendum process by proposing new ordinances and repealing existing ordinances is provided.

The ability to set tax rates over third-class city limits for multiple types of taxation, grants City Council flexibility and avoidance of a burdensome real estate tax to make up for loss of revenues when the City emerges from Act 47 distressed status.

An improved budgeting process and fiscal planning process includes a mandated 5-year capital improvement program and public notice of budget review by City Council.

Commission Purpose

The Home Rule Study Commission was elected by the voters of New Castle to examine our current structure of government with the purpose of identifying ways to make it more efficient, effective and reflective of citizen needs and desires.

It is no secret that New Castle has fallen on hard time financially. We have had to operate under Act 47 (distressed municipality) status since January 2007. In accordance with State law, the City will soon lose the ability to remain under Act 47 protection. As part of the exit strategy, the State oversight committee recommended the City examine Home Rule status as a way to address the funding shortfall that will be created by the loss of what is commonly referred to as the commuter tax (earned income tax on nonresidents working in the City).

Taxing ability is only a short-term solution to the issues facing our City. The commission as part of the Home Rule Study process was charged with examining the structural issues of our current government structure to determine if it can be enhanced to address the systemic problems of our city.

Most importantly, finding ways to improve our economic base by supporting and bringing in businesses as well as attracting new residential populations is crucial to New Castle' future.

The Commission focused on identifying ways to make our government become more efficient through improved cooperation of elected officials, elimination of outdated processes and minimizing political barriers to professionalism in our operations.

Under the Home Rule Law, we are charged to:

Thoroughly review New Castle's Government Structure; we did this by meeting with current and past elected and appointed City officials.

We were required to make a determination after deliberation as to whether or not a Home Rule Charter would be beneficial to improving our operations. We reviewed Home Rule cities across the state, surveyed the citizens of New Castle and interviewed numerous agencies and business and nonprofit leaders.

Finally, we were charged to produce a workable home rule charter to enable City of New Castle to respond to the needs of its own citizens with flexibility and economy. Drafting the charter has been a challenging task, but the rewards municipal self-government offer the City will be a key tool in restoring our City into the desirable place to live that our Citizens expect and deserve.

Activities of the Commission

The New Castle Home Rule Study Commission (Commission) was created in November 2019 by a vote of the citizens of the City of New Castle.

Seven members were elected by the voters, representing a cross section of the community. The current members are Susan Linville, Eric Ritter, Marco Bulisco, Shannon Crisci-Brock, Michael Tempesta, Gary Bucci, Richard Conti. In addition, two alternate members appointed by the Commission are Jeffrey Oprean and Anthony Mastrangelo. Two elected members, Michael Dely and Mary Burris, resigned early in the process.

The Commission's task is to determine if the City of New Castle will benefit from a Home Rule Charter and if so, to develop one and place it on the ballot for the residents of the City to vote on it. The Commission has been diligent in its efforts to gather sufficient information to be able to make a knowledgeable decision on whether to proceed with developing a home rule charter for consideration by the citizens of New Castle.

In that effort the Commission has been meeting at least twice monthly since its creation in November. This has been an unusual challenge due to the restrictions imposed by the Covid-19 virus. The committee has had to conduct numerous virtual meetings and interviews during April, May and June, again in the fall of 2020 and into 2021.

The Commission also contracted with Public Partners of Pennsylvania to assist in the government study process. Specifically, Tobias M. Cordek and Michael A. Silvestri both long serving retired municipal managers of home rule communities serve in this capacity.

The Commission and/or its consultants have interviewed the following:

Robert G. Fiscus, City Manager and Fire Chief of Sharon PA

Councilmembers Tom Smith, Byron Cameron, Mary Anne Gavrilc and Tim Fulkerson (also a former Mayor)

Mayor Chris Frye

Former Mayor Anthony Mastrangelo

Controller William Panella (also a former Councilmember)

Treasurer Gina Villani

Jim Morrison, Murrysville, PA Municipal Manager

Matt Pacifico, Mayor of Altoona, PA; Marla Marcinko, former Altoona City Manager, current Borough Manager of Sewickley, PA

Frank Janakovic, Mayor of Johnstown, PA; John Trant, Johnstown Interim City Manager

Mayor Salvatore Panto, Easton, PA

Nancy K. Freenock, City Manager of Warren, PA

Current and former staff members Business Administrator/Chief Financial Officer Stephanie Dean, Fire Chief Michael Kobbe, Police Chief Robert Salem, Public Works Director Brian Heichel, former Fire Chief/Code Enforcement Director Eric Perry and former Fire Chief/Code Enforcement Director Mark Panella.

Non-profit officials Court Howers, CEO of DON Services, Alex McCoy, Executive Director Lawrence County Regional Chamber, Linda Nitch Director of Economic Development Lawrence County Regional Chamber (former city Economic Development Director); Kim Kollar Jones, Hoyt Foundation.

Business Leaders Scott Fehrs, CEO Treloar and Heisel; John Cournan, CPA, Principal, Packer-Thomas; Dale Turner, PNC Bank and Treasurer, Citywide Development Corporation

State Officials and Consultants Terri Cunkle, DCED, Michael Foreman DCED, Deborah Grass, Act 47 team and Dr. Mary Jane Hirt, former Public Administration professor, Indiana University of Pennsylvania, and former municipal manager; provided resources and technical assistance

The Commission also conducted a survey of residents using Survey Monkey and received 421 responses. The survey asked respondents to answer 10 questions dealing with the city's current effectiveness and organization. This was not a random sample of the population, but it did give the commission a baseline of public opinion from which to work.

The survey indicated the residents expect financial responsibility to be most important to them, followed by responsiveness and accountability, then not far behind by fairness and consistency and transparency.

Respondents (49.5%) believe the Mayor is the most responsive to their request for service and complaints. They believe Council to be next most responsive.

Overall, the City received an average to slightly below average 'grade' as to effectiveness.

A third of the respondents felt the City should have 7 councilmembers, with five coming in second. Of the respondents 46% feel Council should be elected at large, with 35% saying by district and 17% as a combination of at-large and district.

The vast majority believe taxes should be a combination of earned income and real estate.

A majority, (52%) believes the position of Mayor should have the lead in administering the community. While 38% believe an appointed Administrator, should be responsible.

The Commission and its consultants extensively studied and drew upon Pennsylvania Title 53, Subpart E, Home Rule and Optional Plan Government Chapters 29-31; The Optional Third Class City Charter Law, Act of July 15, 1957, P. L. 901, No. 399; case law; the National Civic League's Model City Charter; the Commonwealth of Pennsylvania's Home Rule in Pennsylvania, Eleventh Edition (March, 2020); fourteen Pennsylvania Communities Home Rule Charters; articles from the International City and County Management Association's Public Management magazine and

online library and a presentation by former New Castle Mayor Anthony Mastrangelo on City of New Castle government.

Summary of Commissions Findings

Below is a brief summary of the most significant issues that currently exist within the City that led the Commission to recommend drafting a home rule charter.

Elected Officials

The City operates under the Third-Class City Code Optional Plan A. The current form of government, with a full-time elected Mayor as the Chief Executive Officer and a Five member elected at-large Council has been problematic. Conflict between an elected Chief Executive and a governing body is inherent and inevitable. Historically, tensions and conflicts develop between the Mayor and Council relative to budgeting, accountability and personnel management. Too much authority has been given to the position of Mayor relative to appointments and hiring, leading to the potential of employee selections by patronage.

Sections of the City are underrepresented on Council. A mechanism is needed to improve geographic and diverse interests. Currently, Council is considered by many as not being a strong partner in leading the City.

Making the Mayor the presiding officer and a member of Council should greatly improve cooperation, by providing a team atmosphere and permit the Mayor an increased and significant role in the determination of City policies and the future direction the City takes.

The elected positions of **Controller and Treasurer should be eliminated and/or replaced with appointed positions**. These are part-time positions. It has been noted that transitioning from one elected official to another has not always been effective. Opportunities for these positions to offer greater financial oversight and accountability have been missed. Increased requirements for financial reporting will provide Council with improved ability to oversee the fiscal affairs of the City and increase accountability.

FINANCES AND ECONOMIC STABILITY

The City is required, pursuant to Act 47, to **terminate its distressed status by mid-2022**. This may be extended to 2023, due to the Covid-19 pandemic situation. One of the impacts of terminating Act 47 status is the loss of significant earned income tax revenues both on resident as well as nonresidents working in the City. This will create an approximate **\$3 million deficit in the budget**. Under the current Third-Class City code, the maximum earned income tax for City residents is 1%; this rate of taxation is split with the school district. Currently, the City also imposes earned income taxes on nonresidents working in New Castle. Under the Third-Class City Code, the City can only tax non-residents to fund distressed pensions plans under Act 205 which regulates all municipal pension plans in the State.

Currently the City charges residents an additional 1.1% and non-residents 1%. (This latter charge is commonly referred to as a commuter tax). When the City exits distressed designation **only 0.7% over the standard 1% earned income tax can be charged**, both to residents and commuters (for pension purposes only). This means the City will lose \$3.1 million in earned

income taxes. Without taxing flexibility under home rule, the only option is to **increase real estate tax**, which is a regressive tax and affects senior citizens more than an income tax does. Home Rule also provides other taxes, such as the Real Estate Transfer Tax, to be increased beyond ordinary limits.

Under Home Rule, the City can exceed rates of taxation beyond the limits of the Third-Class City Code. The City cannot create new types of taxation but will have the flexibility to determine which taxes and rates will best meet the needs of the community.

STAFFING

The City has an appointed Business Administrator who is also the Chief Financial Officer (CFO). Police and Fire employees are hired through a civil service board and appointed by the Mayor. Department heads, i.e., police chief, fire chief, public works director, finance director are appointed by the Mayor with consent of Council. All other employees are hired by the Mayor.

The City has a widely acknowledged history of nepotism and cronyism in its employment practices. These are issues that can be addressed in a home rule charter by requiring personnel standards and a code of ethics.

The Business Administrator position is currently assigned with a plethora of administrative tasks. Continuation of a qualified Chief Financial Officer is critical to financial management needs. The current combination of the two positions is not an effective or efficient use of the positions.

A mix of responses has been expressed as to whether a City Administrator position should be created to offer professional insight and oversee day-to-day operations under the direction of the Mayor and Council. It is noted that current and former Council members do favor a having City Administrator position.

BUDGET AND FINANCE

Currently, the budget is prepared by the Mayor with significant assistance from the CFO. The Council has authority to adopt the budget. There is no central responsibility for the financial management system, currently responsibility and oversight are split among the Mayor Council, Business Administrator/CFO, Treasurer and Controller

There is no requirement for a 5-year capital improvement plan. There also appears to be a disconnect between budget development, adoption, and budget administration. The City Council is not involved in approval of expenditures and does not receive regular reports on the status of the budget and accounting. Neither the City Controller nor the Treasurer provide monthly reports to Council. There seems to be a lack of familiarity of the purchasing and accounting process by elected officials. All these points are addressed in the Home Rule Charter drafted for citizen approval.

PERSONNEL SYSTEM

A formal merit-based personnel system does not exist. It is unclear if formal job descriptions exist for all positions. The proposed Charter addresses this.

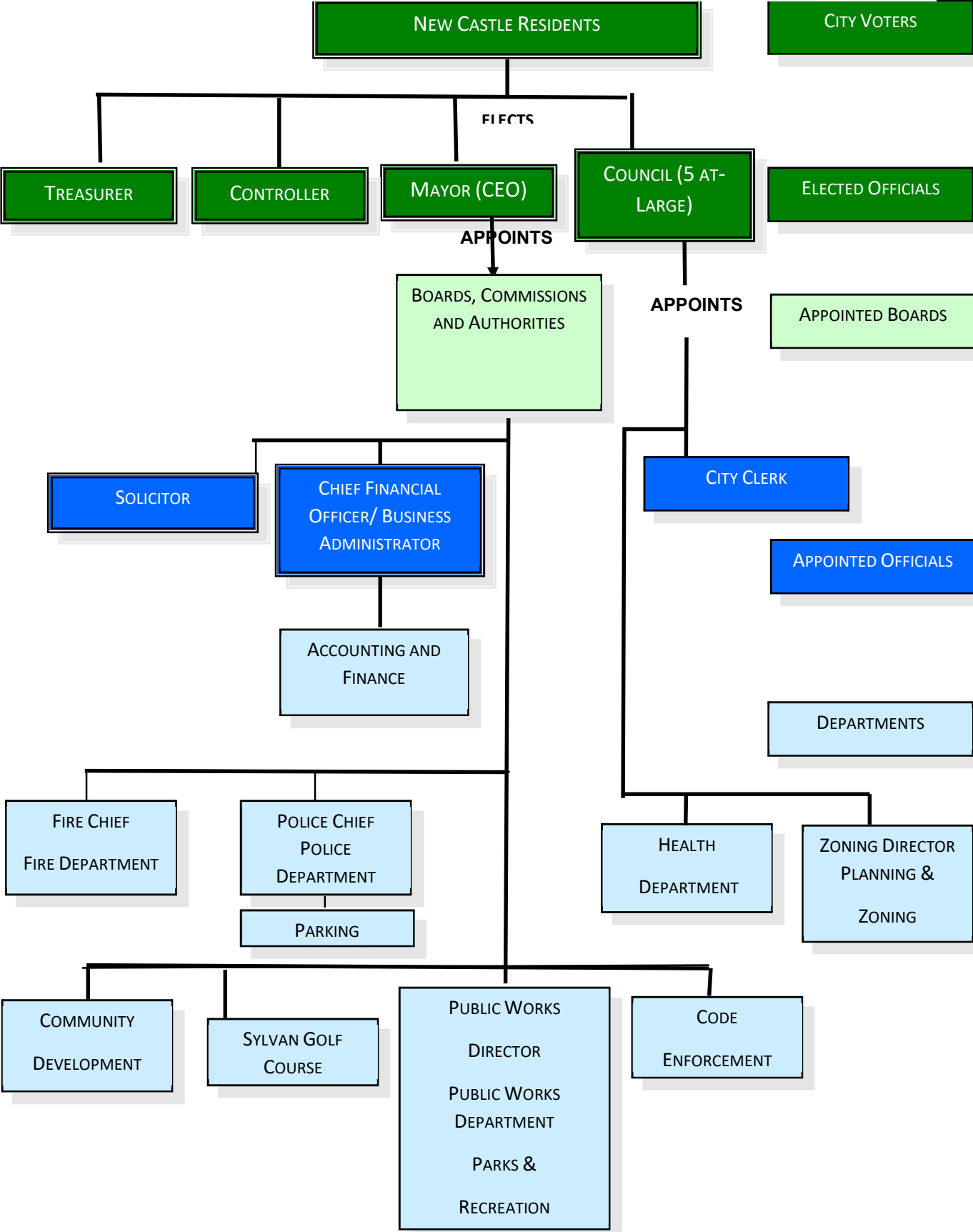
Another comment that has been raised is the current mandate that employees be residents of the City. This seems likely to have an impact on the ability to hire and retain qualified personnel.

CITIZEN PARTICIPATION

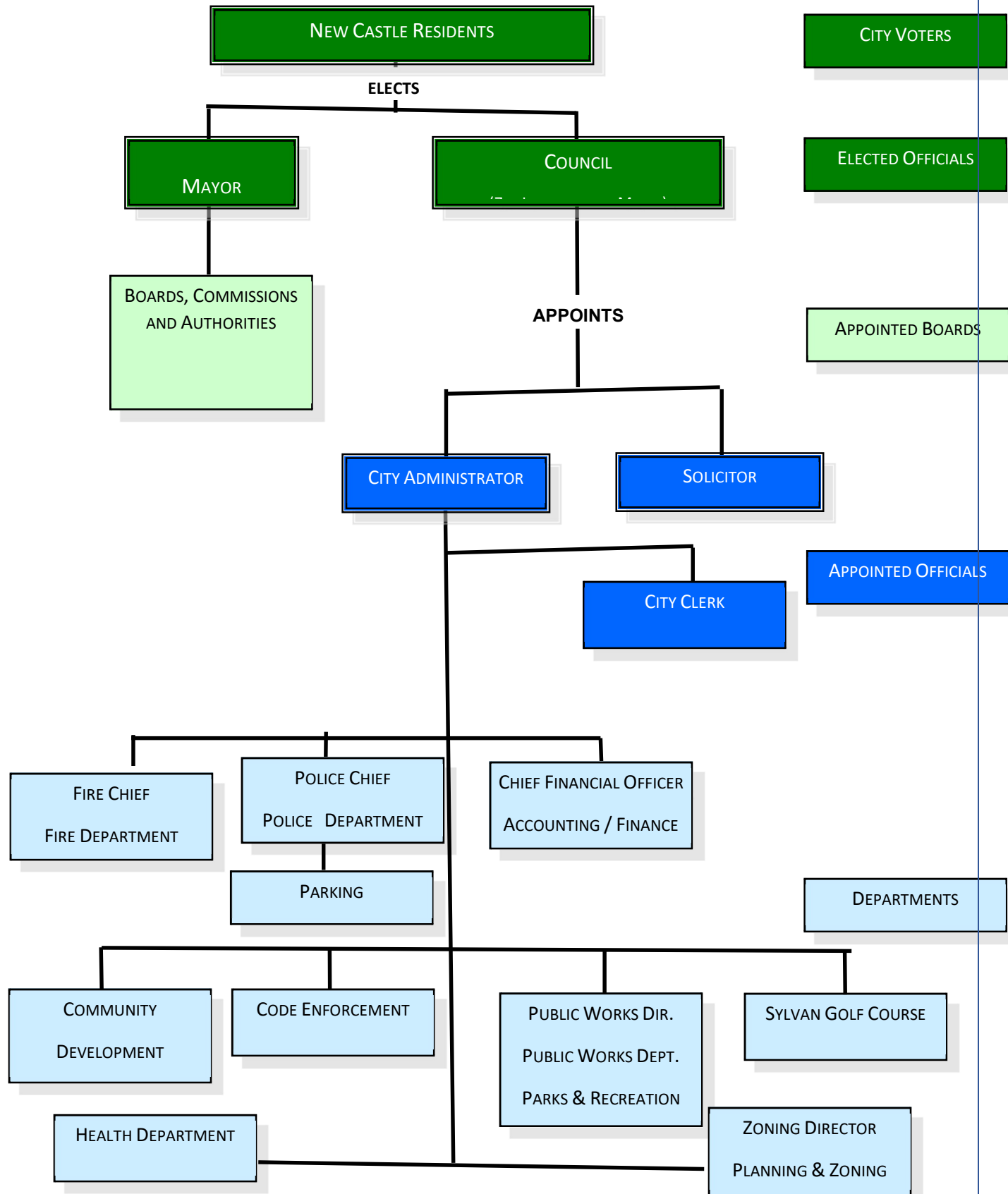
Many comments were received throughout the charter study process about the need to increase citizen involvement in the governance of the community and the need for more communication and transparency.

Home rule charters do provide for citizen input and the option of Initiative and Referendum. These processes would permit the public to propose and repeal certain ordinances.

City of New Castle Current Government Structure



City of New Castle Proposed Government Structure



Form of Government

The proposed form of government is Mayor on Council with City Administrator. This form provides several advantages to the City.

It first creates a structure more amenable to a positive Mayor/Council relationship. It retains a Mayor as Chief Elected Official and Head and Member of Council with the significant authority that the community expects. It shares authority among the 7-member elected body that will oversee personnel matters as well as fiscal responsibility.

A professionally trained and experienced administrator will implement the policies and objectives of Council. This person will be responsible to manage the day-to-day operations and provide quick responses to the department heads and will provide detailed input to the Mayor and the rest of Council, as to operational issues and financial matters.

Areas of City Government that Remain Unchanged

There are many functional aspects of the City's Government that will remain unchanged.

The charter continues the position of Mayor and Council members all of whom are elected at-large.

Most departments are unchanged in that the department director positions that manage each department are the same position, this includes the Police Chief, Fire Chief, Public Works Director, Zoning Director, Health Officer, Chief Financial Officer, Community Development Director and Code Enforcement.

All Boards and Commissions will be retained. These include Zoning Hearing, Planning, Uniform Construction Appeals, Civil Service, Human Relations, Shade, Redevelopment, Sanitation, Transit, Library, Community Development Corporation and Recreation Task Force.

Transition to the New Form of Government

Transitioning from the current form to the new form will be mostly a technical matter. It is recommended that those most familiar with the operations of the City Government, should be involved with this process. Council may wish to create an ad hoc committee made up of the Mayor, two Council members, the Chief Financial Officer/Business Administrator, two other department directors and the City Solicitor. This committee should continue in place until January 2024, when the Charter is in full effect.

One of the main duties of the Transition Committee will be to draft the Administrative Code and examine other ordinances and policy manuals that may need to be revised. Pennsylvania Department of Community and Economic Development representatives can assist with this effort.

In addition, the existing web site should be updated to accommodate the needed information and notices that are proposed. This would include the Code of Ordinances and public notices.

Relevant Extracts from the Home Rule Statute

The following extracts from the Home Rule Charter Law were complied with by the Home Rule Study Commission and guided the work of the Commission:

Section 2918. Function and duty of commission The government study commission shall study the form of government of the municipality to compare it with other available forms under the laws of this commonwealth and determine whether or not in its judgment the government could be strengthened or 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.

Section 2920. Hearings and public forums The government study commission shall hold one or more public hearings, may hold private hearings and sponsor public forums and generally shall provide for the widest possible public information and discussion respecting the purposes and progress of its work.

Section 2921. Report of findings and recommendations (a) General rule. – The government study commission shall report its findings and recommendations to the citizens of the municipality within nine months from the date of its election except that it shall be permitted an additional nine months if it elects to prepare and submit a proposed home rule charter and an additional two months if it chooses to elect its municipal council by districts. It shall publish or cause to be published sufficient copies of its final report for public study and information and shall deliver to the municipal clerk or secretary sufficient copies of the report to supply it to any interested citizen upon request. If the commission recommends the adoption of a home rule charter or any of the optional plans of government as authorized in this subpart, the report shall contain the complete plans as recommended. (b) List of resources used. – There shall be attached to each copy of the report of the commission, as a part thereof, a statement sworn to by the members of the commission listing in detail the funds, goods, materials and services, both public and private, used by the commission in the performance of its work and the preparation and filing of the report. In addition, the list shall identify specifically the supplier of each item thereon. (c) Filing copy with Department of Community and Economic Development. – A copy of the final report of the commission with its findings and recommendations shall be filed with the Department of Community and Economic Development. (d) Disposition of records. – All the records, reports, tapes, minutes of meetings and written discussions of the commission shall, upon its discharge, be turned over to the municipal clerk or secretary for permanent safekeeping and made available for public inspection at any time during regular business hours.

Section 2925. Form of question on form of government The question to be submitted to the voters for the adoption of a home rule charter or any of the optional plans of government authorized by this subpart shall be submitted in one of the following forms or such part of them as shall be applicable. **Shall the Home Rule Charter contained in the report, dated (insert**

date), of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the (insert type and name of municipality)?

Section 2928. Time when change of form of government takes effect Whenever the electors by a majority of those voting on the question vote in favor of adopting a change in their form of government pursuant to this subpart, the proposed form shall take effect according to its terms and the provisions of this subpart.

Section 2962. Limitation on municipal powers

(a) Powers granted by statute. – With respect to the following subjects, the home rule charter shall not give any power or authority to the municipality contrary to, or in limitation or enlargement of, powers granted by statutes which are applicable to a class or classes of municipalities: (1) The filing and collection of municipal tax claims or liens and the sale of real or personal property in satisfaction of them. (2) The procedures in the exercise of the powers of eminent domain and the assessment of damages and benefits for property taken, injured or destroyed. (3) Boundary changes. (4) Regulation of public schools. (5) The registration of electors and the conduct of elections. (6) The fixing of subjects of taxation. (7) The fixing of the rates of non-property or personal taxes levied upon nonresidents. (8) The assessment of real or personal property and persons for taxation purposes. (9) Defining or providing for the punishment of any felony or misdemeanor. (10) Municipal planning under the act of July 31, 1968 (P.L. 805, No.247), known as the Pennsylvania Municipalities Planning Code.

(b) Taxing power. – Unless prohibited by the Constitution of Pennsylvania, the provisions of this subpart or any other statute or its home rule charter, a municipality which has adopted a home rule charter shall have the power and authority to enact and enforce local tax ordinances upon any subject of taxation granted by statute to the class of municipality of which it would be a member but for the adoption of a home rule charter at any rate of taxation determined by the governing body. No home rule municipality shall establish or levy a rate of taxation upon nonresidents which is greater than the rate which a municipality would have been authorized to levy on nonresidents but for the adoption of home rule charter. The governing body shall not be subject to any limitation on the rates of taxation imposed upon residents.

(c) Prohibited powers. – A municipality shall not: (1) Engage in any proprietary or private business except as authorized by statute. (2) Exercise powers contrary to, or in limitation or enlargement of, powers granted by statutes which are applicable in every part of this Commonwealth. (3) Be authorized to diminish the rights or privileges of any former municipal employees entitled to benefits or any present municipal employee in his pension or retirement system. 80 HOME RULE IN PENNSYLVANIA March 2020 (4) Enact or promulgate any ordinance or regulation with respect to definitions, sanitation, safety, health, standards of identity or labeling pertaining to the manufacture, processing, storage, distribution and sale of any foods, goods, or services subject to any commonwealth statutes and regulations unless the municipal ordinance or regulation is uniform in all respects with the commonwealth statutes and regulations thereunder. This paragraph does not affect the power of any municipality to enact and enforce ordinances relating to building codes or any other safety, sanitation or health regulation pertaining thereto. (5) Enact any provision inconsistent with any statute heretofore enacted prior to April 13, 1972, affecting the rights, benefits or working conditions of any employee of a political subdivision of this commonwealth.

- (d) Reduction of police force. – Notwithstanding any provision of this subpart or any other statute to the contrary, any municipality that is or was a city of the Second Class A may reduce its police force or its firefighting force for economic reasons, as determined by ordinance.
- (e) Statutes of general application. – Statutes that are uniform and applicable in every part of this commonwealth shall remain in effect and shall not be changed or modified by the subpart. Statutes shall supersede any municipal ordinance or resolution on the same subject.
- (f) Regulation of business and employment. – A municipality which adopts a home rule charter shall not determine duties, responsibilities or requirements placed upon businesses, occupations and employers, including the duty to withhold, remit or report taxes or penalties levied or imposed upon them or upon persons in their employment, except as expressly provided by statutes which are applicable in every part of this commonwealth or which are applicable to all municipalities or to a class or classes of municipalities. This subsection shall not be construed as a limitation in fixing rates of taxation on permissible subjects of taxation.
- (g) Regulation of firearms. – A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms.
- (h) Levying taxes. – This section does not limit or take away any right of a municipality which adopts a home rule charter from levying any tax which it had the power to levy had it not adopted a home rule charter.
- (i) Establishment of rates of taxation. – No provision of this subpart or any other statute shall limit a municipality which adopts a home rule charter from establishing its own rates of taxation upon all authorized subjects of taxation except those specified in subsection (a)(7).
- (j) Retroactive fee increase prohibited. – A municipality which adopts a home rule charter may not retroactively increase any fee or charge for any municipal service which has been provided.

Statement of Funds, Materials and Services Used

The Home Rule Study Commission through a grant from the Pennsylvania Department of Community and Economic Development received a grant of \$22,120 to finance the cost of the consulting firm Public Partners of Pennsylvania.

Legal review by the City Solicitor was provided through the City.

The City Budgeted \$1,000 for 2020

Legal Service	on staff
Legal Advertising	\$ 600
Printing, postage distribution	\$ 200
Miscellaneous	<u>\$ 200</u>
Total	\$ 1,000

The City Budgeted \$3,000 in 2021 plus a \$1,000 credit for printing. The requested budget was:

Legal Advertising	\$1,000
Printing, postage distribution	\$5,500
Miscellaneous	<u>\$ 500</u>
Total	\$7,000

These funds will be used for distribution of the Charter and Final Report as well as mailers to voters and public information.

Records of expenditures will be available from the City Chief Financial Officer.

Proposed Form of Question

Shall the Home Rule Charter contained in the report, dated February 24, 2021, of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the City of New Castle, Pennsylvania?