

LUZERNE COUNTY HOME RULE TRANSITION COMMITTEE

December 15, 2010

MINUTES

The third meeting of the HRTC convened at Luzerne County Courthouse, 200 River Street, Wilkes-Barre, Pennsylvania. It was called to order by Temporary Chairman Richard Heffron at 7:00pm.

Members in attendance were Temporary Chairman Rich Heffron, Rob Bakewell, Jim Bobeck, Tom Cooney, Ronna Ciaruffoli, Jim Haggerty, Rick Morelli (via telephonic call-in), Maryanne Petrilla, Susan Shoval and Steve Urban.

HRTC Solicitor Atty Jeffrey Malak addressed the Committee's and Citizens' concern regarding Susan Shoval's eligibility to serve on the HRTC while a member of a Luzerne County commission as addressed under Section 12.14(B) of the Charter. The final conclusion and recommendation was that "The appointed position that Susan Shoval holds on the County Diversity Commission should be considered an "appointed office" under Section 12.14(B) of the Charter. However, the Charter does not disqualify her from applying for a position on the Transition Committee while serving on the County Diversity Commission. Instead, once selected to serve on the Transition Committee, I believe that a conservative interpretation suggests that Ms. Shoval should resign her appointed office on the County Diversity Commission in order to participate as an official member of the Transition Committee." (The Memorandum in its entirety is attached to these Minutes.) Susan Shoval tendered her resignation from the County Diversity Commission this morning (15 Dec 10); the Commissioners accepted her resignation this afternoon. It was the general consensus of the Committee that with no conflict with the Charter, the issue was closed.

Citizen Comments were preferred by Ray Gustav from West Wyoming, Kathy Dobash from Hazleton, George Kochis from Kingston, Tom Dombroski from Swoyersville, Thomas Donahue from Trucksville, Joe Padavan from Bear Creek, Walter Griffith from Wilkes-Barre, Ed Chesnovitch from Jackson Township, Michelle Boyce from Harvey's Lake, and Jack Schumacher from Kingston.

Prior to the floor being open to elections of the HRTC Executive, Rick Morelli declined his nomination to Vice Chair. The election for the Chair resulted in a tie between Jim Bobeck and Jim Haggerty, with Jim Bobeck, Tom Cooney, Rick Morelli, Maryanne Petrilla and Steve Urban voting for Jim Bobeck; and Rob Bakewell, Ronna Ciaruffoli, Jim Haggerty, Susan Shoval, and Rick Heffron voting for Jim Haggerty. There being no majority vote, it was unanimous to postpone the vote to the 5 January meeting.

Discussion followed regarding the dynamics involved in allocating \$89,400 from the county budget to the HRTC. The Board of Commissioners voted to allocate the funds, but to be worked within current policy and procedure. There was much discussion regarding who should "hold the purse strings", would paying the HRTC directly violate the county policies

and procedures, and what was the primary reason the funds could not be given to the HRTC for their administration? Temporary Chair Rich Heffron reiterated that all budgetary activity would be addressed and approved at an advertised meeting, and noted in the Minutes. It was resolved that the main concern was the lack of an approved budget. Maryanne Petrilla and Tom Cooney stated they'd authorize the funds to be allocated to a bank account established and managed by the HRTC if a budget approved by a majority of the HRTC were submitted to the Board of Commissioners. By unanimous approval Rob Bakewell, Jim Haggerty and Rick Morelli were appointed to draft a budget for submission. By unanimous vote it was also decided that the HRTC would convene Wednesday, 22 Dec 2010 for the sole purpose of voting on the budget.

Members discussed the organization of the subcommittees as voted on in the previous meeting. Subcommittees were tentatively populated by HRTC members as follows:

Administrative Code Development: Susan Shoal, Rick Morelli, Jim Bobeck, Jim Haggerty and Ronna Ciaruffoli

Boards and Commissions: Rob Bakewell, Tom Cooney, Maryanne Petrilla, Susan Shoal, Jim Haggerty and Rick Heffron

Personnel Recruiting: Tom Cooney, Rick Morelli, Maryanne Petrilla, Jim Haggerty, Rick Heffron and Ronna Ciaruffoli

Ethics Code Development: Rob Bakewell, Rick Morelli, Jim Bobeck, Rick Heffron and Ronna Ciaruffoli

Personnel Code Development: Rob Bakewell, Tom Cooney, Maryanne Petrilla, Susan Shoal and Jim Bobeck

The next HRTC meeting is scheduled for 6:30pm on Wednesday, 22 December 2010 at the commissioners' meeting room in the Luzerne County Courthouse with the presentation of the budget being the sole item on the agenda. The next regular meeting of the HRTC (following the 22 Dec 2010 meeting) will be held 6:30, 5 January 2011 in the Commissioners Meeting Room in the Luzerne County Courthouse.

Upon motion by Ronna Ciaruffoli, seconded by Rob Bakewell, the meeting was adjourned at 9:00pm.

Respectfully Submitted,
Temporary Chairman Richard Heffron

MEMORANDUM

ATTORNEY-CLIENT PRIVILEGE

To: Transition Committee
From: Jeffrey J. Malak, Esquire
Date: December 14, 2010
Re: Appointment Guidelines

I was asked to provide guidance on Luzerne County Home Rule Charter ("Charter") language as it may affect an appointment of Susan Shoal to the Luzerne County Transition Committee ("Transition Committee").

The Charter language at issue is in Section 12.14 (B).

Section 12.14 (B) provides:

"The members of the Transition Committee other than the County Commissioners or their designees shall hold no other Luzerne County elective or appointed office or employment."

1. Does the Charter prohibit Transition Committee applicants or potential Transition Committee members from holding other County offices/employment under Section 12.14(B)?

No. The prohibition in Section 12.14(B) of the Charter specifically states that "members" of the Transition Committee cannot hold other County office/employment. Applicants are not members and, thus, the restriction does not apply to applicants and/or applications.

2. Does the Charter prohibit a member selected to the Transition Committee from holding a County appointed office?

Yes. Section 12.14(B) of the Charter prohibits a member of the Transition Committee from holding other Luzerne County elective or appointed office or employment.

If an applicant, precluded from serving under Section 12.14(B), is selected to serve as a member of the Transition Committee, that applicant then must choose whether to continue to hold County appointive office or sit as member of the Transition Committee.

MEMORANDUM

Attorney-Client Privilege
To: Transition Committee
From: Jeffrey J. Malak, Esquire
Date: December 14, 2010
Re: Appointment Guidelines
Page: 2

3. Is an unpaid advisory position on a Luzerne County commission an appointed office under Section 12.14 (B) of the Charter?

Generally, the Luzerne County Commissioners ("Commissioners") name individuals to Luzerne County appointed offices, including County Commissions.

The term used in Charter Section 12.14 (B), the section discussing eligibility for the Transition Committee, is "appointed office".

The term "appointed office" is not defined in the Charter. However, section 11.04 Q of the Charter does define "public office, public official, public employee and public employment" as meaning any paid or unpaid federal, state, county, municipal or school district position that is not elective.

Thus, though an argument can be made that an unpaid "appointed office" is not a disqualifying position, but reading the Charter broadly, in terms of the purpose for the restriction, the more conservative interpretation is that an individual appointed by the Commissioners to a board or commission does in fact hold an "appointed office" in Luzerne County.

4. Final conclusion and recommendation?

The appointed position that Susan Shoal holds on the County Diversity Commission should be considered an "appointed office" under Section 12.14(B) of the Charter.

However, the Charter does not disqualify her from applying for a position on the Transition Committee while serving on the County Diversity Commission.

Instead, once selected to serve on the Transition Committee, I believe that a conservative interpretation suggests that Ms. Shoal should resign her appointed office on the County Diversity Commission in order to participate as an official member of the Transition Committee.

End of Memorandum