

THE FINAL REPORT
of the
HAZLETON GOVERNMENT STUDY COMMISSION

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Hazleton Government Study Commission

City Hall — Hazleton, Pennsylvania

Bert E. Ecker, Chairman
Jerome Leichtman, Vice Chairman
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On November 6, 1984, the voters of Hazleton, Pennsylvania voted by a margin of 4 to 1 to study the current Commission form of government. In this same election, a seven member panel known as the Government Study Commission was elected. The purpose of this study commission is clearly stated in Act 62:

"It shall be the function and duty of the Government Study Commission to study the form of government of the municipality, to compare it with other available forms under the laws of this State, to determine whether or not in its judgement the government of the municipality could be strengthened, 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."

With these responsibilities in mind, the members of the Government Study Commission recommend that the present form of city government be discontinued and that the electorate vote to approve an optional plan of government as described in Act 62. The optional plan recommended is Executive (Mayor)-Council Plan B.

The following question will be placed on the ballot for city voters on November 5, 1985.

Shall the Executive (Mayor)-Council Plan B, including recommendations pertaining to optional provisions contained in the report of the Government Study Commission, dated August 5, 1985 as authorized by the Home Rule Charter and Optional Plans Law, be adopted by the city of Hazleton?

Yes _____

No _____

(A vote "Yes" means a change to the Executive (Mayor)-Council form of government with a Department of Administration. A vote "No" means keeping the present form of government.)

Respectfully Submitted

Hazleton Government Study
Commission

Formal Recommendations of the Government Study Commission

After almost nine months of conducting weekly public meetings; numerous interviews with 18 public officials and private citizens; and a great deal of study and deliberation, the Hazleton City Government Study Commission recommends to the citizens:

1. That the form of government in Hazleton City be changed to the Executive (Mayor)-Council Plan B optional plan provided in Article VI of the Home Rule Charter and Optional Plans Law (Act 62)
2. That the Council consist of five (5) members, elected at-large for terms of four years as they are presently elected.
3. That the elected offices of Controller and Treasurer be abolished.
4. That the compensation of the first mayor to be elected under this plan in November 1987 be \$26,000 during his or her first term and the compensation of councilmen elected in that year be \$1,500, with the President of Council to receive \$1,750.
5. That in other respects, the City of Hazleton shall continue to be governed by the Third Class City Code and all other relevant laws.
6. That these recommendations be submitted to the voters of Hazleton City for approval at the Municipal Election to be held on Tuesday, November 5, 1985.

The Hazleton City Government Study Commission believes the Executive (Mayor)-Council Plan B is a more effective and responsive form of city government than the present form and will better serve the needs of Hazleton residents. The advantages of this plan include separation of administrative and legislative functions, a significant level of professionalism, and improved checks and balances.

There will be an elected mayor who will serve as the city's Chief Executive. He will have administrative authority, the power of appointment covering key city positions, and possess a veto power. The plan further requires a Department of Administration which will be under the direction and supervision of the mayor. This department will be headed by a professional director chosen solely on the basis of his executive and administrative qualifications. He will be responsible for assisting in the preparation of the budget; administering a centralized purchasing system; establishing and administering a centralized personnel system; and performing such other duties as council may prescribe through an administrative code, or as the mayor shall direct.

The Council, which will be elected as at present, will be the legislative branch of city government. It will pass city ordinances and resolutions, approve appointments made by the mayor, investigate any department of city government it deems necessary, and provide for the exercise of a control function in the management of the finances of the city. Council may also override the mayor's veto.

The plan also protects against conflicts of interest on the part of public officials and provides for a merit system for the appointment and promotion of city employees.

If approved by the voters, this plan would become effective on the first Monday in January, 1988, in accordance with the provisions of Act 62.

Organizational Structure and Activities of the Study Commission

The following is a list of members of the Hazleton City Government Study Commission:

Bart E. Ecker Esq. Chairman
195 N. Laurel St.

Jerome A. Leichtman Vice-Chairman
175 N. Vine St.

Susan K. Nenstiel Secretary
537 W. Diamond Ave

C. Jeffrey Mason Treasurer
1325 E. Chestnut St.

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139 Franklin St.

Robert J. Stefanovich
725 W. 7th St.

Robert Gilgannon Alternate
516 W. 8th St.

Following the November election, the Luzerne County Board of Elections certified the members of the Government Study on November 20, 1984. Swearing in ceremonies were held on November 28, 1984. An organizational and general purpose meeting was held on December 5, 1984. On January 16, 1985, the members of the Government Study commenced their work. The members held 23 public meetings at which interviews and work sessions were conducted. Among those interviewed were consultants, academicians, past and present city officials, Allentown City officials, and local citizens. The following is a list of meetings, those interviewed, and the date of the meeting:

12- 5-84 Joseph McGowan (Department of Community Affairs)
1- 9-85 Charles Watters (Pennsylvania Economy League)
1-16-85 Public hearing for citizen's comments
1-17-85 Dr. David Sosar (Government Studies Analyst)
1-23-85 John Quigley (Executive Director of ARCH)
1-30-85 Dr. Frank Colon (Professor of Pol. Science - Leigh U.)
2-13-85 George Hayden (City Councilman)
2-27-85 Dr. John Degenhart (Treasurer)
William Lockwood (City Councilman)
3- 6-85 Mayor James Paisley (Current Hazleton Mayor)
Joseph DeMarinis (City Clerk)
3-13-85 John Tarone (City Councilman)
Rep. Corry Stevens (PA State Rep. - 116th District)
3-20-85 James Turnbach (Former Hazleton Mayor)
Ron Hess (City Councilman)

- 3-27-85 Clementine Yamona (Former Councilwoman)
Eugene Gallagher (City Employees Pension Program)
Edmund "Demo" Ferdinand (Former City Treasurer)
- 4- 8-85 Mayor Joseph Dadonna (Mayor of Allentown, Pennsylvania
and staff)
- 4-24-85 Charles Watters (Pennsylvania Economy League)
- 5-20-85 Presentation of Home Rule and Optional Plans
and public comment
- 5-28-85 Public comment on Home Rule and Optional Plans and
selection of recommended optional plan
- 6- 5-85 Work session
- 6-19-85 Presentation of Final Report draft
- 6-25-85 Review of Final Report revisions
- 7- 2-85 Review of Final Report revisions
- 7-10-85 Charles Watters (Pennsylvania Economy League)
- 7-15-85 Review of Final Report revisions
- 7-19-85 Public comment and vote on acceptance of Final Report

At the general meeting held on May 28, 1985, the Government Study members voted to recommend the Executive (Mayor)-Council Plan B form of government. The members have worked the past months to prepare this report for review by the local citizens.

History of Act 62

The Pennsylvania General Assembly passed the legislation known as Act 62 in July of 1972. This legislation provides municipalities in the Commonwealth of Pennsylvania with the right to investigate and if so desired select a form of government most appropriate for the needs of its citizens. This process is carried out by the election of a panel of citizens to study the present form of government and recommend to the electorate what the panel feels should be done.

Within Act 62 are provided various choices of municipal government for the city. Choices include Home Rule Charter, Council-Manager, and Executive (Mayor)-Council with options A, B, or C within the form. The Home Rule Charter allows the local citizens to write their own government structure and the municipal administrative code. It is only this form of municipal government which removes the city government from the dictates of the Third Class City Code. While the other optional forms of government change the structure of the municipal government, the administrative code which remains in effect is that of the Third Class City Code.

The intent of Act 62 in providing these various forms of municipal government is to offer citizens a choice. This choice is an opportunity for citizens to select that form through which the electorate can best attain effective government in the city.

Problems With the Present Commission Form of Government

Basic disadvantages of the Commission form of government include the following:

1. There is no system of Checks and Balances.

Unlike the national government which possesses a separate executive and legislative branch, President and Congress, the councilmen of this form of government are both legislators and administrators. They pass ordinances, and through their departments, carry them out. They formulate a budget, pass it, and spend the money. There is no one in the city government to question or stop council's actions.

2. There is no centralized leadership.

There is no strong mayor or chief executive who has the ability to set policy or government direction for the city. The city council members cannot effectively coordinate the city functions while being directly responsible for the operation of their respective department. Inefficient operations overall in purchasing, personnel, budgeting, and government direction may result. The present form allows for disunity and lack of city planning for the future. It fosters majority/minority factions in council voting. Most importantly it clouds the issue of individual and government responsiveness in meeting the needs of the city.

3. There is a lack of coordinated effort in purchasing, budgeting, and personnel management.

At present time, there is no central purchasing program conducted by the city. This allows each department to establish its own needs, regarding equipment, materials, and personnel. The result is inefficient budgeting and purchasing by the city. The city does not purchase materials in bulk at the present time, and therefore does not save tax money. Further, the present practices do not provide for an efficient means of establishing sound budgetary practices. It does not provide the best means of analyzing the present budgetary needs of the city along with future projections of budget needs. In this manner, the allocation of present funds cannot be spent in the most cost effective and efficient way.

4. The present form of government lack full time officials.

The needs of the city have become more demanding in recent years. Problems have arisen regarding personnel management, services, as well as its financial crisis. The present form does not provide for full-time responsiveness by the city officials. These matters must not only be addressed for the present, but also analyzed in long range plans for the city. Part-time, non-professional individuals may not be best equipped to perform these difficult tasks.

5. The current system of government demands little of its elected officials regarding any expertise.

Council members at present are not selected to administer the departments they are given because of any special qualifications or background they possess in that field. Lack of any expertise in a department's work and the reshuffling of members into various departments each year is not conducive to effective management and positive results.

The Recommended Executive (Mayor)-Council Plan B

The recommended form of government provides for an elected full-time mayor. This individual will be responsible for setting city policy, appointing department heads, and supervising the various departments. He will possess a veto power as a check against the legislative branch known as the city council.

The city council will be the legislative branch of government. It will pass city ordinances, approve appointments made by the mayor, and investigate any department of city government it deems necessary. It will possess the power to override the veto of the mayor in legislative matters. Council will be made up of 5 members to be elected at-large as is presently done.

A department of administration will be created in the new plan of government. This department is mandated by law under plan B. The duties of this department are to provide central purchasing practices, preparing of budgets, and personnel management among other activities. Other departments will be created by the city council as deemed necessary. The city council may not exceed the creation of nine departments.

The optional plan provides for the appointment of a city solicitor, an independent auditor of city finances, and a city clerk to work in conjunction with city council.

The recommended form of government provides opportunities for dedicated and civic minded individuals who wish to serve in city government. It establishes a means of effectively managing the affairs of the city.

Advantages of Executive (Mayor)-Council Plan B

Many of the problems existing in the present form of municipal government can be affected in a positive way by adopting Executive (Mayor)-Council Plan B.

1. There will be a system of "Checks and Balances".

There will be a separation of executive branch (mayor) and legislative branch (city council). The mayor may veto legislation passed by council that he opposes. The city council, likewise, will have the power to override the mayor's veto if they so desire, with a majority plus one. The mayor's duties will include providing direction for the city, proposing legislation to the council to act on, and opposing actions of city council with which he disagrees. This plan then, provides us with the same type of checks and balances which we find on the national and state level of government in our nation

2. There will be centralized leadership.

The mayor as the chief executive of the city government becomes the focal point of supervision and direction for the city government. His policy and programs will set the tone for the city. It will be the responsibility of the mayor to appoint, with the advice and consent of council, qualified and effective administrators to manage the various departments such as the Department of Administration. The efforts of the departments will reflect back on the individual who appointed them.

The mayor, therefore, will be held responsible for administering the city government.

3. There will be centralized purchasing, budgeting, and personnel management through the Department of Administration.

The Department of Administration will assume all the duties of the eliminated treasurer, and the pre-audit functions of the controller. It will have as its focus the fiscal responsibilities of the city government. All purchasing will be conducted through this department. The Department of Administration will be responsible for preparing the budget along with the mayor of the city. The director will assist in allocating the existing funds in the most efficient manner possible. Budgeting practices with future planning goals will also be more readily accomplished by such a department. Last, all responsibilities regarding city personnel will be centralized in this department. The Director of Administration is to be selected on executive and administrative qualifications. This will result in more effective management of the city finances and the utilization of these funds.

4. There will exist the ability for city planning.

It will be the responsibility of the mayor, along with his appointed department heads to not only manage the daily activities of the city government, but also, provide and implement a long range plan for the future of the city. If the mayor and his department heads fail to offer and attempt to implement short and long range plans for the city, the voters will seek to elect a different individual for this office.

5. The proposed plan provides opportunities for dedicated men and women to seek public office.

The requirements for candidates seeking the offices of mayor and city council will not change under the new form of government. Responsible, civic minded individuals may and are encouraged to seek municipal office. The appointment of professional individuals to such offices such as department head, solicitor, and independent auditor, are established to assist elected officials in conducting city affairs, not take their place. There is, and should be room for both type of individuals in city government. Executive (Mayor)-Council Plan B creates such a structure.

6. The role of city council will be legislative.

The city councilmen will no longer be administrators of the city departments. ~~They will perform lawmaking functions only.~~ These duties include: passing ordinances; approving the mayor's budget or adopting their own; approving or rejecting executive appointments; and investigating any reports from departments they deem necessary.

7. The city council will offer an excellent opportunity to local citizens to become involved in municipal government on a part-time basis.

The scope of duties for the city council are more limited under ~~the new plan of government.~~ The duties are specifically legislative. Act 62 allows council the right to determine the frequency of its

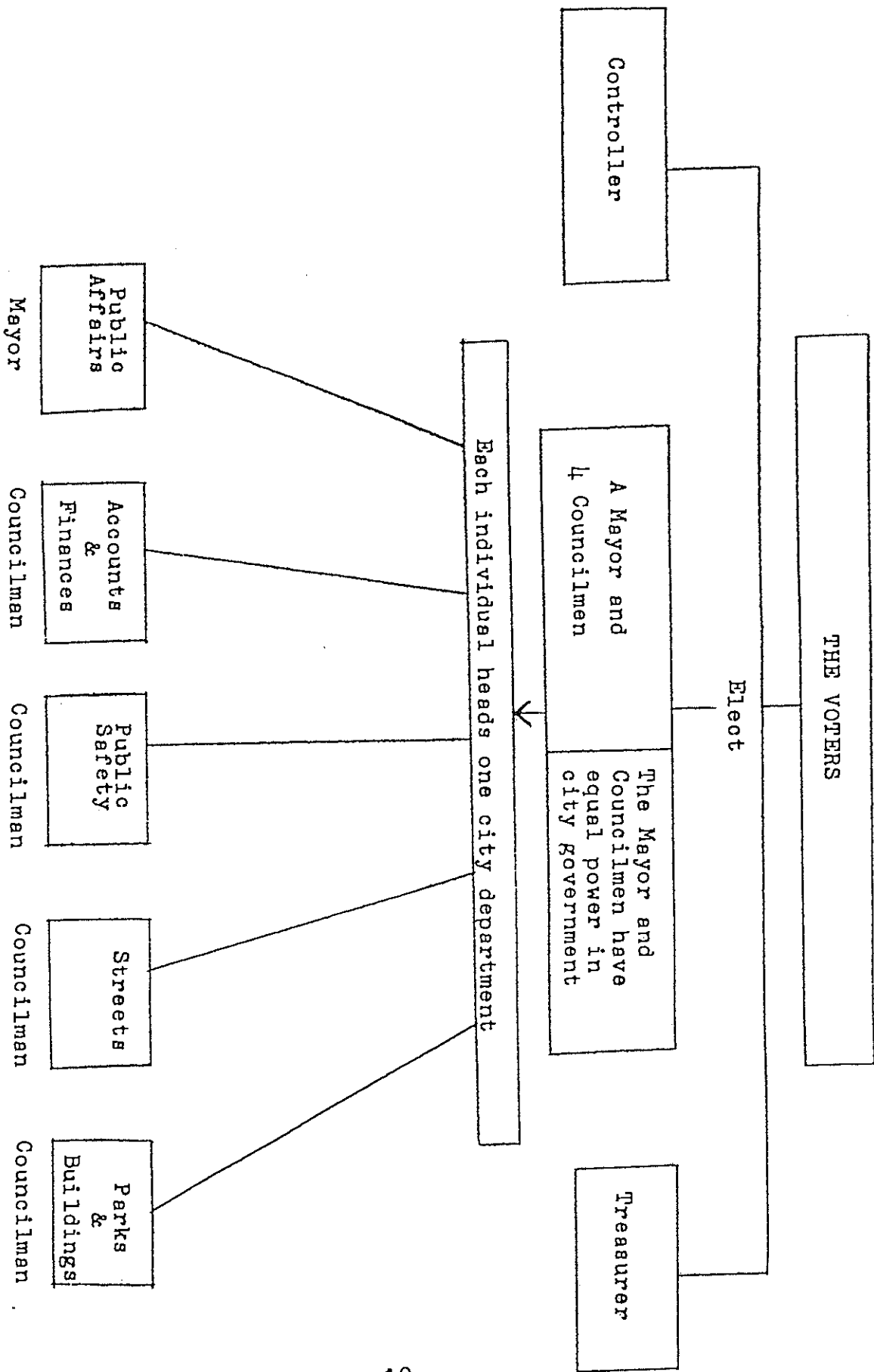
meetings.

The part-time nature of the council makes it ideal for a civic minded person seeking involvement in city government, but with limited time. The office will provide a training ground for those who may seek higher office.

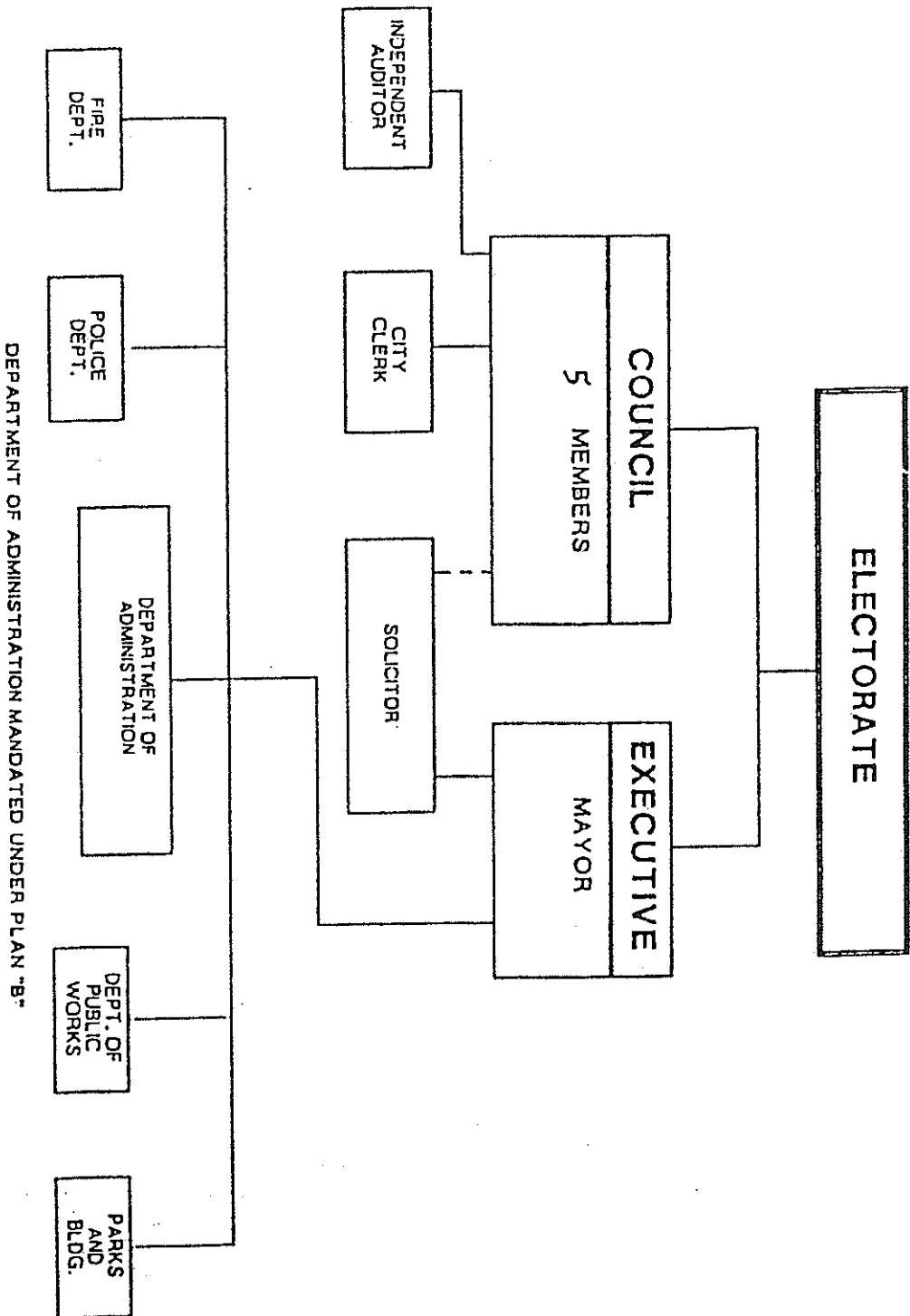
The city council will consist of 5 members. Members will be elected as at-large councilmen. The salary of councilmen will be reduced from the present salary because of the decreased duties they will perform.

The city clerk, whose office continues in the new plan of government, serves as the secretary of the council. The clerk will keep the minutes and records of the proceedings. The clerk will compile the ordinances and resolutions, and perform such functions as may be required by law or by local ordinance.

The Current Commission Form of Government



MAYOR - COUNCIL PLAN B



Questions and Answers About Executive (Mayor)-Council Plan B

1. Why should I vote for the Executive (Mayor)-Council Plan B?

We believe it will make Hazleton a better run city. It will provide for the use of the existing government resources, money, materials, and personnel in the most effective manner.

2. How does Plan B differ from Plans A and C?

In all three cases, A, B, and C, a mayor and a city council are elected. In plan A, however, no department is specifically mandated by law. The mayor is responsible for supervising the departments created by council. It is up to the city council to create the departments they wish. In plan C, the city council is also allowed to determine which departments they deem necessary, with no specific department mandated. In plan C, however, the mayor does not supervise the work of the departments; rather, it is the responsibility of a Managing Director who is appointed by the mayor to do so. While the mayor is still in charge, this appointee takes the actual supervision of the departments away from the mayor.

3. What is meant by the term "Strong Mayor"?

In some forms of city government, such as the Commission and Council-Manager form, the mayor does not actually possess any additional powers than members of the city council. When the term strong mayor is used, it is sometimes misinterpreted. Some believe that this office provides extraordinary powers. The term "strong mayor" simply refers to the chief executive of the city government. The mayor is provided with sufficient powers so as to provide direction to the city government. Such powers are to include the power to veto ordinances passed by council; power to appoint department heads; power to formulate a city budget with the assistance of the Department of Administration; and the power to propose new programs to benefit the city.

4. Will I see my taxes rise under this new option form of government?

No. By accepting this option plan of government, the city must still abide by the Third Class City Code which limits the amount of taxation a municipal government utilizes. By accepting the new form of government, we will not see our taxes or tax rates rise in any new manner that is not permitted under the present system of government and the Third Class City Code.

5. Will this form of government cost more money than the present one?

The proposed salaries for mayor and council are within the current range of salaries for officials in Pennsylvania. When these take affect in January, 1988, they will be below the average level. The current salaries for mayor, council, controller, and treasurer, total \$38,000, excluding benefits. Under the proposed plan, the salaries total \$33,750, excluding benefits. The \$4,250 savings can be applied to the salary of the head of the Department of Administration. Results of our study indicate that there is duplication of purchases and services in our current form of government. The head of the Department of Administration under the proposed plan will supervise and coordinate the purchases and services of the city. This centralization of handling purchases and services, we expect, will result in savings of

at least 10-20% of the current costs. This reduction will more than adequately pay for the department head's salary and benefits. One must consider that the 1988 salaries of the elected officials and the Department of Administration head represent 1% of the 1985 City Budget, which is an insignificant amount considering the potential in cost savings.

6. Would any municipal employees lose their jobs or be affected by the acceptance of this new plan?

No. The adoption of a new option plan does not mean people will be fired from their jobs. Contracts negotiated by the existing employee's unions will continue to be honored. By law, all rights and pensions provided to the city employees are kept in tact.

7. Is this the best government of all the forms in Act 62?

We think it is for Hazleton, however, there is no "best" form of municipal government. Each type of municipal government has its advantages and disadvantages, and therefore open to criticism by citizens in the city. After careful review of the options allowed by Act 62, it was the opinion of the members of the Hazleton Government Study that the Executive (Mayor)-Council Plan B would best suit the needs of the city.

8. What will happen to elected officials under the recommended plan of government?

Anyone who is in office will remain in office to complete his or her term.

The following is an explanation of what will occur for each of the four elected offices in city government.

1) Mayor - The term of mayor is 4 years in length. We are electing a mayor in this present election. His term will run from 1986 through 1989. This newly elected mayor will continue to serve in office as mayor through the first two years of his term (1986-87). For the remaining two years of his term (1988-89), he will serve as a member of the city council. He may seek the office of strong mayor in the election of 1987. If he does, and is successful, he will become the new mayor for a four year term (1988-91).

2) Council - Council members are elected for 4 years terms. Any councilman elected in this current election will serve his or her full term, either under the present or new form of government. Those councilmen who were elected in 1983 will be seeing their term run out at the 1987 election. It will be their decision whether to seek office as councilman again under the new duties of that legislative body.

3) Treasurer - This post will be eliminated under the new form of government. The new government will not go in effect until January of 1988 following the 1987 municipal election. The present treasurer was elected in 1983, and therefore will simply complete his four year term. No new treasurer will be elected.

4) Controller - The controller is elected for a 4 year term. We are electing a controller in this election (1985). The controller will serve in 1986 and 1987 as the controller in the present form of government. In 1988, when the new plan of government would go into effect, the controller may either resign or continue in a city capacity within the department of administration for the last two years of the term. The controller, by law, will continue to receive the salary designated for the office through all four years. If the individual

desires, he/she need not accept all or part of the salary in the last two years of the term. Once this term is completed, no new election for a controller will be conducted in municipal elections.

9. How will the salaries of the officials in city government be determined?

According to Act 62, the members of the Hazleton Government Study must set the initial salaries for the mayor, and council. Council will from that time on determine the salaries of these elected officials.

In determining the initial salaries of mayor and council, the members took into consideration the functions of the office in the new plan of government. The mayor is the chief executive and responsible for supervising all department heads. It will require a great amount of time and effort on his part to perform this work.

City council will not be a full-time office. Since the duties of this office will be reduced, the salary should reflect this situation.

Segments of City Government Left Unchanged by the New Optional Plan

There are a number of areas within the city government left untouched by the change to the new plan of government. The Third Class City Code will remain in effect. It will continue to govern most of the processes of government. Its restrictions on such areas as zoning regulations and public health and safety regulations remain in tact. The Third Class City Code continues to govern municipal taxes and tax rates as well.

The city government will continue to use the city solicitor as its legal counsel.

The city council will consist of 5 members to be elected at-large as presently done.



The office of city clerk will remain, and function as the secretary of the city council.

All contracts the city government has negotiated, either with private firms or public employee organizations, will remain binding. The new option has no power to alter contracts, rights, or pensions of public employees hired prior to the adoption of the option plan.

All existing authorities functioning in the city at present time will continue to do so. These authorities were created by the Municipalities Authority Act passed by the General Assembly, and therefore cannot be altered by any optional plan of government.

Proposals to the New Plan of Government

While the following are non-binding proposals put forth by the members of the Hazleton Government Study, they are intended to be suggestions to help the new government run effectively.

1. Because of his numerous responsibilities, the mayor should serve in a full-time capacity.
2. If an acting mayor must be designated to take the place of the elected mayor in the city, it is felt that the Director of Administration should be the department head selected. Because the Director of Administration must work so closely with the mayor in all areas of city government, this individual would be the best equipped to take over if the situation arose. 
3. Council should appoint an independent Certified Public Accountant to conduct all post audit functions regarding city finances. 
4. It is suggested that city council review the salaries of elected officials in city government according to the law under the third Class City Code. This review will enable council to legally adjust salaries to reflect the economic conditions of the times.

Selected Excerpts of Act 62

Chapter 29

Article IV
General Provisions and Limitations For
Optional Plan Municipalities

Form of Government: Elected Officials

2971 Section 401. Upon the adoption by the qualified voters of any municipality of any of the optional plans of government as set forth in this act, the municipality shall thereafter be governed by the plan adopted and by the provisions of general law applicable to that class or classes of municipality except as otherwise provided herein. Unless and until the municipality should adopt another form of government as provided by law, the plan adopted and the provisions of general law applicable to that class or classes of municipality shall become law in the municipality at the time fixed by this act. All acts and parts of acts, local, special, or general, affecting the organization, government and powers of such municipality which are not inconsistent or in conflict herein, shall remain in full force until modified or repealed as provided by law.

2972 Section 402. The municipal clerk or secretary of the municipality shall forthwith cause the new plan of government as approved by the qualified electors to be recorded in the ordinance book of the municipality. He shall also file a certified copy thereof in the office of the Secretary of the Commonwealth, with the Secretary of the Department of Community Affairs, and with the county board of elections.

2973 Section 403. The general grant of municipal power contained in this article is intended to confer the greatest power of self government consistent with the Constitution of this Commonwealth and with the provisions of and the limitations prescribed by this act. Any specific enumeration of municipal powers contained in this act or in any other laws will not be construed in any way to limit the general description of power contained in this article, and any such specifically enumerated municipal powers shall be construed as in addition and supplementary to the powers conferred in general terms by this article. All grants of municipal power to municipalities governed by an optional plan under this act, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

2974 Section 404. The optional plan of any municipality adopted in accordance with this act shall not give any power or authority to diminish any rights or privileges of any present municipal employee in his pension or retirement system. No municipality shall exercise any powers or authority beyond the municipal limits except such as are conferred by an act of the General Assembly, and no municipality shall engage in any proprietary or private business except as authorized by the General Assembly.

Article V

Optional Plan: Executive (Mayor)-Council Plan B

Section 501/601. The form of government provided in this article shall be known as the "Executive (Mayor)-Council Plan B" and shall together with the laws applicable to that class of municipality and Articles IV and XII of this act, govern any municipality the voters of which have adopted it pursuant to this act.

Section 502. Each municipality hereunder shall be governed by an elected council, and elected executive who may be called mayor, as determined by the government study commission, and other officers and employees as may be duly appointed to this article, general law or ordinance.

Section 503. The mayor shall be elected by the voters of the municipality at a regular municipal election, and shall serve for a term of four years beginning on the first Monday of January next following his election.

Section 504. The council shall consist of five members. Members of the council shall be elected at-large by the voters of the municipality. Members shall serve for a term of four years, except as hereinafter provided for those first elected beginning on the first Monday of January next following their elections.

Section 505. At the first municipal election following the adoption by a municipality of this plan, councilmen shall be elected and shall serve for the terms as provided in Section 1262 of this act.

B. Council

Section 511. The legislative power of the municipality as provided by laws applicable to that class of municipality shall be exercised by the municipal council, except as may be otherwise provided for by the provisions of this act.

Section 512. On the first Monday of January following the regular municipal election, the members of council shall assemble at the usual place of meeting and organize and elect a president from among its members, who shall preside at its meetings and perform such other duties as council may prescribe, and a vice president, who shall preside in the absence of the president. If the first Monday is a legal holiday, the meetings shall be held on the first day following.

Section 513. The council, in addition to such other powers and duties as may be conferred upon it by general law, may require any municipal officer, in its discretion, to prepare and submit sworn statements regarding his official duties in the performance thereof, and may otherwise investigate the conduct of any department, office or agency of the municipal government.

Section 514. A municipal clerk or secretary shall be appointed in the manner set forth in the Administrative Code as provided in Section 1246

of this act. The municipal clerk or secretary shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this act requires, and perform such functions as may be required by law or by local ordinance. The municipal clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

C. Mayor and Administration

Section 521. The executive power of the municipality shall be exercised by the mayor.

Section 522. The mayor shall enforce the plan and ordinances of the municipality and all general laws applicable thereto. He shall, annually, report to the council and the public on the work of the previous year and on the conditions and requirements of the municipal government and shall, from time to time, make such recommendations for action by the council as he may deem in the public interest. He shall supervise all of the departments of the municipal government, and shall require each department to make an annual and such other reports of its work as he may deem necessary.

Section 523. (a) Ordinances adopted by the council shall be submitted to the mayor and shall, within ten days after receiving any ordinance, either approve the ordinance by affixing his signature thereto, or return it to the council by delivering it to the municipal clerk together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council within ten days after it has been presented to him, or unless council upon reconsideration thereof on or after the third day following its return by the mayor shall by a vote of a majority plus one of the members resolve to override the mayor's veto.

(b) The mayor may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

Section 524. (a) The mayor shall designate any department head, to act as mayor whenever the mayor shall be prevented, by absence from the municipality, disability, or other cause, from attending to the duties of his office. During such time the person so designated by the mayor shall possess all the rights, powers, and duties of the mayor. Whenever the mayor shall have been unable to attend to the duties of his office for a period of sixty consecutive days for any of the above stated reasons, a member of council shall be appointed by the council as acting mayor, who shall succeed to all the rights, powers and duties of the mayor or the then acting mayor, until he shall return or his disability shall cease.

(b) The municipality shall have a department of administration and shall have such other departments as council may establish by ordinance. All of the administrative functions, powers and duties of the municipality, other than those vested in the clerk, shall be

allocated and assigned among and within such departments except that the functions specified in Section 525 of this act shall be assigned to the department of administration.

(c) Each department shall be headed by a director who shall be appointed by the mayor with the advice and consent of the council. Each municipality shall also have a solicitor who shall be appointed by the mayor with the advice and consent of the council. Each department head and the solicitor shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor. No member of municipal council shall head a department.

(d) The mayor may, in his discretion, remove any department head after notice and an opportunity to be heard. Prior to removing a department head, the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the twentieth day after the filing of such notice.

(e) Department heads shall appoint subordinate officers and employees within their departments under procedures established in Section 1222 of this act.

Section 525/602. A department of administration shall be established. It shall be headed by a director. He shall be chosen solely on the basis of his executive and administrative qualification with special reference to his actual experience in, or his knowledge of accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State. He shall have, exercise and discharge the functions, powers and duties of the department. The department, under the direction and supervision of the mayor, shall:

- (1) Assist in the preparation of the budget;
- (2) Administer a centralized purchasing system;
- (3) Establish and administer a centralized personnel system;
- (4) Establish and maintain a centralized accounting system designated as to accurately reflect the assets, liabilities, receipts, and expenditures of the municipality;
- (5) Perform such other duties as council may prescribe through an administrative code or as the mayor shall direct.

D. Budget

Section 531. The municipal budget shall be prepared by the mayor with the assistance of the director of the department of administration.

Section 532. The budget shall be in such form as is required by council, and shall have appended thereto a detailed analysis of the various items of expenditure and revenue. The budget as submitted and adopted must be balanced. Council may reduce any item or items in the mayor's budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of a majority plus one of the members of the council.

Council shall, upon the introduction of the proposed budget, fix a

date for adoption thereof, which shall expect as otherwise provided be not later than the thirty-first day of December immediately following.

Section 533. During the month of January next following any municipal election, the mayor may submit an amended budget to council and council shall consider it in the same manner as provided in Section 532, but final consideration of the amended budget shall be completed by February 15 of the same year.

Section 534. Council shall have the power to amend the budget during the month of January next following any municipal election. Final adoption of the amended budget shall be completed by February 15 of the same year.

Article XII General Provisions Common to Optional Plans

A. Officers and Employees

Section 1201. In any case where a municipal officer or official elected or appointed knows or by the exercise of reasonable diligence could know that he is interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any personal property for the use of the municipality, or for any services to be rendered for such municipality involving the expenditure by the municipality of more than three hundred dollars (\$300) in any year, he shall notify council thereof, and any such contract shall not be passed and approved by council except by an affirmative vote of at least three-fourths of the members thereof. In case the interested officer is a member of council, he shall not apply to cases voting upon said contract. The provisions of this section shall not apply to cases where such officer or official is an employee of the person, firm or corporation to which money is to be paid in a capacity with no possible influence on the transaction and in which he cannot possibly be benefited thereby, either financially or in any other material manner. Any officer or officials who shall knowingly violate the provisions of this section shall be liable to the municipality upon his bond, if any, or personally, to the extent of the damage shown to be sustained thereby by the the municipality, to ouster from office, and shall be guilty of a misdemeanor; and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or imprisonment not exceeding one year, or both.

Section 1202. No officer or employee shall accept or receive, directly or indirectly, from any person operating within the territorial limits of a municipality any interurban railway, bus line, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket, or free service, or accept or receive, directly or indirectly, from any person, any other service upon terms more favorable than is granted to the public generally, except that such prohibition of free transportation shall not apply to policemen or firemen in uniform. Nor shall any free service to the municipal officials heretofore provided by any franchise or ordinance be affected by this section.

Section 1203. No candidate for office, appointment or employment and no officer, appointee or employee in any municipality shall, directly or indirectly, give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

Section 1204. If any person hereafter elected or appointed to any office or position in a municipality governed under this act shall, after lawful notice or process, willfully refuse or fail to appear before any court, any legislative committee, or the Governor, or having appeared shall refuse to testify or to answer any question regarding the property, government or affairs of the municipality, or regarding his nomination, election, appointment or official conduct on the ground that his answer would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any such matter in relation to which he may be asked to testify, may be removed from office by the council of the municipality in its discretion.

B. Treasurer

Section 1211. The office of Treasurer is to be omitted, and the duties and responsibilities will become the functions of the Department of Administration.

C. Appointment Power and Personnel

Section 1221. The appointment power of the chief executive of the municipality under any of the plans authorized by this act include the appointment of members of boards and commissions authorized by this act, by general law now or hereafter enacted, or by action of municipal council. All such appointments shall be with the advice and consent of a majority of municipal council.

Section 1222. Appointments and promotions of subordinate officers and employees within departments shall be made by the department head on the basis of a personnel system which shall include written procedures for appointment and promotion based on merit and fitness as demonstrated by examination or other evidence of position competence. The personnel system shall be governed by personnel rules which shall be prepared by the mayor, and submitted to the municipal council which shall adopt them with or without amendments unless otherwise provided for or arrived at by collective bargaining. The personnel rules may provide for:

- (1) The classification of all municipal positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by change of circumstances.
- (2) A pay plan for all municipal positions.
- (3) Methods for determining the merit and fitness of candidates for appointment or promotion.
- (4) The policies and procedures regulating reduction in force and

disciplinary action, including suspension and removal of employees.

(5) The hours of work, and provisions for sick and vacation leave and holidays, and provisions for overtime compensation.

(6) Grievance procedures, including procedures for the hearing of grievances.

(7) Other practices and procedures necessary to the administration of the municipal personnel system.

D. Filling Vacancies in Elected Office

Section 1231 This section shall apply to the filling of vacancies in elected office in all optional plans and options except those set forth in Article X, Optional County Plan, and Article XI, Additional County Options.

Section 1232. (a) If a vacancy exists in the municipal council, the municipal council shall, by a majority of its remaining members, fill such vacancy, within thirty days thereafter, by electing a qualified person to serve until the first Monday of January when his successor who shall have been elected by the qualified electors at the next municipal election, occurring at least fifty days after such vacancy exists, is duly sworn into office for the remainder of the term of the person originally elected to said office.

In case vacancies should exist whereby the offices of a majority or more members of the municipal council become vacant, the remaining members shall fill such vacancies, one at a time, giving each new appointee such reasonable notice of his appointment as will enable him to meet and act with the then qualified members of the municipal council in making further appointments until a bare majority of members of municipal council members have been qualified, whereupon the said members shall fill the remaining vacancies at a meeting attended by the said majority members of municipal council, such appointees to receive a majority of the votes of the members present at any such meeting. The person or persons selected to fill such vacancies shall hold their offices as herein provided.

If, by reason of a tie, or otherwise, such vacancy shall not have been filled by the remaining members of municipal council within the time as limited herein, the court of common pleas, upon the petition of ten or more qualified electors shall fill such vacancy by the appointment of a qualified person, for the portion of the unexpired term as above provided.

(b) If a vacancy occurs in the office of the mayor, the municipal council shall fill such vacancy, within thirty days thereafter, by choosing an mayor, to serve until his successor is elected by the qualified electors at the next municipal election, occurring at least fifty days after such vacancy occurs, and is duly sworn into office. The person so elected shall serve from the first Monday of January next succeeding his election for the remainder of the term of the person originally elected to such office.

If, by reason of a tie vote or otherwise, a vacancy in the office of mayor shall not have been filled by council within the time as limited herein, the court of common pleas, upon petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person for the portion of the unexpired term as herein provided.

E. Legislation by Council

Section 1241. The council shall, by ordinance or resolution, designate the time of holding regular meetings which shall be at least monthly. The executive (mayor) or the president of council, as the case may be, may and, upon written request of a majority of the members of the council, shall call a special meeting of the council. In the call, he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The municipal clerk or secretary shall keep a journal of its proceedings and record the minutes of every meeting.

Section 1242. (a) Council shall determine its own rules of procedures, not inconsistent with ordinances or statute. A majority of the whole number of members of the council shall constitute a quorum, and no ordinance shall be adopted by the council without the affirmative vote of a majority of the members of the council.

(b) Each ordinance or resolution shall be presented and considered as determined by council rules of procedure. The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. The minutes of every meeting shall be signed by the officer presiding at such meeting and by the municipal clerk or secretary.

(c) Council shall adopt by ordinance an administrative code which shall provide for the establishment and filling of additional administrative offices which it shall deem necessary, and shall provide for administrative procedures not otherwise provided for in this act or by general law.

Section 1243. (a) Except as may otherwise be provided in this act all ordinances shall be adopted and published as provided by law: Provided, however, That any ordinance may incorporate by reference any standard technical regulation or code, official or unofficial, which need not be so published whenever ten copies of said regulation or code have been placed on file in the office of the municipal clerk or secretary and in the office of the body or department charged with the enforcement of said ordinance.

(b) No ordinance other than the local budget ordinance shall take effect less than ten days after its final passage by council and approval by the mayor where such approval is required, unless the council shall adopt a resolution declaring an emergency and at least a majority plus one of all the members of the council vote in favor of such resolution.

Section 1244. The municipal clerk or secretary shall record all ordinances and resolutions adopted by council and at the close of each year, with the advice and assistance of the municipal solicitor, shall bind, compile or codify all the ordinances and resolutions, or true copies thereof, of the municipality which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

Section 1245. No rule or regulation made by any department, officer, agency or authority of the municipality, except such as relates to the organization or internal management of the municipal government or a

part thereof, shall take effect until it is filed either with the municipal clerk or secretary or in such other manner as may be provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

Section 1246. The council shall cause to be prepared and pass as an ordinance an administrative code which shall provide for the manner of appointment of a solicitor, clerk or secretary, and may create commissions and other bodies with advisory powers, and may create additional provisions relating to the internal structure of the municipality as long as the provisions of the administrative code are not in conflict with any of the provisions of this law applicable to the municipality.

F. Audit and Control

Section 1251. The council shall provide by separate ordinance or in the administrative code for the exercise of a control function in the management of the finances of the municipality by an independent auditor.

Section 1252. The council may provide for annual post audits of all accounts by an independent auditor who shall be a certified public accountant, registered in Pennsylvania, or a firm of certified public accounts so registered.

Section 1253. The office of Controller is to be omitted.

G. Transition to Option Charter Plan

Section 1261. Whenever the electors of a municipality adopt any of the optional plans provided by this act at any election for that purpose, such municipality shall be governed under the provisions of such plan, the provisions of general law applicable to that class of municipality and this act from the first Monday in January following the municipal election occurring after the next succeeding primary election, except as provided in Section 213 (c) of this act.

Section 1262. (a) Any elected municipal official in office at the time of the adoption of any optional plan provided by this act shall continue in office only until the new plan of government goes into effect as provided in Section 1261, except as otherwise provided in subsections (c) and (d) of this section.

(b) At the municipal election next succeeding the adoption of one of the optional plans provided for in this act, if four or less councilmen are elected, they shall serve for terms of four years. If five are elected, the four successful candidates receiving the highest percentage of the votes cast for the office to which they are elected shall serve for terms of four years, and the candidate receiving the next highest percentage of votes shall serve for a term of two years. If six or more councilmen are elected, the five candidates receiving the highest percentage of the votes cast for the office to which they are elected shall serve for terms of four years, and the remaining successful candidates receiving the next highest percentage of votes shall serve for terms of two years. Thereafter, all councilmen shall

be elected for terms of four years; Provided, that where the term of office for councilmen under the adopted plan shall be different from the term of office for councilmen under the existing form of government the terms of office for councilmen so elected shall be established so that at each subsequent regular municipal election at which councilmen are elected, the number of councilmen to be elected shall be as nearly equal as possible to the number of councilmen to be elected at every other regular municipal election at which councilmen are elected.

(c) If an elected municipal treasurer or controller are elected, at the time of the adoption of an optional plan under the provisions of this act, a treasurer or controller shall not be elected or appointed to take office after the expiration of the term of said treasurer or controller.

(d) Any member of a municipal governing body in office at the time of the adoption of an optional plan shall remain in office, continuing as an at-large or district councilman, as the case may be, until the expiration of his term in office, and shall receive the compensation provided by law at the time: Provided, that if the councilman was elected on an at-large basis, the newly adopted optional plan provides for a total number of at-large councilmen equal to or exceeding the total number of at-large councilmen under the existing form of government; or, if that councilman was elected on a district basis, the district from which that councilman was elected remains unchanged and continues to encompass the exact same geographical area under the newly adopted optional plan as under the existing form of government, and the number of councilmen to be elected from that district under the newly adopted optional plan is equal to or exceeds the number elected from that district under the existing form of government. Any such councilman may, by writing filed with the municipal treasurer, direct that any portion of his annual compensation for serving in office be returned to the municipal treasury. For the purpose of this section, an executive or mayor who is also a member of the council under an existing plan shall be considered as a member of the council, and after the new plan goes into effect, his duties shall be only those of a member of council as prescribed by the new plan.

(e) At the municipal election next succeeding the adoption of one of the optional plans provided for in this act, the number of councilmen prescribed by the terms in the plan less the number of councilmen then in office whose terms do not expire on the first Monday of January next following, as may be determined by the foregoing subsection (d) shall be elected.

(f) If any vacancies in council occurring by reason of resignation, death or removal shall exist ninety days or more before such election they shall be filled for the remainder of the term of the person originally elected to that office.

Section 1263. The annual compensation of the mayor and councilmen elected to their offices in the year prior to the transition year under any of the optional plans shall be established by the commission as part of its recommendations or by the initiative petition or ordinance of the governing body authorized by Section 231 through Section 233 of this Act.

The initial salaries for elected officials shall be as follows:

- (1) Mayor - \$26,000.00
- (2) Councilmen - \$1,500.00
- (3) President of Council - \$1,750.00

(b) The compensation of the mayor, and councilmen elected to their offices subsequent to the transition year to any of the optional plans set forth in this act shall be fixed by ordinance of council finally passed or adopted at least two days prior to the last day fixed by law for candidates to withdraw their names from nominating petitions previous to the day of the municipal election. After such compensation is once fixed by ordinance, only an increase or decrease thereof need be fixed by such ordinance.

Section 1264. On the effective date of an optional plan adopted pursuant to this act, all ordinances and resolutions of the municipality to the extent that they are not inconsistent with the provisions of this act shall remain in full force and effect until modified or repealed as provided by law.

Section 1265. (a) On the effective date of an optional plan adopted pursuant to this act, all appointive officers then existing in such municipality shall be abolished and the terms of all appointed officers shall immediately cease and terminate: Provided, That nothing in this section shall be construed to abolish the office or employe now protected by any tenure of office or civil service law, or of any policeman or fireman, whether or not protected by a tenure of office law.

(b) Provisions for officers and for the organization and administration of the municipal government under the optional plan may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than sixty days after the effective date of the optional plan.

Section 1266. All actions and proceedings of a legislative, executive or judicial character, which are pending upon the effective date of an optional plan adopted pursuant to this act, may continue and the appropriate officer or employe under such optional plan shall be substituted for the officer or employe theretofore exercising or discharging the functions, power or duty involved in such action or proceeding.

Transitional Committee

While it is not mandatory, it is the recommendation of the Government Study Commission that a committee be formed to ease the transition from one form of local government to the new option plan. The committee shall be appointed by the city council serving in 1987. It is suggested that the transition committee be made up of members obtained from the Government Study Commission, present municipal government, and local citizens. The transition committee will begin its work one year prior to the beginning of the new optional form of government.

Financial Report

See "Schedule A"

HAZLETON CITY GOVERNMENT STUDY COMMISSION
STATEMENT OF EXPENDITURES
"SCHEDULE A"

SUPPLIES	\$ 20.67
M. Burr, Keim Company (minute book)	131.44
Trans National Printing (stationery)	
SECRETARIAL DUTIES	291.25
Helen Sisock (stenography services)	1,371.90
Merit Report Service (stenography services)	
ADVERTISING	
Hazleton STANDARD-SPEAKER (notice of meetings)	128.15
CONSULTING	
Dr. Frank Colon (testimony)	75.00
Dr. David Sosar (consulting)	250.00
Pennsylvania Economy League (consulting)	<u>622.56</u>
	<u>\$2,890.97</u>
TOTAL EXPENDITURES THROUGH 7-26-85	
Estimate of future expenditures (Printing, distributing & related costs of the final report) APPROXIMATE COST	<u>\$5,000.00</u>

The following is a correct and complete account of the expenditures of the Hazleton Government Study Commission.

Bart E. Ecker
Bart E. Ecker, Chairman

Jerome A. Leichtman
Jerome A. Leichtman, Vice-Chairman

Susan K. Nenstiel
Susan K. Nenstiel, Secretary

C. Jeffrey Mason
C. Jeffrey Mason, Treasurer

Gralinda M. Enright
Gralinda M. Enright

Steuart Nelmes
Steuart Nelmes

Robert J. Stefanovich
Robert J. Stefanovich