

BCCLS ADVOCACY COMMITTEE

Trustee Info & Action

September 2014 – Know Your Local Government Structure

Overview:

Library Trustees have the responsibility for maintaining adequate financial support for their libraries. As a member of the library board, one should work towards communicating and building relationships with elected officials towards this end goal. Who are the officials within your government responsible for making the decision to provide your library with funding above the threshold of 1/3 of a mil? To begin answering that question a trustee must know exactly how their local government operates, who the decision makers are and how funding decisions are made. This month's letter is meant to provide you with the basics on how your borough/town/city operates.

Board Education Component - Local Government Structure

The various forms of municipal government in N.J. reflect a history of evolving forms of five basic structures: township, town, city, borough and village. Other forms were created in the 20th Century to provide municipalities with additional governing flexibility. Many municipalities now fall under the 1950 Optional Municipal Charter Law (OMCL), known as the Faulkner Act.

The following edited information, entitled - "Forms of Government, Everything You've Always Wanted to Know, But Were Afraid to Ask" by Michael Cerra, demonstrates this wide variation in local government structures. (Available on the *NJ League of Municipalities* website:
http://www.njslom.org/magart0307_p14.html)

1) The Township Form (NJSA 40A:63-1): Under the current township government laws, the township committee remains the backbone of the municipality's government. Voters elect, at-large, the township committee comprising three or five members. The elections are partisan and the committee members serve staggered three-year terms. The township committee elects the mayor for a one-year term. The mayor serves as chair of the township committee and has powers vested in the mayor's office by general law. Under the township form, all legislative powers are concentrated in the committee. The committee also has all executive powers not placed in the mayor either by general law or the revised Township act. Additionally, all municipalities under the traditional form may appoint, including the township form, may appoint a municipal administration and "delegate to him all or a portion of the executive responsibilities of the municipality."

2) The Town Form (NJSA 40A: 62-1): Voters elect the mayor and council in partisan elections. The mayor is elected at large and is known as the councilman at large. The mayor serves a two-year term, though voters can through petition and referendum change the term to three years. The mayor retains all executive responsibilities placed in the position by general law or the Town Act. All other executive authority lies with the town council. The council consists of eight members serving two-year terms. Two council members are elected from each of four wards and they serve staggered two-year terms. Therefore, every year one seat from each ward is up for election. The mayor chairs the town council, and may vote on legislation and veto ordinances.

3) The City Form (NJSA 40A:61-1): Under this form, mayor and council are elected in partisan elections. The mayor serves a four-year term, unless a two or three-year term preceded the passage of the 1997 law. The mayor is the chief executive, may participate in council meetings and can vote to break ties. The mayor can veto ordinances and serves as the head of the police department. Meanwhile, the council is the legislative body of the municipality and appoints most of the subordinate officers of the city. Generally, the city council consists of seven members with six elected from wards for three-year terms and one elected at-large for a four-year term. Like the other traditional forms, a city may delegate all or a portion of the executive authorities to an administrator.

4) The Borough Form (NJSA 40A:60-1): The Borough mayor is elected at-large to a four-year term. Six council members are elected at-large 4 to staggered three-year terms. The Borough form is often referred to as a “weak mayor-strong council” form. The mayor retains all general law authority, presides over council meetings and can vote in the case of a tie. The mayor appoints, with the advice and consent of council, all subordinate officers of the municipality. The council is the legislative body of the Borough. All executive responsibilities not placed in the office of the Mayor by general law or the Borough law remain with the council. Like the other traditional forms, a Borough may appoint an administrator and delegate all or a portion of the executive responsibilities to him/her. The council may also adopt an administrative code, prescribing how the council shall perform its duties.

5) The Village Form (NJSA 40A:63-8): Based on the 1989 revisions, any New Jersey municipality operating under the village form shall operate and transact all its business according to the laws of the Township form. Under the Village Form, the significant difference is that the committee is known as the Board of Trustees and the mayor is known as the President of the Board.

6) The 1911 Commission Form (NJSA 40:70-1 et seq.): In a five-member commission, each commissioner heads up one of the following departments: Department of Public Affairs; Department of Public Safety; Department of Public Works; Department of Parks and Public Property; or Department of Revenue and Finance. In three-member commissions, the Department of Public Affairs and Public Safety are combined as are the Department of Public Works and Parks and Public Property. The Commissioners function as the legislative authority of the municipality. They are elected at-large in nonpartisan elections to serve concurrent four-year terms. The mayor is selected from among the Commissioners (often the one who received the most votes), makes most of the key appointments and has a vague, often undefined, supervisory authority.

7) The 1923 Municipal Manager Form of Government (NJSA 40-39-1 et seq.): In effect, this form separated policy making (council) from policy implementation (manager). By law, a municipality can adopt through a referendum, a three, five or seven-member council, elected at large in nonpartisan elections. The mayor is selected from the council but the duties associated with the title are essentially limited to presiding over and voting with the council and a handful of appointments. The manager serves as the chief executive of the municipality. The manager ideally is politically neutral and operates the municipality in a businesslike manner. The manager prepares the budget for the council, oversees the negotiation and implementation of contracts and handles most personnel matters.

(OMCL) - FAULKNER FORMS OF GOVERNMENT

8) (OMCL) Mayor-Council Plan (NJSA 40:69A-31)

This form, also known as the “strong mayor” form, provides for the direct election of the mayor, who serves a four-year term. This form is designed for a mayor to be independent of council, in charge of the administration of the municipality.

The mayor is the chief executive of the municipality and has the enforcement responsibility for all ordinances, charter provisions and prepares the budget of the municipality. The mayor, with the advice and consent of the council, appoints and removes department heads, including a business administrator. The mayor has the right to speak at council meeting but has no vote and does not need to attend.

The council is the legislative body of the municipality. The membership is five, seven or nine members, who are elected either at-large or from wards. The council is generally limited to legislative functions, but has investigative power and may remove municipal officers for cause. The council can reduce items in the mayor’s budget by a majority vote, but it needs a two-thirds majority to increase any item in the budget. A municipality under the Mayor-Council Form has the following options:

1. Elections can be partisan or nonpartisan. If elections are nonpartisan the municipality also has the option of run off elections.
2. Elections can be at-large or by wards. If the municipality is divided into wards, the municipality has the option over the number of wards.
3. The size of the council can be three, five or seven members.
4. Terms can be staggered or concurrent.

9) (OMCL) Council-Manager Form (NJSA:40:69a-81)

The council is made up of five, seven or nine elected members. The council is the legislative body of the municipality but also appoints the positions of Municipal Clerk, Tax Assessor and well as provides for appointments of members of Boards, Commissions and Authorities. Perhaps most importantly, the council appoints a qualified manager to serve as the chief executive.

The mayor can either be selected from the council or directly elected. Either way, the mayor serves as the presiding member of the council. The Manager has the full administrative responsibility for the municipality, including appointment of department heads as well as subordinates, preparation and presentation of the budget and the negotiation of contracts.

A municipality under the Council-Manager form has the following options:

1. Partisan or nonpartisan elections. If the elections are nonpartisan, the municipality has the option of run-off elections.
2. Staggered or concurrent terms.
3. The mayor can be voted directly by the people or selected from among the council. If elected by the voters, the mayor serves a four-year term. If selected by the council, the mayor serves either a one, two or four year term, depending on whether the council serves staggered or concurrent terms and local ordinances.
4. Council members can be elected at-large or from wards. If the municipality operates under a ward-based system, the number of wards is also an option.
5. The size of the council can be five, seven or nine members.

10) (OMCL) Small Municipality Form (NJSA 40:69A-115)

This form is available only to municipalities under 12,000 in population, although a municipality that grows beyond 12,000 may retain the form. The Small Municipality is commonly thought of as a cross of the two most common “traditional” forms: the township and borough.⁶ It is also a strong mayor form in that the mayor exercises the executive authority of the municipality. The mayor may in fact be a stronger position in this form than in the Mayor-Council since he/she is not only the chief executive but also the presiding officer of the council.⁷

The mayor in this form appoints an assessor, tax collector, treasurer, clerk and any officers provided for by local ordinance. He or she also appoints all other officers and employees of the municipality, unless the Civil Service provisions are in effect. The mayor has the dual role of chief executive and presiding officer of the council, and votes with council but has no veto power. The council is the legislative authority of the municipality. Under this form, the council passes ordinances and resolutions, passes the budget, consents to the appointments of the mayor and has investigative powers but it possesses no administrative authority.

An interesting provision of the Small Municipality Form allows the municipality to select and match most other Faulkner provisions. It is, however, the only Faulkner form that does not require the hiring of an administrator.

11) (OMCL) Mayor-Council-Administrator (NJSA 40:69A-149-1)

This is a Faulknerized version of the borough form of government, the only “weak mayor” form under the Faulkner Act.

The council is the legislative branch of the municipality. While the council has no appointive authority and no appointive responsibility, it does prepare the budget with the assistance of the treasurer and administrator. Although the Council does not appoint the administrator, the administrator may be removed from office at the pleasure of the council. As the executive authority, the mayor presides over the council but possesses no vote. He or she can veto ordinances but the council may override a veto by a two-thirds majority. The mayor is authorized to make a number of key appointments, including the administrator, assessor, collector, attorney, clerk and treasurer.

12) Special Charters

Pursuant to the State Constitution of 1947, a local government unit may operate under a unique form of government under a special charter provision. Generally, municipalities adopting a special charter base the operations of the government on a Faulkner Act form while retaining some aspects of the previous form.

Director's Role:

If you are not fully aware of exactly what form of local government you have, do some research over the summer on this topic, especially in respect to the Faulkner Act. Your municipal clerk can be useful in answering questions about your government structure. With facts in hand, present your particular "Education Component" on local government structure to your trustees in September along with the names of the decision makers who hold office. With an eye towards changes following November elections, begin the discussion of how your board members can interact with office holders for 2015 financial assistance for your library.