

MEETING OF THE LOCAL GOVERNMENT COMMISSION

Wednesday, December 13, 2016

The meeting of the Local Government Commission was called to order by Senator John Eichelberger, Jr., at 4:30 p.m. in 14 East Wing—Main Capitol Building, Harrisburg, Pennsylvania, with the following individuals present:

MEMBERS

Senator John H. Eichelberger, Jr., Chairman
Senator Thomas J. McGarrigle (via telephone)
Senator Scott E. Hutchinson
Senator John N. Wozniak
Representative Chris Ross (via telephone)
Representative Kate Harper (via telephone)
Representative Robert Freeman (via telephone)
Representative Mary Jo Daley (via telephone)

STAFF

Philip H. Klotz, Executive Director
David A. Greene, Assistant Director-Legal Counsel
Karen S. Bear, Secretary

GUESTS

Lee Derr, Senator Eichelberger's Office
Justin Leventry, Senator Hutchinson's Office
Rick Vilello, Dept. of Community and Economic Development

On November 30, 2016, the Local Government Commission (Commission) received, via e-mail, a draft of a proposed Memorandum of Understanding (MOU) that is being considered by Pittsburgh. The MOU, to be executed by Pittsburgh, the Metropolitan Police Department of Washington, D.C., and the United States Attorney's Office for the District of Columbia, sets forth terms and conditions under which City personnel would participate as deputies in the Presidential Inauguration Task Force (PITF). The purpose of PITF is "to promote the safety of the President of the United States, inaugural participants, the public, visitors and residents while allowing individuals to exercise their legal rights." The PITF would be functional from January 15, 2017, through January 21, 2017.

In accordance with Title 53 of the Pennsylvania Consolidated Statutes (Pa.C.S.), Section 2314, agreements between a Pennsylvania municipality and the Federal Government or a government unit of another state must be submitted to the Commission for review and recommendation as a precondition to execution. Pursuant to statute, the Commission is required to provide an advisory written response to a proposed intergovernmental agreement within 90 days of the agreement's submission. Notwithstanding this mandate, a failure of the Commission to provide a written response has no effect of the legal efficacy of the agreement so long as it has been submitted to the Commission prior to execution. Given the proximity of the date of

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Page 2 – December 13, 2016

submission of the MOU to the date of the inauguration, as well as the seriousness of the associated security and logistical concerns, the Commission has made every attempt to provide an expedited review.

The Commission does not regard the role of the Commission in reviewing agreements between a Pennsylvania local government and a political subdivision of another state as involving a power to veto or enjoin; but, in accordance with the requirements of 53 Pa.C.S. § 2314, the Commission is charged with undertaking a “review” of the agreement and providing “an advisory written response of its review of, and any recommended changes to, the agreement with regard to form and compatibility with the laws of this Commonwealth.”

David Greene, Assistant Director-Legal Counsel, summarized the proposed Agreement and responded to the Members’ questions. Mr. Greene stated that the Commission’s review of the Agreement has discovered no legal authority compelling it to conclude that the Agreement is not in compliance with Pennsylvania law, and it appears that the Agreement is in proper form. Mr. Greene noted that the review of this agreement was less arduous because cooperation in question is very similar to that undertaken by Pittsburgh pursuant to an agreement reviewed by the Commission in July 2016. Furthermore, much of the detail of the MOU is provided for by federal regulations cited within the MOU.

The Members of the Commission unanimously agreed on a motion by Representative Freeman and a second by Senator McGarrigle to authorize Commission staff to send correspondence detailing the Commission’s comments to Benjamin Smith, Esquire, Assistant City Solicitor for the City of Pittsburgh, on December 14, 2016.

The meeting adjourned at 4:40 p.m.

ATTESTED: _____
December 14, 2016