

EXHIBIT 1

CITY OF HARRISBURG

INTEROFFICE MEMORANDUM

LAW BUREAU



DATE: September 28, 2011
TO: Members of City Council
FROM: Jason M. Hess, Acting City Solicitor *JH*
SUBJECT: Passage of Resolution 43 of 2011

Last evening, Councilwoman Wanda Williams moved to suspend the rules to introduce a resolution from the floor appointing and retaining Attorney Mark Schwartz to represent City Council to defend the Commonwealth's proposed take-over of the City. Although I serve as Parliamentarian for City Council meetings, and am responsible for signing off on legislation prior to introduction, I was not given the courtesy of notice prior to the meeting of such a resolution being introduced.

At the time Ms. Williams interrupted the proceedings to bring forth her proposed resolution, I indicated to City Council that I believed such an action would violate City Council Rule No. 10 requiring that "all legislation must be reviewed by the City Solicitor, or his/her designee, and such review will be indicated by the signature or initials of the same." Therefore, Ms. Williams, under Rule No. 7, moved to suspend Rule 10 of the Rules of City Council in order to proceed with the vote on the resolution despite the fact the resolution had not been previously reviewed by the Solicitor's Office.

Rule No. 7 states that "these rules may be suspended by the affirmative vote of the majority of all members of Council present, but such suspension shall not extend beyond adjournment. No Rule of Council which is a subject of legislative enactment shall be suspended." (Current Rules of City Council attached as Exhibit "A"). With no forewarning of Ms. Williams intentions, the Solicitor's Office did not have the opportunity to review the Third Class City Code and the Codified Ordinances to research whether the requirement of review and approval by the Solicitor was a subject of legislative enactment, or merely a Rule of City Council. Since last evening, I have had the opportunity to perform the necessary research, and have found clear and unambiguous language, which renders last evening's passage of Resolution 43 invalid.

Section 1-201.1 of the Codified Ordinances states under subsection (D) that “All proposed bills or resolutions shall be presented to the City Solicitor for form and legality prior to introduction.” (City of Harrisburg Codified Ordinances, § 1-201.1(D), emphasis added). Because the rule requiring City Solicitor review and approval has been enacted and codified in the City’s Ordinances, it is a “subject of legislative enactment.” Accordingly, City Council was not permitted to suspend Rule No. 10 to pass the resolution absent the prior review and approval of the City Solicitor.

Because the suspension of Rule No. 10 was not permitted, passage of Resolution 43 was not valid, and City Council will have to reintroduce the resolution following proper procedures. If Council wishes to reintroduce and consider such a resolution for the next Legislative Session, please have a draft forwarded to the Law Bureau giving me adequate time to review the legislation prior to its introduction. Furthermore, I would appreciate if members of Council would extend a little more courtesy to their Parliamentarian in the future. Thank you for your attention to this matter.

Cc. Kirk Petroski, Acting City Clerk
Mayor Linda Thompson