

Town of Trappe Term Limits.....

How, Why, and Why not?

Introduction:

At their August 4th meeting the Council of Trappe will consider resolution No. 8-2010, which, if adopted, will amend the charter for the Town of Trappe by repealing the term limit provisions set forth in § 201. Presently the charter limits commissioners to serve no more than two consecutive terms. If this resolution is adopted commissioners could serve as many terms as they are elected to by the voters of Trappe.

This article will attempt to discuss how Trappe came to have term limits, how they have affected our town for the past 15 years, some of the reasons why the commissioners will consider repealing term limits, and the somewhat unusual process mandated by article 23A of the Maryland State Code to amend a town charter.

Historical Perspective:

Prior to 1993 the Council of Trappe consisted of three commissioners who were elected to four-year terms with no limit on the number of times they could run for reelection. Then there was 1993, a troubled year for the Town of Trappe. Numerous questions were being raised about how the council was conducting the town's business, and it was an election year. The ensuing debate probably generated more heat than light and a citizens association evolved ostensibly to "fix" the problems. The "solution" would focus on three objectives: fielding a slate of candidates that could defeat the incumbents in the upcoming election, forcing a charter amendment by referendum to increase the council from three to five members thereby diluting the authority of any single commissioner, and forcing a charter amendment by referendum to impose *term limits* that would limit council members to two consecutive terms in office.

Keeping with the unpredictable nature of local politics, all three incumbent commissioners chose not to run for reelection. A new council was elected and both referendums passed. The new council approved resolutions amending the Town Charter as required by the referendums, and also established staggered elections and provided for filling vacancies that might occur on the council by special election rather than by appointment. At the time, many residents felt that the town would benefit from having five commissioners, or term limits but not both, but the pressure was on to "fix things" and the rest, as they say, is history.

What Do Term Limits Really Accomplish?

Contrary to what is often the public perception, *term limits* is not about better government, and it's also not an effective way to "throw the bums out and keep the bums out". Term limits has always been about distorting the political landscape to give an elective advantage to other individuals and special interest groups who might not otherwise be electable. Imposing term limits on previously elected individuals is really imposing *choice limits* on the voters.

The Logical Fallacy of Term Limits:

Term limits is like DDT, it wipes out the good and the bad indiscriminately. A "you've had your turn and now it's my turn" policy may be fine on an elementary school playground, but it breaks down when applied to local governments. In order to validate term limits, one must assume that the person about to take office is at least as qualified as the person being forced from office. That assumption is probably false more than 50% of the time in local elections.

Term Limits In Other Maryland Towns:

Term limits for council members in other Maryland towns seems to be the rare exception. An article on the *Maryland Municipal League* web site states,

"A handful of Maryland municipalities have enacted limits on the number of consecutive terms a person can serve in municipal office. The courts have upheld consecutive term limits as being constitutional..... Therefore, cities and towns are given broad discretion under home rule authority to amend their charters pertaining to organization and structure (including length of office) of the government".

When it comes to term limits on elected officials, Trappe is clearly in the small minority of towns that impose such limits.

Some Unintended Consequences of Trappe's Term Limits:

When term limits were implemented some fifteen years ago, many people, including this writer, assumed that "shall be limited to two (2) consecutive elected terms" meant that after 2 terms (8 years) one would be ineligible to run for election again for 4 years, or the length of one term in office. There is a complex interaction between the term limits provisions of the Town Charter and the staggered terms and filling of vacancies provisions that was not

fully appreciated at the time of inception. As currently interpreted, one removed on term limits may run for reelection in two years, and in as little as 90 days if a vacancy on the council occurs before a regular election.

Commissioners Oppose Term Limits to Perpetuate Themselves in Office:

Unfortunately this is a commonly held perception that is not fully supported by facts. The reality is that every commissioner faces reelection after four years, and Trappe voters have demonstrated as recently as 2009 that an incumbent is not assured reelection. Undoubtedly some commissioners who have faced term limits would have preferred being able to run again and let the voters decide, but they, and the voters, were denied that opportunity. Avoiding the appearance of impropriety is likely one of the reasons that term limits are still in place.

Have Term Limits Worked For The Town Of Trappe?

That question remains a topic for debate. Those who were forced from office by term limits, or saw “their candidate” forced from office, will likely say no. Those who were able to get elected without having to face a popular incumbent will likely say yes.

One way to objectively judge the effectiveness of term limits is to look at how many have served more than two terms (8 years), with just a brief hiatus between terms, while term limits have been in effect.

Procedure for Repealing Term Limits:

Repealing term limits requires amending the Trappe Town Charter. The procedure to be followed by the council in amending the charter is set forth in Article 23A §13 of the Maryland State Code and is somewhat different from the more familiar legislative actions of the council.

The process begins with the Council of Trappe adopting a resolution to amend the charter – in this case, RESOLUTION 8-2010 A RESOLUTION OF THE COUNCIL OF TRAPPE TO AMEND THE CHARTER FOR THE TOWN OF TRAPPE BY REPEALING THE TERM LIMIT PROVISION SET FORTH IN SECTION 201. The resolution is presented before an open meeting of the Council of Trappe. The President entertains a motion to adopt the resolution, followed by discussion on the motion. If there is a second to the motion the council will vote to approve or reject the resolution. There is no public hearing on the resolution, however, comments from the public may be heard during the discussion on the motion.

After the adoption of the resolution containing the proposed charter amendment a summary of the proposed amendment is published in the newspaper not less than

four times, at weekly intervals within a period of at least forty days after the adoption of the resolution. The amendment becomes effective upon the fiftieth day unless a petition to referendum is submitted on or before the fortieth day according to the Article 23A §13 of the Maryland State Code. [See appendix]

Apologies & Disclaimer:

The writer has attempted to be objective in presenting these comments but acknowledges that additional considerations and other points of view may exist. It is hoped that the information presented here will help the residents of Trappe better understand the issues surrounding term limits and the procedure for amending the Trappe Town Charter.

Robert H. Croswell
President, Council of Trappe

Appendix

The following is from Article 23A §13 of the Maryland State Code, which is available in its entirety on line.

(a)

Initiation of amendments by resolution. The legislative body of the municipal corporation by whatever name known, may initiate a proposed amendment or amendments to the municipal charter, by a resolution which, except as otherwise specified in this subtitle, is ordained or passed as in the usual course of considering resolutions in the government of the municipal corporation by a majority of all the persons elected to the legislative body.

(b)

Contents of resolution. In conformity with a requirement imposed upon the General Assembly by Article 3, § 29 of the Constitution of Maryland, the resolution shall contain the complete and exact wording of the proposed amendment or amendments, prepared so that the section or sections are set forth as they would read when amended or enacted. No charter and no section of a charter may be revised or amended by reference to its title or section only.

(c)

Amendment to embrace only one subject. In conformity with a requirement imposed upon the General Assembly by Article 3, § 29 of the Constitution of Maryland, every chapter amendment adopted by a municipal corporation shall embrace but one subject, and that shall be described in its title.

(d)

Posting resolution. The mayor or other chief executive officer of the municipal corporation, by whatever name known, shall give notice by posting and publication of any resolution which proposes an amendment or amendments to the municipal charter. A complete and exact copy of the resolution containing the proposed amendment or amendments shall be posted at the town hall or other main municipal building or public place for a period of at least forty days following its adoption, or the posted notice shall state that, if the proposed amendment is adopted, the municipal corporation then shall be governed under and according to the municipal corporation charter contained in Article 23B of the Annotated Code of Maryland, title "Municipal Corporation Charter." Or, if the municipal corporation has adopted substantially the provisions of said Article 23B, the posted notice shall so declare and shall also include a fair summary of the provisions in the charter which differ from those in Article 23B.

(e)

Publication of summary. A fair summary of the proposed amendment or amendments shall be published in a newspaper of general circulation in the municipal corporation not less than four times, at weekly intervals within a period of at least forty days after the adoption of the resolution containing the proposed amendment or amendments.

(f)

Effective date of amendment. The amendment or amendments so proposed by the legislative body of the municipal corporation shall become and be considered a part of the municipal charter, according to the terms of the amendment or amendments, in all respects to be effective and observed as such, upon the fiftieth day after being so ordained or passed, unless on or before the fortieth day after being so ordained or passed there shall be

presented to the legislative body of the municipal corporation, or mailed to it by certified mail, return receipt requested, bearing a postmark of the United States Postal Service, a petition meeting the requirements of this section.

(g)

Petition for referendum. The petition shall be signed by twenty per centum or more of the persons who are qualified to vote in municipal general elections of the particular municipal corporation and shall request that the proposed amendment or amendments be submitted on referendum to the voters of the municipal corporation. Each person signing the petition shall indicate thereon both his name and residence address. Upon receiving the petition for a referendum, the legislative body of the municipal corporation is directed to verify that any person who signed it is qualified to vote in its municipal general elections and shall consider the petition as of no effect if it is signed by fewer than twenty per centum of the persons who are qualified to vote in municipal general elections.

(h)

Referendum election. If the petition for a referendum complies with the requirements of this section, the legislative body shall by resolution, passed as in its normal legislative procedure, specify the day and the hours for the election at which the question shall be submitted to the voters of the municipal corporation. This may be at either the next regular municipal general election or at a special election, in the discretion of the legislative body. In the event a special election is designated, it shall be held within a period of not less than forty days nor more than sixty days after the final passage of the resolution providing for the referendum. The resolution providing for the referendum shall specify the exact wording which is to be placed on the ballots of voting machines when the question is submitted to the voters of the municipal corporation (1955, ch. 423; 1960, ch. 78; 1961, ch. 314; 1983, ch. 563)