

City of Vermilion, Ohio

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CHARTER REVIEW COMMISSION -- MINUTES of March 29, 2021

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ROLL CALL: Eileen Bulan, Tami Horton, Read Wakefield, Lee Howley
Excused: Ihor Suszko

Attendees: Mayor Forthofer, John Gabriel, Homer Taft

L. Howley called the meeting of March 29, 2021 to order.

R. Wakefield asked for any comments regarding the Minutes of March 8. No comments additions or corrections.

E. BULAN MOVED, R. WAKEFIELD seconded the motion to accept the minutes as written. 3 YEAS, MOTION CARRIED.

L. Howley asked for correspondence received. He noted that three legal opinions were given to members for their consideration. They will be discussed in old business as each topic is brought up.

R. Wakefield stated he received an email from Homer Taft expressing his opinion on two-year terms for council members and the possibility of redistricting for wards eliminating a sitting council member from being in that ward. A copy of his email will be attached to the file.

L. Howley stated the first piece of correspondence from the law director regarding executive session be reviewed. He commented that he understands that the Mayor is currently entitled to participate in all closed executive sessions. The language provided will further support and made it more clear of the ability of the Mayor to be in all executive sessions. Council may not be too happy about it but that is what I conclude. R. Wakefield agreed.

E. Bulan stated it would be confusing to the public. They may not see the need to change the charter just to give a clearer determination. This is a legal opinion which could be used to go into an executive session.

R. Wakefield asked if council were to review our proposal on this topic. Does council not have the right to pick and choose from our recommendations? And add their own for charter review by the members of the community. Can they change the charter outside of the process?

L. Howley asked can council change what we bring to them?

E. Bulan asked for J. Gabriel's thoughts.

J. Gabriel recalled that when he was on council and when he was a member of Charter Review there was language approved for a ballot item and various council members were not agreeing to it. It is a courtesy or a step that council reviews, but approval is not needed. It will head to the ballot with the approval of the Charter Committee. Council cannot stop the process.

Mayor Forthofer and R. Wakefield agreed that J. Gabriel had the process correct.

L. Howley stated for clarification, we have a legal opinion stating that the Mayor has a right to participate in every executive session of council. Is that what everyone else understands?

Mr. Taft commented that a Mayor has been excluded in the past when they were a litigant. So, there is precedent which is contrary to what the law director's opinion states. J. Gabriel agreed he is accurate, that happened.

L. Howley stated, right or wrong in the past, he would asked "Should the council be able to specify under certain circumstances, if the council were to hold an executive session, to exclude the mayor?" Primarily what we are talking about is council holding an executive session at their request and currently, right now, whether the Mayor has the right to participate only at their request. Should we give the council power, or say, under some circumstances that they only allow council members to attend?

Mr. Taft stated he reads the charter differently than the law director. He understands there is a question. He understands ultimately that if the mayor asks for an executive session the default should be, that the Mayor should be included, but if the Council asks for the executive session the council should be in command of who should be in executive session if by the majority determine otherwise.

E. Bulan thought there was a time that she can recall that a council member either retired or resigned, and council met to choose a new member to join council, the council did not include the mayor they mayor as they choose their member. That is one instance she can recall that exclusion happening.

L. Howley stated it is an executive session and they can be in attendance. E. Bulan stated Yes, they can, that is just one time in the past that she remembered it happening.

L. Howley stated many good points were made. Can we talk directly with our law director? He stated we want to understand this correctly and clearly. Mayor Forthofer asked if he could invite Walter Haverfield for the next discussion. The committee agreed, he would ask the law department to attend.

R. Wakefield agreed and asked to add to the topic if we can, that we specify the reasons the Mayor would be excluded by council. Removal? Or some Litigation? Mayor Forthofer agreed and stated the Charter should state the exclusions, if any.

L. Howley stated the second opinion would be regarding staggered terms and length of terms. L. Howley stated he reads that in the opinion it states that you cannot have a staggered term without having a four-year term. In which case, we need to discuss four-year term first, and then that eliminates the four-year term.

R. Wakefield stated at the Mach 8 meeting was well attended by council and the public. Those participating stating they were not in favor of the four-year term, despite his preference for that. Mr. Suszko in his memo stated he prefers four-year terms. Unless there is a strong opinion from those of us in this room, we should either say yes to the four-year terms or drop it.

T. Horton thought she was in favor of the four-year term, now changing her mind after listening to other opinions, she feels the two-year term would be better.

E. Bulan agreed with T. Horton. It has worked well in the past.

Mayor Forthofer agreed with the two-year term also. Some Board or Commissions members have longer terms, but they meet less often monthly.

L. Howley stated he talked to several people and it was agreed that two years is a long enough term. It is working.

E. BULAN MOVED, R. WAKEFIELD seconded that we continued with the current two-year term of council members and that we drop the consideration of the four-year term for council member. (4 YEA) MOTION CARRIED.

A third piece of correspondence is regarding council's ability to elect their president. L. Howley asked for R. Wakefield his opinion. R. Wakefield thought they should elect their president from their members. He did not see the need to exclude the ward councilman from being elected to president/president pro tem. It should not be limited to the councilpersons at large.

E. Bulan stated she likes the current method. She explained that sometimes this vote brings about a voting block early in the term. J. Gabriel agreed that a downside in electing their president, it can divide the council. It can create animosity, he states by citizens voting, it eliminates that problem.

R. Wakefield stated he is bothered by the way it is now. Two strong candidates running for council president, one will be eliminated and lost to the citizen and out of the public entirely.

T. Horton was considering having council elect their own, but she likes the idea of having the president voted in by the public.

Mayor Forthofer sees a problem with electing a president from one of the wards. Only a couple hundred people voted for that ward person and then they would be covering the whole city. L. Howley wanted to state that many cities, Cleveland is one of them, votes for a president among their ward membership. He stated that we already have a designation of who you are voting for on the ballot. Many of the public Mr. Howley spoke to stated that if the system works as it is, we should continue with that.

R. Wakefield asked to incorporate Dr. Suszko's comment that they should elect their own president pro tem.

E. BULAN MOVED, T. HORTON seconded, that this commission drop the issue of Council's ability to elect their president and president pro tem with a vote from within the council membership. (3 YEA, 1 NAY) MOTION CARRIED.

L. Howley wanted to add the strengthening of the separation of powers between the council and mayor. As stated in the attorney opinion on that topic it is clear, and we should do something there to make it clearer with regard to the charter. He would like to open comment on that discussion.

Mayor Forthofer stated the recommendations and opinions stated were good. It was not quite what he was getting at. He is not sure how clear it will be to the voters to vote on. His specific opinion was with regard to the blending of the function of the Clerk of Council and Clerk for the Boards and commission. That is what he was looking for clarification on. Since the beginning of this meeting, a legal opinion came over from the Law Department which no one has seen. I will have that sent to the Charter Commission after the meeting. It would not be fair to discuss it at this meeting. At the next meeting, we will discuss that.

L. Howley stated the last item to discuss would be on City Manager. R. Wakefield asked if we could have City Council discuss this issue in council over the next few terms. He does not want to put that to the vote of the people at this time. L. Howley stated we could ask them to make a commission to study it. He does not think we can take this to the ballot at this time. When and as the city is going well, it would be tough to sell.

E. Bulan agreed we do not need to address this at this time. She commented that if council changes are brought about by this next election, you may see some new people, and some with no knowledge of the government function. She thought maybe another committee can study it. She did not think it would happen now.

Mayor Forthofer and R. Wakefield agreed this is a good idea, but the education process is what needs to happen.

H. Toft has some sympathy at this point, but it should be kicked to council. They need to make a case and to have community buy in. Also, they may recommend to council the option, but not the requirement of changing to a city manager which presumptively happen after the next term of mayoral term upcoming.

L. Howley clarified that it would require a charter amendment. E. Bulan agreed.

H. Taft stated he believed it would require a charter amendment to allow it. He stated how would it be allowed under certain circumstances or by super majority and then kick the can down the road to council.

L. Howley stated no matter what it should be put before the voters. E. Bulan agreed and R. Wakefield stated the timing with the next elections could be seen as going eight years down the road.

T. Horton thought this topic was studied in the past. J. Gabriel stated that it had been in discussed in City Council in 20?? While Eileen was Mayor, the council started the City Manager discussion. City Council should be in charge, they can do

charter changes at any time. A long process was underway with the City Manager process. Many members of council stated with the competent Mayor Bulan at the time, people thought I was being disrespectful to her and the same may happen again, with our competent Mayor Forthofer, people will not see the benefit or need for it currently. We should start a slow boil education on this topic and spell out its pluses, in a serious discussion.

R. Wakefield stated the financial situation of the city are good. The belts are tight, and they need to stay tight with the needs that require us to take care of. Do we want to add a cost on the administration side with this?

Mayor Forthofer stated not all exiting functions would need to continue and reorganizing our government would go into the change with assurance that it not break the bank.

Agenda items for next meeting:

Specifics on executive session; Walter Haverfield response and attendance; and strengthen power between the mayor and council.

Homer Taft stated we should look at his comments to look at council members elected requiring years of residence in the city and one year resident in the ward for representation. He was concerned that someone could be redistricted right out of their ward in the year of redistricting?

The members will review the charter and consider his request.

L. Howley asked that everyone check their calendars. After discussion, the next date was set to be April 6th @ 4:30 via zoom.

R. WAKEFIELD MOVED, T. HORTON seconded Adjournment.

Submitted by Anne Maiden, Administrative Assistant

Next Meeting: April 6, 2021 @ 4:30 p.m. via Zoom