

SPECIAL MEETING OF THE COMMITTEE OF THE WHOLE**Monday, July 19, 2021****6:00 p.m.**

The Committee of the Whole met for a special meeting on Monday, July 19, 2021, at Silver Lake Village Hall, 2961 Kent Road, Silver Lake, Ohio. The meeting was only in-person.

With Council President William M. Church presiding, the meeting was called to order at 6:00 p.m.

The following members were present and responded to roll call: Mr. Dann Nivens, Mr. Tim Nichols, Mr. Matthew Plesich, Mr. William Church, Mrs. Therese Dunphy, Mrs. Betsy Meyer, and Mr. Christopher Scott.

Roll call of the Committee – 7 members present. Absent – None.

Also present: Mr. Terry Steel, Chair of the Charter Review Commission (CRC), Ms. Carol Steiner, CRC, and Mr. John Schluep, CRC. Mayor Bernie Hovey, Solicitor Bob Heydorn, and Clerk-Treasurer Sean M. Housley were also present.

Mr. Church: Alright, all yours, Mrs. Meyer.

Mrs. Meyer: Ord. 39-2021, amending 9.01, was the one we didn't get to last time, about the Park Board (PB). Do we have any discussion?

Mr. Terry Steel, Chair of CRC: It really doesn't change anything, just eliminates excess language.

Mr. John Schluep, CRC: I agree with Mr. Steel. We were getting into the weeds with all the verbiage there.

Mrs. Dunphy: It does change PB from 6 to 7 members, which is the only substantive change.

Mr. Nivens: What was the rationale behind eliminating PB elections?

Mr. Heydorn: First, the Charter is currently established with all appointed positions; that's how it is. This started sometime around 2015. The 2013 CRC came up with many suggestions, so Council decided to break them up across years. This is one of the things that was put off. Originally, some PB members supported having some elected PB positions, to give voters some power. The concept of some elected and some non-elected caused confusion. And when you get down to it, people will be less interested in joining commissions and boards if they have to go through an election process. It's hard enough to get people on these commissions, so making these elected positions will make it harder. Mayor, have there been any complaints?

Mayor Hovey: No. That's the main reason for this. I had to beg people to run. One gentleman said, "Why should I run, when you're just going to appoint me anyway?" We couldn't get anyone to run—it was like pulling teeth. Also, all the other boards are appointed; PB was inconsistent with that.

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Mr. Heydorn: Look at the Planning Commission. Knowing some of the past members, they wouldn't have gotten on in the first place if they had to run. We would have lost some real talent.

Mrs. Dunphy: At the end of the day, the goal is to have interested, qualified people composing all our bodies. If appointment is the easiest way to get those people in, it makes sense to me.

Mayor: Everyone appointed to PB has been recommended by someone else on PB, and been interviewed by at least the Chair, if not other members. They showed interest, had qualifications.

Mr. Church: This is not about 39-2021, but I'd like to go through my notes quickly to make sure we're all on the same page. We're okay for 33-2021, with amendments [Mrs. Meyer asked Mr. Heydorn if amended language had been created. Mr. Heydorn said no.]. 34-2021 and 35-2021 are okay. 32-2021, 36-2021, and 37-2021 are delayed. 38-2021 and 39-2021 are okay. So, we've cleared 5 of them so far. [Mrs. Meyer confirmed that they were on the same page. Mr. Heydorn said he would send out the amended 33-2021 before the next meeting.]

Mrs. Meyer: So, 33-2021, 34-2021, 35-2021, 38-2021, and 39-2021 will be out for second reading at the next Council Meeting.

Mr. Scott: At the last meeting, we discussed the residency requirements for Council and the mayor. This would be a new suggested Charter Amendment, but I didn't want to get Mr. Heydorn started on anything if Council doesn't agree. We keep hearing about a "rogue Councilmember," but 1 person out of 7 can't drive this body much. The mayor has a lot of power, and maybe should have more experience in the Village and be known to the community. I've looked at other charters, and mayors tend to have longer residency requirements than Council, but a lot of them still had Council at 1 year. [Various Councilmembers voiced support.]

Mrs. Dunphy: I would say 4-5 yrs. I like 5 years because that guarantees that someone will be in the Village for a full mayoral term before running for office.

Mayor: It makes sense that the mayor's requirement should be more than Council. I think 3 or 4 years would be adequate, but I have no problem with it being a longer length of time.

Mr. Heydorn: There's great variation across other communities. It wouldn't be unusual for the mayor's requirement to be longer, but it just depends on where you're at. Silver Lake is a place where you need to learn Silver Lake. Here, you don't get into politics because you have great political ambitions, or to change the world, or to move up the ladder.

Mrs. Dunphy: I noticed that we're a bit unusual in that our elected offices are nonpartisan. How common is that in the area?

Mr. Heydorn: Well, we started off as a village. All village elections are nonpartisan by state law. We kept that, even though we changed to a charter. What is the difference between Democrats

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and Republicans taken down to this small level where you have 2,500 people? What's the big political issue here? Where's the division?

Mrs. Meyer: I'm in favor of drawing up an ordinance to change the mayoral requirement. I would say 5 years. [Mr. Church, Mr. Plesich, and Mr. Nichols agreed. Mr. Nivens wanted 4.] Let's just do 4; it's more than what's there now and what Council needs. Does Council want to put forward any other suggested Charter Amendments?

Mrs. Dunphy: Section 7.02 states: "The Director of Public Safety shall be the head of the Police and Fire Department and shall be responsible for the enforcement of all police, fire, health, safety and sanitary regulations..." The second part I understand, but should we take out the fire dept. language? There's a contract for fire services, but the mayor certainly isn't the head of the Stow or Cuyahoga Falls Fire Dept. It may be a semantics issue, but...

Mr. Heydorn: We are legally, if not morally, responsible to have fire protection. We can also contract out police services, and that was discussed in the past.

Mrs. Dunphy: I'm suggesting that we just strike "and Fire," then we still stay responsible for the enforcement of all police, fire, health, safety and sanitary. The mayor should absolutely be responsible as Director of Public Safety for all those things, but we don't have a fire dept. for the mayor to head.

Ms. Carol Steiner, CRC: When I was on Council, I remember Cuyahoga Falls' Fire Chief came to talk to us, told us their response time and about drills they did...

Mr. Church: And we as Council vote on that every few years to decide what community we want for fire and emergency.

Mr. Heydorn: We have a procedure for the appointment and confirmation of a police chief, but we don't have one for a fire chief. We have never had a fire dept., even when the Charter was written, but this is in there because the contract establishes the fire chief. Contractually, Cuyahoga Falls' fire chief is our fire chief, and their dept. is our dept. We've always had our own police, but contracted out our fire services, so that's why the Charter is like that.

Mr. Schluep: I've been the recipient of fire support services twice, for chimney fires. The service has been phenomenal, and it's important to maintain that. I like having our own police, rather than contracting out.

Mr. Heydorn: And two-thirds of what they do is paramedics, which is wonderful.

Mayor: I think this language is fine how it is. The fire chief will talk to me often about what's going well, what can be improved, etc. If there are any complaints about the fire dept., they don't go to Cuyahoga Falls, they call here. Both the Falls and Stow are outstanding, but the Falls came in at \$100,000/yr. less than Stow every year for 15 years. Our contract is over in 2023.

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Mr. Scott: I remember we begged Stow to lower their price just a little and they wouldn't do it. [Some Councilmembers voiced agreement.]

Mrs. Meyer: Any other suggested amendments?

Mrs. Dunphy: Not about the Charter, but for the next CRC, it would be nice to invite Council to the meetings. We can read the minutes, and get the dialogue here, but it takes longer to understand the Commission's thought process. If Council was engaged throughout the process, we may understand faster.

Mr. Scott: When I listened to the CRC audios, I heard Mr. Heydorn and the Mayor talking to you all, but no one was there to give Council's perspective. I think it would be appropriate to have a small committee...

Mrs. Dunphy: If nothing else, we could listen, or have a subcommittee working with CRC.

Mr. Church: I go back to the nature of CRC. It's made up of people who are not connected to Council in any way, and they need to be independent of Council. Then, they come to us with whatever they decide, and we vote to put it on the ballot or not. I would not be in favor of having councilmembers involved.

Mr. Plesich: Maybe CRC should get together independently, with just CRC members.

Mr. Nivens: The Mayor and Mr. Heydorn were there every single time if you listened to the audio.

Mrs. Dunphy: Well, if we're not there, the Clerk-Treasurer also has quite a responsibility too, so maybe if Council isn't, then the Clerk-Treasurer should be.

Mr. Church: Certainly, the Law Director needs to be there, with history and experience. I don't know about the mayor. I'm sure you had some good input, but maybe not you.

Mayor: I was there just to answer questions. I didn't direct conversation anywhere. I think this should be discussed in 7-8 years when there's another CRC, if Council wants a member on CRC.

Mr. Scott: I'm not saying there should be a councilmember on the Commission, just that Council should be notified of CRC meetings. [Mrs. Meyer and Mr. Nivens confirmed that Council was not notified of CRC's meetings.]

Mr. Housley: In the past, Council has appointed a committee of 3 members to participate. You can consider that as an option, so there's measures in place for next time. The Council president could assign a committee... [Several Councilmembers voiced doubt that this discussion would be remembered, and suggested that it be included in these minutes as a reminder for future councilmembers.] I understand the importance of CRC's independence, but Council has the final

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say on these matters, so I think it's important to have a committee in there. Council should consider leveraging the knowledge of the mayor, who should also be there. Perhaps the committee would be 3 councilmembers and the mayor. Mayor Hovey has 16 years of experience in his position, so he should have some input on this. And the clerk-treasurer should too, and the solicitor. Who knows my job better than me, especially after I've been here for years and read the Charter and found the flaws? In my section, there are a lot of flaws; in my opinion, there are missing elements. And we try to cover them in my job description outside of the Charter, but that description over time becomes obsolete. If you consider modifying CRC, you should have seasoned professionals, 3 councilmembers, the clerk-treasurer, the mayor, the solicitor, who deal with this stuff everyday along with the regular residents.

Mr. Church: I'll quote Fred Johnson, "I'm not sure this is broken. It's worked so well over the years." And if Council were to get involved, there will be at least double the meetings for CRC.

Mr. Scott: Mr. Housley, you said Council used to be involved with CRC, right?

Mr. Housley: When I reviewed the minutes from 1999, 2005, and 2013, I can't recall which years they were all in, but initially, it was the mayor, the clerk-treasurer, the solicitor, and then Council appointed a committee of 3 to attend and be involved with CRC. In 2013, there was no committee, but Council was—I sent out the notifications that time and I Cc'd Council that meetings were happening. I don't recall if Council appeared, but I didn't send out the communications this time, so Council wasn't made aware.

Mr. Heydorn: If you look back, there's been a different approach each time, or at least over time, there's been different approaches.

Mr. Scott: So, to say Council historically hasn't been involved wouldn't be true?

Mr. Housley: Maybe the way it currently exists is the reason why there's been so many different ways it's been done, and that's why we're discussing it now.

Mrs. Dunphy: Again, this is not a reflection on the Commission or anything they put forward; it's a procedural thing. If I knew there were certain things being looked at, I might have done some homework and been more prepared when these suggestions came to us, and things might have moved quicker.

Mr. Heydorn: Certainly, we could take the minutes of CRC's meetings and distribute them to Council in a prompt timeframe.

Mr. Scott: Well, the agendas and minutes don't tell you as much as the audios do. The minutes are truncated to some extent, so you don't get the back-and-forth. If we're not at the meetings, maybe at least the audios?

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Mrs. Dunphy: I know these are public records, but I don't want to have to make a public records request to find out what's coming. I'd like to enhance the communication, so that we're all better prepared.

Mr. Steel: The Charter explains the Commission in Art. XV. So, you're talking about changing that? Talking about having councilmembers on the Commission... [Mrs. Dunphy objected. Mr. Scott and Mrs. Meyer clarified that Council just wanted notice.] You can't be on the Commission and hold another position [Art. XV, Sec. 15.01].

Mrs. Dunphy: But there can be a Council committee, like a liaison, that attends meetings.

Mr. Heydorn: That's up to Council. If you put together a committee and say, "You will attend these meetings," we're not going to lock the doors because it's a public meeting.

Mrs. Dunphy: Well, this is just a lesson we learned going through this for the first time. I'm just trying to, procedurally, create a comfort zone for everyone, so we know what's coming and the rationale behind it. The short rationale at the end of each suggestion gives us a little bit, but if we heard some of the conversations at the meetings, we would have a better, fuller understanding of why recommendations were being made. That's what I'm after.

Mr. Steel: We did spend time talking about ourselves. We went through our own section, and the Solicitor was essential to that because we had questions and he had answers. We're volunteers, and we're working in a framework of divided power between the mayor, the clerk-treasurer, and Council. I was fortunate as Chair—I was on the 2005 CRC and I'm a lawyer, so I understood some of this stuff. We didn't always agree, but we had consensus on everything we brought to you. If someone from Council wanted to be a part of it, that would have been great. Ms. Steiner was on Council. But we should have some input, not just Council.

Mrs. Dunphy: I absolutely agree you should have some input. I'm just making sure we have all bodies involved. I think the clerk-treasurer should be involved as an expert in their field, as well. We should probably form a committee to attend in the future.

Ms. Steiner: I would agree that the clerk-treasurer should be there, but what they want may not be what we want. I understand Mr. Housley's rationale, but he will have his time later, not in our meetings. I don't want him in there telling me how he feels his job should be.

Mr. Plesich: He would be there to answer questions, like the Mayor and Mr. Heydorn were.

Mr. Housley: I am appointed; I am an appointed professional. I'm not elected. I do know my job, not just about the clerk-treasurer role—I know the entire Charter. I have to look over everything, when I'm paying the bills and fulfilling all administrative roles that fall to me, it's not just about the clerk or the treasurer. Being here full-time and being nonpartisan, if I have some concerns about the Charter, I should be asked for my opinion on what might be improvements, somehow. Just for every section, "Mr./Ms. Clerk-Treasurer, do you have any changes here?" Ultimately,

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the Commission decides their final recommendations—being invited and questioned is more than just knowing there's a meeting happening.

Mayor: I think this is better discussed sometime in the future.

Mrs. Meyer: Alright. Should we adjourn? [It was decided to discuss 32-2021, then adjourn.] Alright, any discussion on 32-2021?

Mrs. Dunphy: I'm not a numbers person; I'm a words person. But when I looked at the math on this, it's 86% to override a veto, and I can't think of a legislative body that has a threshold that high. When I was reading the 2013 minutes on Sec. 4.11, Legislative Procedure, they changed the number of councilmembers required to suspend the rules from 6 to 5 because it was considered such an extraordinary majority. I know we often vote 5-2, but we have to have 5 members to immediately enact something. Requiring 6 members doesn't make sense to me; I can't think of a case where we've had a veto override, but just mathematically, it seems...

Mr. Church: I'd also like to know the rationale behind that. [Mrs. Meyer agreed.]

Mr. Steel: When we discussed it, we had the Solicitor tell us. I don't go to Council meetings, so I don't know how you all vote. If a piece of legislation passed, generally it was with 5 votes, and if the mayor vetoed it, those same 5 could override that. We looked at the national level, where a veto requires two-thirds majority. [Council stated that five-sevenths equaled 71%, over the 67% national threshold.] It should be harder to override a veto.

Mr. Heydorn: For something that simple, like suspending the 3-readings rule or passing emergency legislation, by state law, that always required three-fourths, 75%. We did lower it last time to two-thirds because that seemed fairer. The difficulty is—we all know practically all legislation—except zoning legislation which cannot be passed as an emergency, along with a few other things, can't be passed as an emergency measure. They need 3 readings, and they can't go into effect when the mayor signs them. We have to wait 30 days, so the public has a chance to file a referendum. That's zoning, and those very special things. But when you look at how many pieces of legislation you pass with 5 votes and how many are passed unanimously, if you pass 90% of things as an emergency, then the mayor's only hope of changing that with a veto is if they can change a Councilmember's mind. Maybe that's enough, but it is hard to change someone's mind. If you have 5 votes, the chances are overwhelming that those 5 are going to override the veto. That will happen 90%—maybe more than 90% of the time. This came up because it deals with practical reality, as opposed to theoretical mathematics. Some may argue that we pass too much as an emergency, and that's fine. It's an issue that every town debates. But we know what happens with us: everything pretty much passes.

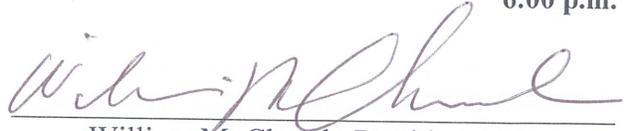
There being no further questions or comments, the Committee adjourned at 6:50 p.m., until the next Committee of the Whole Meeting on Tuesday, August 10, 2021, at 6:30 p.m.

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APPROVED:



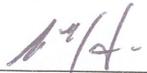
William M. Church, President of Council

APPROVED:



Betsy Meyer, Personnel & Public Affairs Chair

ATTEST:



Sean M. Housley, CPA
Clerk-Treasurer
prepared by: Kathryn Kleinhans, Assistant to the Clerk-Treasurer