

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
TO BE HELD ON TUESDAY, JUNE 18, 2019**

The meeting was called to order by Council President Vecchio at 7:02 p.m., the clerk called the roll and the following Members of Council answered:

SCOTT, ORCUTT, STEMM, MENCINI, POINDEXTER, SALVATORE

Also in attendance were Mayor Gammella, Law Director Horvath, Finance Director Cingle, Recreation Director Elliott, Service Director Gardner, Building Commissioner Hurst and Engineer Piatak (7:50 p.m.).

Councilman Burgio was properly excused.

DISCUSSION:

1. RESOLUTION NO. 22-2019, GRANTING A CONDITIONAL USE PERMIT TO 'COMPANY WRENCH' LOCATED AT 16400 BROOKPARK ROAD AND DECLARING AN EMERGENCY. Introduced by Council as a Whole. **Note:** Moved by **motion** from the June 11, 2019 Caucus meeting. **In attendance:** Mr. Justin D. Owen - Company Wrench.

Justin Owen
General Counsel - Company Wrench
4805 Scooby Lane
Carroll, OH

Mr. Scott asked Mrs. Horvath what is the purpose of the conditional use permit?

Mrs. Horvath responded the purpose is to allow a deviation in the zoning use from an adult-entertainment and the conditional use would move it to the use of industrial.

Mr. Scott clarified the conditional use permit has nothing to do with the construction, just to allow a building be built on a parcel zoned for adult-entertainment.

Mrs. Horvath responded that is correct.

Mr. Poindexter thanked Mr. Owen for coming and stated in support of Company Wrench bringing business to Brook Park. My questions are based on the proposal to Council for purchase of the property that included a builder with specific designs. Why did that change occur?

DISCUSSION:

Mr. Owen responded the circumstances surrounding the original presentation to Council in December, 2018 and, at that time, were working with Fogg Builders. At that time, there was no contractual agreement for building and had a general set of plans. It wasn't until after the presentation to Council we started getting down to the nuts & bolts with pricing, quite frankly, Fogg Builders prices were out of Company Wrench's budget. Also, there was a question of unionized labor to the extent that Fogg made any representations about that issue; Company Wrench was not privy to that information.

Mr. Poindexter asked when did Company Wrench part ways with Fogg Builders?

Mr. Owen responded after the holiday break work was done in February and March to keep costs within a reasonable; became clear that was not going to be possible. That is when Company Wrench engaged an employee to seek other builders and spoke with several different builders including 620 Construction. After meeting with 620 Construction, Company Wrench was comfortable with the company and building process and decided it would be a good fit to work together.

Mr. Poindexter commented when coming before Council with a proposal for purchase of the property to notify Council of any changes being made.

Mr. Owen responded the building terms were similar, in nature, between Fogg and 620 and didn't think it deviated from the original plans, but understand that point and apologized for any inconvenience or confusion.

Mr. Salvatore stated to Mrs. Horvath with the conditional use as long as Company Wrench stays in that business the city is fine but if they close the property goes back to original zoning, correct?

Mrs. Horvath responded that is correct but believe sometime in 2017 changes were made to the zoning ordinances. Where there was a six-month period of time where a new business would be able to come in and apply for that conditional use. After that six months that business would lose the ability of that conditional use permit.

Mr. Mencini commented most construction plans don't go as plans but the correction has been made and thank you for coming tonight and for coming to Brook Park.

Mr. Orcutt stated the plans look wonderful and this is going to be a great

Discussion: cont.

business for Brook Park and picked a perfect location for this business, close to I-480.

Mr. Vecchio thanked Company Wrench for coming and bringing business to Brook Park.

Motion by Mr. Mencini, supported by Mr. Orcutt, to place on the Council agenda immediately following.

ROLL CALL: AYES: Mencini, Orcutt, Scott, Salvatore, Poindexter, Stemm

NAYS: None. The motion carried.

Mr. Vecchio stated that will appear under M-5.

2. PROPOSED CHARTER AMENDMENTS - PER COUNCIL PRESIDENT VECCHIO. **In attendance: Charter Review Commission Members. Note:** Recessed by **motion** from the June 11, 2019 Caucus meeting beginning with Article V - ADMINISTRATIVE OFFICERS AND DEPARTMENTS, GENERAL PROVISIONS:

Greg Wellman
6542 W. Vancey

There being no changes with Article V the Charter Review Commission (CRC) moved to Section 6.01 - Director of Law.

Mr. Wellman stated after discussions with the Board of Elections, the paragraph is suggested to read 'The Director of Law whether elected or appointed shall be an attorney at law duly admitted to the practice of law in the State of Ohio and shall have engaged in the active practice of law, as defined by the Supreme Court of Ohio's Rules for the Government of the Bar of Ohio, continuously for a period of not less than five (5) years preceding his appointment'. The reason for that is there was a case that came up in Westlake regarding the election of a law director and the Board of Elections suggested this to stave-off any possible problems.

Mr. Scott reiterated this was recommended by the Board of Elections (BOC), correct?

Mr. Wellman responded yes, the BOC recommended something be in there to help a possible problem in the future due to another city's issue.

Discussion: cont.

Christene Przybysz
6106 Delores Blvd.

Ms. Przybysz commented the intent to add some qualifications was something the CRC was considering all along but how to word it and what to refer to in terms what it means to engage in the practice of law was referenced by the BOE representative.

Mr. Scott stated the person could be any type of a lawyer.

Ms. Przybysz concurred and stated the person could hold a license in the State of Ohio and not actually or never practiced law and still a potential candidate under the current Charter.

Mr. Orcutt asked what is the minimum of active practice?

Mrs. Horvath responded the rules of governance for the Supreme Court primarily are meant for occasions when someone has been practicing long enough where they don't need to sit for examination to be admitted to the bar; this is also close to the qualifications needed if running for judge. Just go give some examples the rules would say if you're actively practicing as a solo practitioner or with a law firm. If working for the State of Ohio or government position as a prosecutor, public defender or actively furnishing legal advice or working for a corporation. By way of example as to how this change affects the Charter, the law director could be admitted to the practice of law and working for that corporation but not furnish legal advice and maybe runs the law library for five years. The Charter as it reads now I would probably qualify to run for law director with this change I probably would not. Another example, I pass the bar and never engage in the practice of law instead I am a professor at an undergraduate school or law school and teach for five years. The way the Charter reads now I would qualify with the proposed change I would not.

Mr. Orcutt continued if the person had two jobs, possibly the Clerk of Court and practice of law is there a minimum i.e. one case a year or a certain amount of hours.

Mrs. Horvath responded I don't think they have defined it in number as a certain number of cases. There could be one case a year and that case could be big enough to take up entire time. Or there could be one case which would be very short and concluded within a week or so. There's a wide diversity or level of work and think the CRC tried to find some qualifications to best express their thinking as far what sort of background and qualifications would be appropriate for the law director. I think this is a

Discussion: cont.

good attempt what the CRC is thinking as far as qualifications.

Mr. Mencini stated whether a full-time or part-time the person could work somewhere else?

Mr. Wellman responded the CRC doesn't have that stipulation in there.

Mr. Mencini asked if there was any reason?

Mr. Wellman responded the full-time was easier to remove to not create a problem.

Ms. Przybysz commented that was exactly the cause of the case in Westlake is what is full-time practice of law. The case in Westlake is the person was a working non-profit. The CRC is allowing for the fact that somebody could be engaged in the practice of law but not earn income from it or doing pro-bono work and that should be taken into consideration when a candidate for Director of Law.

Mr. Poindexter stated with the words 'five years preceding his appointment' is that an immediate five-years preceding or any five-years preceding? For example, a lawyer retires at age 50 and after five years is bored...

Mr. Wellman interjected preceding is the point; five years directly receding, if retired for five years the person is no longer active.

Section 8.02 (b): Duties and Qualifications of the (Safety) Director

Mr. Wellman 8.02 (b) was added to read 'The Director of Public Safety shall have a Bachelor's Degree or equivalent from an accredited college or university with major course work in political science, criminal justice, police science, fire science, behavioral science, business or public administration, or a related field and at least seven (7) years' experience within listed fields'.

Mr. Stemm stated what is in lieu of a bachelor's degree, what will be considered equivalent? Is it years' experience if a police officer or high-ranking official in police or fire?

Mr. Wellman responded the CRC doesn't address in lieu of past experience being considered; looking for someone that has college background.

Mr. Salvatore stated how would that relate to the Mayor serving as Director of Public Safety?

Discussion: cont.

Mr. Wellman responded it doesn't make a difference because the Mayor is head of basically everything around the city. The way the Charter reads now as far as Safety Director there is nothing written that says if the city doesn't have a safety director the Mayor takes over. It is automatic because the Mayor is the head of the city and doesn't affect the Mayor. This would be for the hiring of a person as safety director.

Mr. Salvatore asked Mrs. Horvath if she agrees with this section?

Mrs. Horvath responded that is the intent and suppose it could be made clearer in some manner. Indicating that the qualifications for safety director are not meant to apply to the Mayor, at Council's discretion.

Mr. Scott clarified that there are no qualifications for public safety as the Charter reads currently?

Mr. Wellman concurred.

Section 8.06 - Division of Building: 8.06 (b) - Qualifications:

Mr. Wellman stated the Charter currently reads the Building Commissioner shall have at least five (5) years' experience in the building trades or related occupations. The CRC reached out to Building Commissioner Hurst asking for any particulars that he would like to be addressed and is proposed to read. 'The Building Commissioner shall hold a valid and current 'Chief Building Official' certification issued by the State of Ohio Board of Building Standards or the International Code of Council and shall have at least five (5) years' experience in the building trades or related occupations'.

Mr. Mencini clarified the CRC is looking for a person with understanding of codes and other issues to be dealt with, instead of someone else coming out the trades.

Mr. Orcutt commented this is a valid point being brought up, is there continuing education every year that building commissioners have to attend.

Mr. Wellman interjected I don't know.

Mayor Gammella commented I don't know either but will investigate.

Section 9.04 - Appointment of Division Heads:

Mr. Wellman stated this is because the CRC was looking at some

Discussion: cont.

qualifications that were not addressed by Charter but listed by ordinances. The Charter reads currently the Director of Public Service shall appoint the heads of the divisions established in Section 9.03 of this Charter, except the division of engineering, which division shall be appointed by the Mayor. Such appointees shall service at the pleasure of the appointing authorities. The CRC's proposal would be after the word Mayor add 'and shall have the qualifications as maybe set forth in the city ordinances'.

Section 11.04 - Board of Zoning Appeals and Building Appeals:

Mr. Wellman stated 11.04 (a) wording was added because in other commissions the Council has a say of who is to be serve on a commission, that was nonexistent with this section. The Board of Zoning and Building Appeals shall consist of a member of City Council six (6) appointed members who shall not be members of the Planning Commission. The terms of the members appointed by the Mayor shall be five (5) years each. The CRC proposal is after word Planning Commission to add 'subject to approval of a majority of a majority of the Members of Council'.

Mr. Salvatore this is good, at one time the Planning Commission and Board of Zoning Appeals was all one and when separated into two boards that particular sentence was omitted.

Section 12.01 - Primary Elections:

Mr. Wellman stated the CRC's intent is to go to non-partisan elections in the city, a lot of this wording was borrowed from the City of North Olmsted's Charter with the help from the BOE. The Charter currently reads 'On the second Tuesday of September in each odd-numbered year prior to the general municipal election, primary elections shall be held for the purpose of nominating persons as candidates of political parties for election to offices provided for by this Charter to be voted for at the next succeeding regular municipal election'. The CRC's proposal is to strike out the words 'of political parties' and add a paragraph reading 'Except as provided otherwise in this Charter, candidates for all offices to be voted for at any municipal election under the provisions of this Charter shall be nominated at a non-partisan primary election to be held in odd-numbered years on the second Tuesday in September at a time and place provided for by the County Board of Elections'.

Mr. Orcutt stated this is a great suggestion and don't believe in political parties and in our city there is some division and never believed in and always been an independent. This is something that could make us a stronger community and commend the CRC for the suggestion.

Discussion:

Mr. Stemm stated likes the change to this part and commented on election day everyone is independent by voting however they want.

Section 12.03 - Declaration of Candidacy:

Mr. Wellman stated this is removing wording for non-partisan. The Charter currently reads 'Each person desiring to become a candidate for a party nomination to be voted for at a primary election shall not later than 4:00 p.m. of the ninetieth (90th) day before the day of such primary election, file with the Board of Elections of Cuyahoga County, Ohio, a declaration of candidacy and a nominating petition, which petition shall require signatures of registered electors of the same political party as the candidate, not less than twenty-five (25) for Ward Councilman; not less than one hundred (100) for Councilman-at-large, and not less than one hundred (100) for the City offices-at-large. In the first sentence the words 'for a party nomination' were stricken along with in the fifth line the words 'same political party as the candidate' were stricken.

Section 12.04 - Designation of Candidates

Mr. Wellman stated this section was basically rewritten currently the Charter reads 'Candidates for party nominations to municipal offices shall have their names printed on the official primary ballot, by filing a declaration of candidacy together with the required number of valid signatures and paying the required filing fee. If the number of persons filing such declaration for one political party does not exceed the number of offices available for nomination, then no primary election shall be held for such office and the persons so filing shall be declared nominated. The appropriate certificates of nomination, certifying their names to the proper election officials shall be issued in order that their names may be printed on the official ballots provided for use in the next succeeding regular municipal election'. The CRC's proposal is 'The number of candidates for the office of Mayor, President of Council, Director of Finance, Director of Law and Council by Ward at any regular municipal election in the city shall be two (2) candidates on the primary election ballot receiving the highest number of votes at the primary (election). The number of candidates for the office of Council-at-Large at any regular municipal election in the city shall equal the number of candidates filing a valid petition for the nomination of a candidate for the office of Council-at-Large and such person shall appear at the regular municipal election. The filing deadline for such petition for nomination of a candidate for the office of Council-at-Large shall be the ninetieth (90) day before the primary election date as established in the Charter. In case there shall be no more than two (2) persons who shall have filed petitions for the

Discussion: cont.

office of Mayor, Director of Law and Council-by-Ward, as provided for in this Charter, then said election for the office not exceeding two (2) persons shall not be held. All persons who have filed petitions for the office of Council-at-Large as provided for in the Charter shall be the candidates at the regular municipal election. Anyone who has not properly filed a petition for the appropriate primary election as provided by this Charter, shall be ineligible as a designated candidate in the regular municipal election' and continue with the last sentence as it reads currently in the Charter. The CRC is looking at the primary if there is more than two persons running for office, other than Council-at-Large; the top two vote-getters, at that point, move on. Continuing with that, 'In case there shall be no more than two persons who shall file petitions for the office Mayor, President of Council, Director of Finance, Director of Law and Council-by-Ward, as provided for in this Charter, then said persons shall be the candidates at the regular municipal election and the primary election for the office not exceeding two (2) persons shall not be held. All persons who have filed petitions for the office of Council-At-Large as provided for in this Charter shall be the candidates at the regular municipal election'. 'Anyone who has not properly filed a petition for the appropriate primary election as provided by this Charter, shall be ineligible as a designated candidate in the regular municipal election' then continue as the current Charter reads.

Mr. Salvatore asked for a point of clarification with the at-large, let's say there is six would move from the primary to the general (election)?

Mr. Wellman stated the CRC is suggesting no primary for the Council-at-large; they move right to the general election. The BOC asked the same question of why isn't there a primary for the Council-at-large. My response was, historically, there are not a lot of candidates that run for at-large, possibly five, six or seven.

Mr. Salvatore stated to remain consistent with the wards only the top two, if three are running the top two elected at the primary move forward to the general election.

Mr. Mencini commented that he believes in party affiliation and asked what if there are ten people running for at-large position.

Mr. Wellman responded if it gets to that point then Council can address it immediately by legislation and explain properly the vote will be there.

Mr. Mencini stated if this moves forward it will have to be explained because it's a little more to comprehend.

Discussion: cont.

Mr. Wellman interjected this is a big section with a lot of wording and something that the CRC felt was needed to be addressed.

Mr. Poindexter stated if there were non-partisan elections why have a primary?

Mr. Wellman responded the primary is for more than two candidates running and the idea is to take those two top vote-getters to move to the general (election). What has been encountered in the past few elections three people are running and there is no candidate receiving a majority of the votes. The candidates get enough to win but not getting the majority. The last two Mayoral candidates didn't get much over 40% which is not a majority of the people voting, that causes issues and division. By going non-partisan as many people want to run for a position they move to the primary (election) with the top two vote-getters moving to the general (election).

Mr. Poindexter continued those persons could go on to the primary (election) without receiving a majority vote.

Mr. Scott stated to Mrs. Horvath there are five or six different sections with changes would each section have to be a separate ballot issue. For example, sections 12.01, 12.02, 12.03 etc would have one vote for that particular section or does each a separate ballot issue.

Mrs. Horvath responded that's a good question due to the worry of things may be voted on where one thing cancels the other out there are things that don't have a uniform plan. I will find the answer to that question and contact the BOE for answers as soon as possible.

Mr. Scott commented if these are separate ballot issues and one section doesn't make the whole thing goes down.

Mr. Wellman interjected if this is presented to the public prior to the election some explanation from Council will be needed so the public understands what is happening. This is a lot to ask from the residents and hope it's a good change but needs to be explained that you can't vote yes to one and no to another.

Mr. Scott asked Mrs. Horvath how much time is needed for legislation to be drafted?

Mrs. Horvath responded everyone is all mindful of the September deadline

Discussion: cont.

and know after today the next meeting is July 2nd and hope all this could be done mid-July, at the latest, so Council has sufficient time for review.

Mr. Salvatore stated in answer to Mr. Scott and research that will be done by the law director. It is my understanding that anything similar in nature will all be put on one ballot. That was found out when the piece of legislation for the downsizing of City Council.

Mrs. Horvath commented she recalls that and do believe the BOC wanted them all uniform.

Mr. Vecchio concluded discussion of the proposed Charter amendments and stated will continue with Section 12.05.

Motion by Mr. Mencini, supported by Mr. Scott, to move the proposed Charter amendments to the July 2, 2019 Caucus Prior to agenda.

ROLL CALL: AYES: Mencini, Scott, Orcutt, Stemm, Poindexter, Salvatore
NAYS: None. The motion carried.

Mr. Scott asked Council's indulgence to bring out a piece of legislation from the Finance committee for repairs to a city fire truck.

1. An Ordinance authorizing and approving the Mayor to have emergency repairs made to our 2002 fire truck, without public bidding and declaring an emergency. Introduced by Mayor Gammella.

Motion by Mr. Scott, supported by Mr. Orcutt, to place on the Caucus prior to agenda for discussion.

ROLL CALL: AYES: Scott, Orcutt, Stemm, Mencini, Poindexter, Salvatore
NAYS: None. The motion carried.

Mayor Gammella stated this is an emergency situation with one of the city's fire trucks that needs a pumper and water tank repaired. Several estimates were done and Fallsway bid was considerably under the others and does have the parts in storage, for this older truck and the city needs in service.

Mr. Mencini clarified the service department won't be doing the repairs.

Mayor Gammella responded no, the administration has spoken with the union and Service Foreman, John Penis and both are good with this and agree it has to be done.

Mr. Scott mentioned that originally the bid was \$81,000 and Mr. Pensis was

Finance Committee - Chairman, Scott: cont.

able to do a lot of items in-house and why the bid is now at \$43,000.

Mr. Orcutt stated to Mayor Gammella there are several repairs needed to this truck and most of them will be taken care of in-house, correct?

Mayor Gammella concurred.

Mr. Orcutt stated the work through Fallsway is taking the shell off and repairing the pumper and water tank.

Mayor Gammella concurred.

Motion by Mr. Poindexter, supported by Mr. Mencini, to place on the Council agenda immediately following.

ROLL CALL: AYES: Poindexter, Mencini, Stemm, Salvatore, Scott, Orcutt

NAYS: None. The motion carried.

Council President Vecchio stated this will appear under letter M-6 as Ordinance No. 11098-2019.

There being no further business to come before this meeting a **motion** by Mr. Mencini, supported by Mr. Stemm, to adjourn.

ROLL CALL: AYES: Mencini, Stemm, Poindexter, Salvatore, Scott, Orcutt

NAYS: None. The motion carried.

Council President Vecchio declared this meeting adjourned at 7:55 p.m.

RESPECTFULLY SUBMITTED 
Michelle Blazak
Clerk of Council

APPROVED 

THESE MEETING MINUTES APPROVED BY BROOK PARK CITY COUNCIL ARE A SYNOPSIS, NOT TRANSCRIBED IN THEIR ENTIRETY, ALTHOUGH ACCURATE.

4,251 words