

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
TO BE HELD ON TUESDAY, JULY 2, 2019**

The meeting was called to order by Council President Vecchio at 7:00 p.m., the clerk called the roll and the following Members of Council answered:

SCOTT, BURGIO, ORCUTT, MENCINI, POINDEXTER SALVATORE

Also in attendance were Mayor Gammella, Law Director Horvath, Finance Director Cingle, Service Director Gardner, Building Commissioner Hurst, Economic Development Commissioner Adams and Recreation Director Elliott.

Councilman Stemm was properly excused.

EXECUTIVE SESSION - MAYOR GAMMELLA - PURCHASE AND/OR SALE OF PROPERTY.

Motion by Mr. Orcutt, supported by Mr. Scott, to go into Executive Session for Purchase and/or Sale of Property.

ROLL CALL: AYES: Orcutt, Scott, Burgio, Stemm, Mencini, Poindexter, Salvatore
NAYS: None. The motion carried at 7:02 p.m.

Motion by Mr. Mencini, supported by Mr. Poindexter, to go back to Regular Order of Business.

ROLL CALL: AYES: Mencini, Poindexter, Salvatore, Scott, Burgio, Orcutt.
NAYS: None. The motion carried at 7:25 p.m.

DISCUSSION:

1. PROPOSED CHARTER AMENDMENTS - **In attendance:** Charter Review Commission Members. **Note:** Recessed by **motion** from the June 18, 2019 Caucus prior to agenda and **moved** to the July 2, 2019 Caucus Prior to agenda continuing with Charter Section 12.05 - Independent Candidates.

Greg Wellman
6542 W. Vancey Drive

Rachel McDonnell
13621 Dalebrook Drive

For the Charter Review section of the meeting the Charter Review Commission will be listed as CRC.

Section 12.05 - Independent Candidates

Mr. Wellman continued the whole section was rewritten by changing from independents to write-in votes ballot. The new language being proposed is

Discussion: cont.

'Write-in votes for municipal candidate in the City of Brook Park shall not be permitted at a primary or general election unless no person files for particular municipal office and no person is duly nominated at a municipal primary. The procedures for filing as a write-in when permitted under this section shall be determined by the laws of the State of Ohio and the Cuyahoga County Board of Elections (BOE). The ballots used in the primary and general municipal election shall be without party mark or designation. The names of all candidates shall be placed upon the same ballot and should be rotated in a manner provided by the laws of the State of Ohio'. That language was taken from the North Olmsted City Charter regarding this section.

No questions for Section 12.05, Mrs. McDonnell commented before moving forward data was provided from the BOE regarding the city's voting patterns and so forth.

13.01 - Initiative

Mr. Wellman stated the next change is Section 13.01 that was suggested by the BOE with the fourth paragraph that reads 'The Council shall thereupon provide for submitting such ordinance or resolution to the vote of the electors at the date so fixed, or at the next general election in any year occurring more than 60 days being changed to from the filing of such supplemental petition, if not date be so fixed therein'. The BOE asked that this be changed to 90 days for easier processing for the BOE.

Section 15.02 (b) - Removal of Councilmen or other Elected Officials currently reads 'The Council may by at least five (5) votes of all the Members of Council eligible to vote thereon remove any Member of Council including the President of Council, or any other elected official for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his oath of office, for persistent failure to abide by the Rules of Council; or, in the case of Councilmen, for absence without justifiable excuse from three (3) consecutive regular meetings'. The change would be to the first sentence be removing the words at least five (5) and insert **majority**. The reason the CRC is proposing this change is due to a recent activity that made it difficult for Council to do their jobs properly; taking away the five (5) allows Council to do what should have been done.

Mr. Mencini stated thanked the CRC for coming and asked if any other cities...

Mr. Wellman interjected that wasn't looked into because the CRC was worried about this particular.

Discussion: cont.

Mr. Mencini continued there has been confusion when there is a missing member and the majority seems to handle situations.

Section 15.03 - Vacancies in Elective Office. The changes proposed would be in (b) 'In the event of a vacancy in the office of Mayor, the President of Council shall thereupon become Mayor, his office as President of Council shall become vacant, and he shall serve as Mayor for the unexpired term, except that if such vacancy occurs more than one hundred twenty days (120) prior to a Primary Election date for the election of Municipal Offices, and the unexpired portion of the term exceeds eighteen (18) months, then the vacancy shall be filled by a Special Municipal Election to fill such vacancy for the balance of the unexpired term. A President of Council who thus succeeds to the office of Mayor shall have, and continue to have all the qualifications and duties as an elected Mayor'.

(c) 'In the event of a vacancy in the Office of President of Council, the President Pro-Tem of Council shall become the President of Council and shall serve as President of Council for the unexpired term, and the Council shall immediately elect from among its members a person to act as President Pro-Tem'.

Proposed to read:

'(b) If the office of Mayor, **becomes vacant by the reason of: death, disqualification, recall, removal or resignation** the **Director of Finance** shall thereupon become Mayor, and he shall serve as Mayor for the unexpired term, except that if such vacancy occurs more than one hundred twenty days (120) prior to a Primary Election date for the election of Municipal Offices, and the unexpired portion of the term exceeds eighteen (18) months, then the vacancy shall be filled by a Special Municipal Election to fill such vacancy for the balance of the unexpired term. A **Director of Finance** who thus succeeds to the office of Mayor shall have, and continue to have all the qualifications and duties as an elected Mayor.

Mr. Mencini commented this proposed change is because the Director of Finance deals with the day-to-day operations of the city.

Mr. Wellman responded the way the Charter reads now with the President of Council becoming Mayor puts the current President of Council in a bind because he holds a full-time job, the Director of Finance is in office daily and has deeper knowledge of the city. A recent situation is with the City of Middleburg Hts. when the Mayor resigned during his term of office and the President of Council became Mayor and had to resign from his full-time job.

Mr. Burgio asked if other cities were compared?

Discussion: cont.

Mr. Wellman the CRC reviewed many Charters that have a section for vacancies and some cities have a succession list i.e. Director of Finance and others with the Council President being last.

Mrs. McDonnell commented that other city Charters' reviewed were consistent with the City of Brook Park's population and makeup.

Mr. Scott thanked the CRC for coming and commented that the Director of Finance should be the next succeeding person to serve and is involved in every facet of the city. There could be a situation where the Council President does not want to give up his full-time job for a short time span.

Mr. Poindexter thanked the CRC for coming and asked would the Director of Finance serve in both capacities at the same time?

Mr. Wellman responded yes, the Director of Finance would fill-in just like the Council President fills as a short-term Mayor with all powers and also Director of Finance.

Mr. Salvatore stated those are two elected positions.

Mr. Wellman interjected it's the same with the Council President currently as an elected position.

Mr. Salvatore interjected the Council President won't remain that would go to the Pro-Tem.

Mrs. McDonnell stated everything the CRC is proposing is through different city Charters if a vacancy occurs, the BOE seemed to think that was an appropriate switchover as well.

Mr. Salvatore stated through my years of being a Councilperson this was looked at as a vacancy in the Mayor's seat and the President of Council being the next in line.

Mrs. McDonnell concurred and stated the CRC agreed and that is why the Director of Finance would be a better position choice to take over the Mayor's opened position; because that person would have more knowledge than perhaps the President of Council and are already serving a four-year term.

Mr. Orcutt asked Mr. Cingle how long has the city had an Assistant Finance Director?

Discussion: cont.

Mr. Cingle responded as long as I've been here, going on 24 years. It was the auditor's position when I first started and the title was Deputy Auditor. When the Charter was changed to create the Director of Finance position the Deputy Auditor's position was changed to Assistant Finance Director.

Mr. Orcutt commented there is someone there that can follow in footsteps and why the proposed change to Director of Finance.

Mr. Vecchio commented thinks the proposed change is a great idea, the Mayoral position is the Chief Operating Officer of the city and is an oversight management position. The Finance Director position knows all the finances of the city, every department's finances and needs to be done. Whoever is in this position that has full-time employment elsewhere puts that person in a predicament.

Section 16.02 - Charter Review Commission a, b, c and d.

a. In the year 1988 and each sixth (6th) year thereafter, the Council shall provide for the non-partisan election of seven (7) electors from the City to constitute a Charter Review Commission. No employee, elected official or appointed official, including any member of any Board or Commission of the City, shall be eligible to serve on the Charter Review Commission. Such election shall be held at the regular general election in November of such year. Within the first five (5) days of the month of January following the election, the Mayor shall call to order an organizational meeting of the Charter Review Commission, at which meeting they shall elect a Chairman and other officers. On or before July 5th of that year, the Charter Review Commission shall review this Charter and frame and recommend to the Council any amendments deemed by the Commission to be desirable.

Is proposed to read:

Section 16.02 Charter Review Commission

a. In the year 1988 and each sixth (6th) year thereafter, the Council shall provide for the non-partisan election of seven (7) electors from the City to constitute a Charter Review Commission. No employee, elected official or appointed official, including any member of any Board or Commission of the City, shall be eligible to serve on the Charter Review Commission. Such election shall be held at the regular general election in November of such year. Within the first five (5) days of the month of January following the election, the Mayor shall call to order an organizational meeting of the Charter Review Commission, at which meeting they shall elect a Chairman and other officers. On or before July 5th of that year, the Charter Review Commission shall review this Charter and frame and recommend to the Council any amendments deemed by the Commission to be desirable.

Proposed to read:

Discussion: cont.

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b. The Council may provide for submission of such proposed amendments to the electors of the City at the next general election in November in the manner provided by law. Not less than thirty (30) days prior to such election the Clerk of Council shall mail a copy of each proposed amendment to each elector whose name appears upon the poll or registration books of the last general election held in the City.

Each such Charter Review Commission shall cease to function on the day of the next general election in November following its election.

Proposed to read:

b. The Council **shall** provide for submission of such proposed amendments to the electors of the City at the next general election in November in the manner provided by law. Not less than thirty (30) days prior to such election the Clerk of Council shall mail a copy of each proposed amendment to each elector whose name appears upon the poll or registration books of the last general election held in the City.

Mr. Wellman commented the reason for this change is because the CRC thinks the recommendations should be forwarded to the people without question.

New letter c created

In the event of a vacancy during the course of the commission's terms, such seat can remain unfilled and the remaining elected commission members would continue to function as a valid commission.

Mrs. McDonnell commented in past commissions there were instances of someone not being able to perform their job and wanted stated in writing that six people can make decisions; the last two commissions had only six people serving.

Mr. Scott served on a past commission with only six members and doesn't know why there were problems this year with this commission, never brought up at last commission.

Discussion: cont.

Mr. Poindexter asked the CRC if the commission was invalidated due to the absence of a member.

Mrs. McDonnell responded no.

Mr. Wellman stated no.

Mr. Poindexter asked was the result of the last commission invalidated and doesn't think the wording is necessary.

Mr. Wellman commented based on what transpired from outside forces there was always that hanging over the heads of the commission. That someone would try to legally invalidate the commission.

Mr. Poindexter stated the precedence was set that it was okay for the commission to move forward with less than seven.

Mrs. McDonnell commented the precedence has been maybe not officially but by adding this verbiage into the Charter, there will be no questions with the work done by six people to continue onto the next steps. The law director was also asked to research this situation due to being worried of the CRC getting to this point and people questioning the work done and recommendations would be relevant.

Mr. Poindexter thinks that coming before Council they have a chance to vet the recommendations, so it does not matter how many people serve on the commission. The Charter calls for seven people but a lesser number will suffice.

Mrs. McDonnell commented unfortunately, that less number is not very specifically stated and open for interpretation, as far as presenting ideas. By putting this verbiage clears up that if six people are on the commission the recommendations given are not less valid.

Mr. Poindexter stated with letter (b) the CRC is suggesting that all recommendations go directly to the ballot.

Mr. Wellman and Mrs. McDonnell concurred, the process is the recommendations are presented to whomever and then to the law director for final presentation and sent to the Board of Elections. The CRC is not saying that presenting to Council is something not being proposed, the CRC is saying for as much information and work put in this the commission would like to provide the residents' the opportunity to look at these proposed changes; not go through the elected person to choose which ones go through.

Discussion: cont.

Mr. Mencini stated the CRC was elected by the citizens of Brook Park and sometimes it shouldn't be Council making these decisions. The CRC put a lot of time on reviewing the Charter and when bringing these forward to Council, it will be the voters decision.

Section 17.04 - Interpretation

The Article and Section headings herein have been inserted for convenient reference and are not intended to define or limit the scope of, or otherwise affect any provision of this Charter. Whenever in this Charter the male gender is used, it is hereby understood that it shall include the female gender. Whenever in this Charter the following terms are used, it is hereby understood that they shall be defined as follows: majority is four (4), 2/3 is five (5), and 3/4 is six (6)

Proposed to read:

The Article and Section headings herein have been inserted for convenient reference and are not intended to define or limit the scope of, or otherwise affect any provision of this Charter. Whenever in this Charter the male gender is used, it is hereby understood that it shall include the female gender.

Mr. Salvatore asked if the CRC is suggesting that the majority is four (4).

Mrs. McDonnell invited Ms. Przybysz to speak on this, due to being a lawyer.

**Christene Przybysz
6106 Delores Blvd.**

Ms. Przybysz stated when speaking of majority four members or 51%, anything that breaks that tie. Part of the rationale was in a situation of an absence or vacancy on Council that reduce Council size. Those numbers start to create an issue where stated in the Charter of five members allows for flexibility in the Charter. If there is a vacancy or absentee Council would need 51% to pass anything.

Mr. Salvatore clarified this would require four votes to suspend and move forward legislation.

Ms. Przybysz responded it only requires a majority, all the CRC is doing is removing the definition of majority of the Charter. There are no changes to thresh-holds that otherwise may be set.

Mr. Mencini clarified at a former meeting of a few years ago, several Councilmembers were missing and kept saying this is a majority.

Discussion: cont.

Mr. Wellman stated before closing, one thing the CRC found going through the Charter because the CRC was instructed that suggestions made would not interfere with city ordinances. The CRC did find missing qualifications for some positions and the CRC suggests strongly that this Council go through the ordinances for those positions for review and insert some qualification wording, there are some positions that have no qualifications listed.

Mr. Vecchio thanked the CRC for all their hard work and it is now in Council's hands.

Mr. Salvatore clarified one question with majority again by saying that majority is four (4) and there are only five (5) members present at a meeting, can that pass with three (3)? Would that be the new majority?

Mr. Wellman clarified when saying majority are you speaking of the verbiage at the very end of the paragraph?

Mr. Salvatore concurred and stated how will that be replaced?

Mrs. McDonnell stated how many people are voting to get to the 51%. Depending on how many making a decision as long as there is 51% that would be the majority.

Mr. Wellman commented this doesn't interfere with whatever the Council rules are.

Ms. Przybysz is not aware of quorum rules are so as long as there is a proper quorum and a majority is what is needed, otherwise by the rules of Ordinances would be the greater number of people needed to vote.

Mr. Salvatore stated a quorum is four (4) and in the case of a tie the Council President would vote, meaning something can be passed with two voting members and the President breaking the tie, making three (3) voting members.

Mrs. McDonnell stated the CRC's intent was if things are made so specific in the Charter and there was a situation that called for a majority that didn't fit into that particular Charter number, then there might be an issue.

Mr. Scott stated to Mrs. Horvath, using section 12 as an example, there are five different items listed would that go on the ballot as one ballot issue? Or would it be broken down into five (5) different ballot issues?

Mrs. Horvath stated that's a good question because part of the problem Council has is if it's broken down into pieces what happens if some pass and some don't. That would be an issue and my understanding that it would be put together as one piece and will confirm that for Council.

Discussion: cont.

Mr. Scott continued to Mrs. Horvath, how much time does your department need for doing your part of this? This has to be down to the Board of Elections by September 6th so what is the timeframe needed for preparation for the Board of Elections.

Mrs. Horvath responded some of these have been prepared in outline form but part of the problem is not knowing how many different pieces will be moving forward.

Mr. Salvatore stated that question was raised at a previous meeting, if more than one area of the Charter could be on one amendment and the answer is yes. Per a discussion with the BOE they would prefer it that way because it gets confusing. In other parts of the state had situations with having five changes and three (3) passed and two (2) did not; so virtually none of them could work without the other two.

Mr. Vecchio commented the clerk needs time to get the proposed amendment booklets together to send out to the residents.

Mr. Orcutt asked the clerk how much time is needed for preparation?

The clerk estimated 45 days for typing, send to the printer for setup of draft that is sent back to the clerk to proof read and proceed with mailing to the residents'.

Mrs. McDonnell stated the document Council has is already in format with the BOE for presentation.

Mr. Vecchio polled Council for suggestions on reviewing the Charter proposals.

Mr. Mencini start with the ones Council is not in favor of and move from there, will go with majority.

Mr. Poindexter suggested start at the beginning of the document for discussion and working through the proposed changes.

Mr. Salvatore suggested take one at a time and let the majority rule.

Mr. Scott suggested start from the beginning and move forward.

Mr. Burgio concurred.

Mr. Orcutt concurred.

Motion by Mr. Orcutt, supported by Mr. Scott to call a Special Caucus meeting for Tuesday, July 9th, at 7:00 p.m. for discussion of proposed Charter changes.

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

NAYS: None. The motion carried.

Motion by Mr. Salvatore, supported by Mr. Mencini, to move the CRC proposed changes to the Special Caucus meeting of July 9th.

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

NAYS: None. The motion carried.

FINANCE COMMITTEE - CHAIRMAN, SCOTT:

- 1. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CHANGE ORDER BETWEEN MOTOROLA SOLUTIONS, INC. AND THE CITY OF BROOK PARK TO CHANGE RADIO FEATURES AND ACCESSORIES AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mayor Gammella stated the departments will purchase different equipment at the same amount.

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

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

NAYS: None. The motion carried.

Mr. Vecchio stated this will appear under M-1 as Ordinance No. 11099-2019.

LEGISLATIVE COMMITTEE - CHAIRMAN, MENCINI:

- 1. ORDINANCE NO. 10069-2017, AMENDING CERTAIN SECTIONS OF CHAPTER 153 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'EMPLOYEES GENERALLY' AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne. Tabled by **motion** from the 6/18/19 Council meeting and moved to the 7/2/19 Caucus Prior to agenda for comparison with item number 2 listed under Legislative Committee.

Motion by Mr. Poindexter, supported by Mr. Scott, to place on the Council agenda immediately following under Third Reading.

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

NAYS: None. The motion carried.

Legislative Committee - Chairman, Mencini: cont.

- 2. AN ORDINANCE AMENDING SECTON 153.01 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'VACATIONS' AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella
- Motion** by Mr. Orcutt, supported by Mr. Poindexter, to place on the Council agenda immediately following.
- ROLL CALL: AYES:** Orcutt, Poindexter, Mencini, Salvatore, Scott, Burgio
NAYS: None. The motion carried.

Mr. Vecchio stated this will appear under M-2 as Ordinance No. 11100-2019.

SAFETY COMMITTEE - CO-CHAIRMAN, SCOTT:

- 1. AN ORDINANCE AMENDING SECTION 141.02 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'COMPOSITION: EXECUTIVE HEAD' AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mayor Gammella asked Council to pass this prior to Home Days so the overtime is kept to a minimum, regarding the Sergeants'.

- Motion** by Mr. Mencini, supported by Mr. Poindexter, to place on the Council agenda immediately following.
- ROLL CALL: AYES:** Mencini, Poindexter, Salvatore, Scott, Burgio, Orcutt
NAYS: None. The motion carried.

Mr. Vecchio stated this will appear under M-3 as Ordinance No. 11101-2019.

SERVICE COMMITTEE - CHAIRMAN, ORCUTT:

- 1. AN ORDINANCE AUTHORIZING A CHANGE ORDER BETWEEN BEST EQUIPMENT CO, INC., AND THE CITY OF BROOK PARK AND TO ENTER INTO A LETTER OF INTENT AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mr. Gardner stated this is for a truck ordered in March, 2018 that was delivered 14 months later; the specifications were kind of overlooked and improperly built. The company has promised the city a 2020 new truck built to the original specifications, at no cost or increase on the dollar amounts; estimated arrival December 1, 2019.

Service Committee - Chairman, Orcutt: cont.

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

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

NAYS: None. The motion carried.

Mr. Vecchio stated this will appear under M-4 as Ordinance No. 11102-2019.

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

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

NAYS: None. The motion carried.

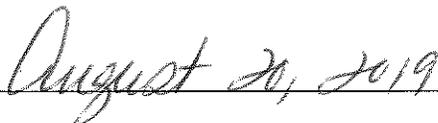
Council President Vecchio declared this meeting adjourned at 8:15 p.m.

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.

4,432 words

