

**SPECIAL CAUCUS MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
HELD ON TUESDAY, JULY 9, 2019**

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

SCOTT, BURGIO, ORCUTT, STEMM, MENCINI, POINDEXTER, SALVATORE

Also in attendance were Mayor Gammella, Law Director Horvath, Finance Director Cingle (7:06 p.m.) and Engineer Piatak (7:50 p.m.).

DISCUSSION:

1. CHARTER AMENDMENT PROPOSALS. Proposed changes by the Charter Review Commission will be in **bold** along with any proposed strikeouts.

Mr. Vecchio commented with the proposed Charter if the change is accepted and moved forward, at the end of discussion he will take a vote of AYES or NAYS instead of roll call.

Section 2.01 - Municipal Powers

Mr. Vecchio stated the only change appears to be in third sentence after the word Charter, include words '**or if not prescribed wherein**'.

Mr. Poindexter questioned if it should read 'herein'?

Mrs. Horvath responded if Council deems wording can be changed, the commission probably did this to make the grammar clearer.

Mr. Poindexter supports the proposal but would like the word change to herein, it makes sense.

Councilmembers accepted the change with a vote of AYE, with the exception of Mr. Scott and Salvatore who voted NAY. The amendment will move forward.

Article III - The Mayor

Section 3.01 - Term of Office

Section 3.02 - Absence

Discussion: cont.

Section 3.03 - Duties and Powers of the Mayor

Mr. Scott clarified with Mrs. Horvath sections 3.01, 3.02 and 3.03 will be on the same ballot issue, not separate items.

Mrs. Horvath responded that is correct, speaking with the BOE (Board of Elections) all three changes can appear together on the ballot; the BOE also noted that any strike-outs should be in red.

Mr. Vecchio stated the proposed changes would be:

3.01 - third line would read after the word **years** **'No person elected Mayor shall hold the office for more than three (3) consecutive terms or twelve (12) consecutive years, unless one (1) full term or more has elapsed since that person last held the office of Mayor'**. ~~He may be a candidate to succeed himself.~~

New section Qualifications **He shall have been for at least one (1) year prior to his election or appointment and during his term of office or employment shall continue to be a resident of the City. The Mayor, whether elected or appointed to fill a vacancy, shall serve in a full time-capacity, shall hold no other employment and shall comply with all ethics laws of the State of Ohio. In the case of the Mayor, he shall have attained the age of twenty-five (25) years prior to assuming such office'**.

Section 3.02 Absence

During any period when the Mayor shall be absent or inaccessible or unable for any cause to perform his duties, **he shall notify the President of Council in writing and the President of Council shall be Acting Mayor and shall also continue as President of Council with all the powers and duties of that position.** Whenever the Mayor shall be out of state, he shall notify the President of Council in writing. In the event the President of Council shall be absent or inaccessible or for any reason, be unable to perform his duties as Acting Mayor, the President Pro Tem of the Council, shall become the Acting Mayor with all the powers and duties of the Mayor, and he shall not thereby cease to be a Member of Council. Whenever the President of Council shall be out of state, he shall notify the President Pro Tem of Council in writing.

Section 3.03 - (a) Executive third paragraph will read The Director of Public Safety, the Director of Public Service and all appointive officers and members of all commissions, shall serve at the pleasure of the Mayor with the exception of **'the two'** Parks & Recreation Commission **'members'** appointed by' City Council per City Charter section 11.05.

Discussion: cont.

Mr. Orcutt expressed concerns with Section 3.02 being in conflict with Section 15.03 Vacancies in Elected Offices under (b) with the Director of Finance becoming Mayor?

Mrs. Horvath responded what the Charter Review Commission (CRC) tried to achieve in Section 3.02 is if there is a temporary absence the President of Council becomes acting Mayor. With Section 15.03 would be in the event of a something more of a permanent basis with the reasons of recall, removal or resignation provided, the Director of Finance would become Mayor.

Mr. Scott with Section 3.02 with the Mayor being absent thought here was discussion of striking that due the electronic age of always being in contact.

Mr. Mencini stated there could be a conflict because Section 15.03 (b) Vacancy the CRC described if the office of Mayor becomes vacant by reason of: death, disqualification, recall, removal or resignation. Section 3.02 is very vague with absent, inaccessible or unable to perform his duties and possibly why the CRC brought this forward. What does absence, inaccessible or unable to perform duties mean?

Mr. Stemm thinks it would be okay if it is kept at any period the Mayor shall be unable for any cause to perform his duties and Council can decide what unable to perform with technology of phone call or text as needed.

Mr. Poindexter agrees with the one-year residency requirement prior to election and keeping residency during his term; does not agree with term limits due to elections being term limits and would not like seeing a good representative forced out due to term limits. The others proposed amendments may cause confusion and should be left the way they are.

Mr. Scott does not agree with Section 3.01 term limits, agrees with the qualifications and agree if absence is struck, this has to be taken as a whole.

Mr. Vecchio concurred and stated changes are agreed on, omitted or rewritten.

Mr. Salvatore stated to Mrs. Horvath the CRC makes recommendations to City Council at no time has there been anything written in ballot language from the CRC. Therefore, it is Council's responsibility to adjust, modify, change or create the ballot language.

Mrs. Horvath concurred and commented the previous question was could all of these changes be on the ballot at the same time. The CRC is an advisory committee but Council is in charge of crafting any changes or language.

Discussion: cont.

Mr. Salvatore suggested to provide an opportunity to go through these three items and if there is not enough support set them aside for anyone to modify, amend or adjust and bring back. In order, to move through the recommendations and dwindle down what may or may not go to the ballot.

Mr. Mencini understands what the CRC was trying to do with absence or unavailable but thinks it is still vague.

Mr. Stemm reiterated in section 3.02 unable to perform his duties and notifications.

Mr. Salvatore asked Mayor Gammella his opinion on this?

Mayor Gammella thanked Mr. Salvatore and agree with Mr. Stem's suggestion of absence covering too much ground. Perhaps, it could read unavailable or cannot perform his duties. History of the Charter one of the reasons this was put in the Charter is when Mayor Wedo was Mayor and went on vacation; the Council President took over for a week and attempted to fire the Mayor's secretary. In today's day and age with access to phone calls, email or texts absence is too vague.

Mr. Salvatore suggested sections 3.01, 3.02 and 3.03 be set aside to another day.

Mr. Poindexter is ready to bring his recommendation tonight.

Mr. Vecchio polled Council as to how to proceed: Stemm - discuss now, Mencini - later date, Poindexter - discuss now, Salvatore - later date, Scott - later date, Burgio - later date, Orcutt - later date. The consensus is to move sections 3.01, 3.02 and 3.03 to a later date.

Section 4.01 - Composition and Term (Council)

All legislative powers of the City, except as otherwise provided by this Charter and by the Constitution and general laws of the State of Ohio shall be vested in a Council of eight (8) members, four (4) of whom shall be elected for the several wards, three (3) of whom shall be elected at large, and one (1) of whom shall be elected at large as President of Council.

Each Ward Councilperson shall hold their office for four (4) years, beginning January 1, 2022 of their election in 2021. At Large Council Members and the Council President shall hold their office for four (4) years beginning January 1, 2024 of their election in 2023.

Discussion: cont.

No elected Council Person shall hold the office for a period longer than three (3) consecutive terms or more than twelve (12) years, unless one full term or more has elapsed since that person has last held the position of Councilman. All members of Council, including the President of Council, shall take office on the first day of January next following their election, and shall continue to serve until their successors have been duly elected and qualified.

~~All Councilmen shall be elected for a term of two (2) years at the regular municipal election in the year 2001, and every two years thereafter. All members of Council, including the President of Council, shall take office on the first day of January next following their election, and shall continue to serve until their successors have been duly elected and qualified.~~

Mr. Salvatore does not agree with four-year terms due to if the person is doing a good job he would get reelected.

Mr. Scott stated four years would be easier due to not having to campaign every other year but looking at this from the audience he is not comfortable with four-year terms for Councilmembers.

Mr. Burgio stated as previously stated this is taking away the call of the people by mandating every four-years; if the person is not doing a good job they will not be voted back in office.

Mr. Poindexter concurred with colleagues.

Mr. Stemm likes the idea of four-year terms because being here a little over 18 months it's time to campaign. Also, likes term-limits because the 22nd amendment put that in for the Presidency and not in favor of the monarchy.

Mr. Mencini likes the four-years but sees the term-limits as a double-edge sword.

Mr. Orcutt disagrees with 12-year term limits due to being an infringement of the democratic process for residents'. A small community like Brook Park there may not be many people to choose from and the residents' have the right to be able pick their representatives. To Mr. Stemm I do believe there should be term-limits with the President of the United States who controls the whole country. If a municipality gets out of hand the state and/or federal government can step in to handle the situation. Mr. Orcutt complimented the CRC recommendation of staggering but not sure how that could be incorporated with two-year terms.

Discussion: cont.

Mr. Vecchio likes the staggering, looking at both sides, is in favor of term-limits especially out of the Presidency as Mr. Orcutt laid-out and agree it is hard on a municipal level.

Mr. Salvatore requested a verbal vote of Council.

ROLL CALL: AYES: Stemm, Mencini.

NAYS: Poindexter, Salvatore, Scott, Burgio, Orcutt. The motion failed, Section 4.01 will **not** move forward by a vote of 5-2.

Section 4.05 (b) Meetings

(a) Regular Meetings: The Council shall meet in the Council Chambers at such times as may be prescribed by its rules, regulations, ordinances or bylaws, except that it shall hold regular meetings at least twice each calendar month, provided, however, that it may recess during the months of July and August, subject to the call of the Mayor. Meetings of the Council whether regular or special, shall be open to the public, with the exception of Executive Sessions, which shall only be permitted in accordance with the provisions set forth in the codified ordinances of the City of Brook Park, or in the laws of the State of Ohio. Amended November 7, 1989 check and balances

(b) Special Meetings: Special meetings of the Council may be called in accordance with and as provided by the rules, regulations, or bylaws adopted by the Council. In the absence of such provisions, special meetings may be called by a vote of the Council taken at any regular or special meeting thereof, or shall be called by the Clerk of Council upon the written request of the Mayor or President of Council, or three (3) Members of Council. Any such request shall state the time, place and date thereof, and the subject or subjects to be considered at the meeting, and no other subject or subjects shall be considered. Notice in writing of each such special meeting called at the request of the Mayor, President of Council, or three (3) Members of Council, shall be given to each Member of Council and the Mayor, **by serving on each of them personally** ~~or leaving a copy thereof at his usual place of residence,~~ **or electronically or as otherwise determined by Council Rules,** not less than twenty-four (24) hours preceding the date and hour of such meeting. Service of such notice may be waived in writing.

Mr. Scott reiterated as previously said at an earlier meeting with changing of the Council rules this was brought up and recommended by the law director to have the CRC put into a proposed amendment; this has not been in practice for probably three or four years; due to not having the manpower and electronic age let the public decide.

Discussion: cont.

Mr. Mencini commented the police officers have better things to do and brought this up in 2015.

Mr. Poindexter asked if verification would be required for a send receipt response.

Mrs. Horvath stated that could be acquired with a change to the Council rules and not sure that Council so as to not being too technical in the Charter.

Mr. Poindexter agrees with the proposed change and getting into the 21st century.

Mr. Salvatore agrees with Mrs. Horvath that by putting this proposal on the ballot allows for electronic notification, currently the procedure is if not home after three (3) attempts the officer puts the notice in the door, with no proof of delivery. In all these years there hasn't been a problem and this process gives the authority by Charter to allow for electronic notification. The Council Rules can be adjusted and/or modified and the clerk is already notifying Council of the special notice in the mailboxes.

Members of Council voted AYE, with no exceptions, to move Section 4.05 to the ballot.

Article IV- Section 6.01 Director - Election (second paragraph)

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.** If the Mayor fails to appoint a Law Director within thirty (30) days, Council shall then appoint.

Mr. Vecchio stated the above added proposal was recommended by the BOE.

Mr. Poindexter opposes placing this in the Charter, thinks any attorney at law duly admitted to the practice of law in the State of Ohio should be eligible to run for the office.

Mr. Salvatore stated to Mrs. Horvath had this language been in the Charter would that have stopped you for running for office?

Mrs. Horvath responded I don't think this would have deterred me from running for office, I would have met the qualifications. The question is would there be issues for others and is it a good idea to put qualifications in the Charter?

Mrs. Horvath continued it isn't so much the time as actively engage in the practice

Discussion: cont.

of law because if a person is unfamiliar how court procedures work, that would be much more problematic than time.

Mr. Salvatore asked what is the ruling for the Supreme Court of Ohio?

Mrs. Horvath responded that is something Council may want is the citing of the actual rule used by the Supreme Court.

Mr. Salvatore is uncomfortable with putting something before the voters that is not clearly defined. To Mrs. Horvath how long is that ruling?

Mrs. Horvath responded there are probably three or four sections with the main idea if a person is a sole practitioner working for a firm, work for the government as a prosecutor or public defender or working for a corporation and actively engaged with the practice of law i.e. writing opinions or litigation dealings.

Mr. Salvatore would like to have language defining the rules.

Mr. Orcutt stated this is something that could help the city and to Mrs. Horvath. If this ballot passes and someone doesn't have the qualifications that wants to run for law director. My questions are can the Mayor appoint the law director outside the city and secondly, could a law director be appointed without the five-years' experience?

Mrs. Horvath responded if provided that someone needs that five years as qualifications then it would be difficult to appoint somebody without those qualifications. If no one was available that lives in the city I think that probably there would be an appointment made and most likely, as seen in other suburbs, someone from a law firm.

Mr. Stemm stated to Mrs. Horvath if an attorney has a break in service as an educator or another career is there legal updates or any kind of seminars that person would receive?

Mrs. Horvath responded every attorney is required in a two-year period to take 24 hours of continuing legal education courses; 2.5 five of those hours have to be in areas of attorney conduct or professionalism. Honestly, attorneys can take as many CLA's (Civil Legal Advice) as wanted and it will not substitute for the actual practice of law, people graduating from law school have the legal knowledge but don't have the experience of applying those principles in situations. I don't think any amount of seminars would be operative the most important is a person actually learning by doing.

Discussion: cont.

Mr. Stemm agrees with the ramifications in court, the process changes and experience and would like to see the correct verbiage.

Mr. Scott agreed with Mr. Salvatore and commented this is too valuable and volatile of a position to have someone to learn on the job. The person coming in should have government knowledge and works of the government.

Mr. Mencini stated there are a lot of important things for the law director such as civil litigation, workmen compensation, land acquisitions and others meaning a lot on the plate for a small municipality like Brook Park, believes that someone with experience should be in this position.

Mr. Burgio agrees with the city's law director researching this matter for more clarity; someone could pass the bar exam and have no job experience or six-months active.

Mr. Salvatore commented a non-resident cannot be appointed to an elected position; the only way is to change that section of the Charter by omitting elected law director.

Mr. Poindexter stated this may be misread by some colleagues because it doesn't say five-years minimum experience it reads not less than five-years preceding appointment. Meaning if a practicing lawyer leaves the practice for a five-year teaching job and then decides to run for law director; that person with 30-years' experience would be ineligible due to not having five-years' experience preceding appointment. I would be okay with putting something in there of needing five-years' minimum experience for director of law; some attorneys may retire after 30-year's and change their mind and decide to run for law director and would be ineligible under this rule. If Council would like to put a five-year minimum experience, I would support that but cannot support this the way it's written.

Mr. Stemm asked Mrs. Horvath if there is any requirement for an attorney with decades of practice and then a prolonged absence. Is there any kind of update or refresher course needed to be taken?

Mrs. Horvath responded as long as an attorney have continued to be registered with the Ohio Supreme Court and haven't resigned and think there is a retirement status. As long as the attorney hasn't done that they would be fine and it would be more of a question of being licensed with the State of Ohio.

Mr. Orcutt stated in the case of someone outside the city, if that's the case this needs to have an amendment so that never happens. The Charter reads in the event that no person is elected to the office If law director, the Mayor with

Discussion: cont.

concurrence of a majority vote of Council, shall appoint the law director, that needs to be tightened up as well.

Mr. Mencini stated every past law director had well over five years and don't see that being an issue; this needs to be tightened up in order to move ahead.

Mr. Poindexter stated the way this is written, let's say a practicing lawyer decided to take a one-year sabbatical before becoming law director that person would be ineligible for law director.

Mr. Vecchio took a poll of Council to move Section 6.01 to be worked on later. Stemm - yes, Mencini - yes, Poindexter- yes, Salvatore - yes, Scott - yes, Burgio - yes and Mr. Orcutt - yes. Unanimous vote to move to a later date.

Mr. Salvatore stated to Mrs. Horvath while doing research on this also check in the event there is no resident available to be appointed to law director, can someone be appointed from outside the city?

Mayor Gammella stated in the past all director and department heads had to be residents of the city and if a Mayor wanted someone outside the city that person was given a waiver for x-amount of years.

Mr. Salvatore concurred that anyone working for the city had to be a resident within six months of employment and due to changes in the law that isn't followed anymore.

Section 8.02 (b) Duties of the Director (Safety)

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 years' experience within listed fields.

Mr. Stemm agrees with the proposal and questioned how equivalent is being defined? Is it years' experience, associate plus years' experience.

Mr. Vecchio agrees that equivalent would be hard to define.

Mr. Salvatore thinks the Director of Public Safety has to be a good administrator, knows how to operate that department and beyond that. If a person has 15 to 30 years of managerial skills that far surpasses anything written. A person's ability cannot be judged by a piece of paper stating education and what that person has done; I'll take the person with the on-the-job experience every time.

Discussion: cont.

Mr. Mencini stated the Mayor is the city's safety director and performing those duties and don't think it entails what is written here; experience cannot be beaten. I give the CRC credit for this but will pass on this one.

Mr. Stemm commented a good way for this to be worded is possibly a bachelor's degree or years of experience may offset a bachelor's degree with ten years in a supervisory role of life safety or fire experience for equivalency.

Mr. Poindexter stated if all these restrictions are placed in the Charter we're painting ourselves into a corner. The way it is now is the Mayor can choose the safety director of his choice and that person doesn't do a good job then it's up to the voters to not reelect the Mayor; if all policy issues are placed in the Charter that forces us to live by that and in the future there may be a time where a person cannot fulfill the credentials and the city could lose.

Mr. Orcutt appreciates the CRC for this proposal and agrees with Mr. Salvatore with taking experience, also agrees with Mr. Stemm's recommendation of rewording this section.

Mr. Burgio stated many cities don't have a safety director and thinks that the police and fire chiefs have all the experience and are very well versed on running a city. This is an administrative position and a good administrator will speak with his fire and police chiefs for input. Being a small city there may not be anyone meeting these requirements by making this position that stringent.

Mr. Vecchio likes the idea of putting stipulations on this position because moving forward and start to progress the ship needs to be tightened up a bit. There could be some verbiage change to simplify but likes the fact the city having the best of the best and won't settle for less.

Mayor Gammella stated this city has had safety directors that have been real-estate agents, police officer, accountant, plumber, personnel director, fire extinguisher salesman and a weatherman. This city has two excellent chiefs and all that is really needed is good administrator and thinks what is critically important is having someone who knows the City of Brook Park and about the city.

Mr. Vecchio stated to Mayor Gammella being in this position now and what you just outlined is truly the Mayoral position, not the safety director position. In that aspect maybe Council should look into ending that position and utilizing those monies elsewhere and allowing the Mayor to do the position.

Discussion: cont.

Mr. Salvatore reiterated this individual must be a tremendous administrator and wants everyone to understand there is a safety net already in place that is working.

Mr. Stemm commented for every position either appointed or elected the city needs a subject matter expert for these fields. With having the police and fire chiefs and a safety director with equal or more experience benefits the city.

Mr. Mencini stated the Mayor is performing as safety director with a police and fire chief, captains, lieutenants, sergeants and so forth.

Mr. Vecchio took a poll of Council that more work is needed on section 8.01, Stemm- yes, Mencini - no, Poindexter - no, Salvatore - no, Scott - no, Burgio - no and Orcutt - yes. The motion failed with a poll of two (2) AYES and five (5) Nays. Section 8.01 will **not** be moving forward to the ballot.

Section 8.06 Division of Building subsection (b) - Qualifications.

~~The Building Commissioner shall have at least five (5) years' experience in the building trades or related occupations.~~ **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 Council and shall have at least five (5) years' experience in the building trades or related occupations.**

Mr. Mencini agrees with the CRC on this proposal the person in this position has to have a good scope of knowledge.

Mr. Salvatore asked if the current building commissioner qualifies under this change?

Mrs. Horvath believes the current building commission holds that certification and will confirm that.

Mr. Stemm agrees with the CRC on this proposal and thinks all department heads should have certain criteria for subject matter expertise.

Mr. Poindexter agrees that the building commissioner should have certification and did some research and it's not clear if the program to obtain the certification is

Discussion: cont.

available to the general public. It seems that someone wanting to pursue that as a career wouldn't be able to obtain that certification. I could be corrected on that and looked up classes for certification or other means and there was very little or no information on how to achieve. I would like for the city's building commissioner to have the certification and maybe that is something to be obtained after the appointment.

Mayor Gammella commented to Mr. Poindexter when the city's current building commissioner was hired, he did not have all the certifications needed and the city provided x-amount of time to achieve those certifications. A lot of the time the person in the position must be in the field to obtain the needed certifications and thinks a time-limit should be put in for the person to get the necessary qualifications.

Mr. Orcutt stated this is no different than having any other type of license i.e. boiler, electrical, refrigeration, etc. Mr. Poindexter brought up a good point that if there isn't an opportunity to obtain unless working for the city this needs to be amended a bit. This is very important and the person needs to know from A to Z and the city needs the most qualified person. Perhaps this could be put aside for further research.

Mr. Salvatore agreed this section should be discussed at another meeting so that Mr. Poindexter and Orcutt get their questions answered and also allow the law director to research on the same opportunity the current building commissioner received, giving a grace period.

Mr. Vecchio polled Council to move for further research - Stemm - yes, Mencini - yes, Poindexter - yes, Salvatore - yes, Scott - yes, Burgio - yes and Mr. Orcutt - yes. The poll was unanimous Section 8.06 (b) will be discussed at a later meeting.

Section 9.04 - Appointment of Division Heads:

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 head shall be appointed by the Mayor, **and shall have the qualifications as may be set forth in the city ordinances.** Such appointees shall serve at the pleasure of the appointing authorities.

Mr. Poindexter agrees with the CRC proposal and alluded to earlier that the city shouldn't paint themselves into a corner with qualifications listed in the Charter, which is the city's strict guideline that has to be abided by. If all these restrictions are placed in the Charter, it limits city officials' ability to do the necessary things at

Discussion: cont.

various times. My suggestion would be limit qualifications in the Charter and strengthen qualifications per ordinances, if necessary.

Mr. Scott suggested looking at the qualifications should be looked at first before moving forward for any necessary changes before going to the ballot.

Mr. Poindexter commented he thinks this is an idea proposal because parameters can be set for each position and get into the qualifications per ordinances.

Mr. Salvatore clarified with Mrs. Horvath the only change is 'shall have the qualifications as may be set forth in the city ordinances'.

Mrs. Horvath concurred.

Mr. Salvatore continued assuming that verbiage is not in the Charter if something was provided in ordinance form it becomes law.

Mrs. Horvath concurred.

Mr. Orcutt commented this would back up qualifications per ordinance and is in support of the proposal.

Mr. Mencini expressed support of the proposal and changes can be made by ordinance, possibly upping standards in the future.

Mr. Stemm stated as Mr. Salvatore said if nothing is changing does this proposal have to move forward?

Mr. Poindexter commented here is where the difference is, let's say the Charter is changed by having the safety director needing a bachelor degree with a minimum of seven years' experience. Locked in the Charter, Council could not create an ordinance changing to five years' experience with no bachelor degree. That amendment couldn't be made because it is locked in the Charter and that change would have to get a vote of Council to go before the voters; this gives a little more fluidity to run the city.

Mr. Orcutt stated with adding this the debate is lost because let's say the Director of Public Service wants to appoint a head of a division and that person doesn't meet the qualifications by ordinance; this is a backup that the ordinance must be checked.

Mr. Vecchio agreed with Mr. Orcutt and stated this is directing the person looking at the appointment of division heads to the ordinance. To Mr. Poindexter's

Discussion: cont.

comments the ordinance can be changed where an amendment to the Charter can be changed at a later date going through the electoral process.

Mr. Salvatore stated to Mrs. Horvath if this passes and/or fails it will be the same that the person shall have the qualifications as set forth in city ordinances.

Mrs. Horvath concurred and commented the only way of being differently is if there is no ordinance regarding that particular position; whether the Charter directs to the ordinance or just have an ordinance the qualifications are the same.

Mr. Vecchio asked for a vote with five AYES and two NAYS by Councilmembers Stemm and Salvatore. Section 9.04 will move to the ballot with a vote of 5-2.

Section 11.04 Board of Zoning and Building Appeals - (a) Organization
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, ***subject to approval of a majority of the Members of Council.*** The terms of the Members appointed by the Mayor shall be five (5) years each.

Mr. Salvatore commented this is basically a house-cleaning matter and should have been done when Planning and Zoning were split from one and the same.

Mr. Vecchio asked for an AYE or NAY vote with the vote being unanimous that Section 11.04 will move forward to the ballot.

Mr. Vecchio stated before moving to Article 12 he stated to Mrs. Horvath this is the section that has multiple subsections that she was getting clarifications on.

Mrs. Horvath responded this is the particular article Council should be most concerned about with all sections appearing on the ballot as one piece; so there are no problems in the event of one section being passed and one section failing, this will be all one section and voted on as the same.

Mr. Vecchio confirmed Sections 12.01 through 12.05 will be appear on the ballot as one issue.

Mrs. Horvath concurred.

Mr. Salvatore and Mr. Scott requested this be placed on another meeting for more discussion due to the numerous changes.

Discussion: cont.

Section 12.01 - Primary Elections

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.

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 and at a time and place provided for by the County Board of Elections.

Section 12.02 Municipal Elections

A general municipal election for the purpose of the election of officers provided for in this Charter shall be held on the first Tuesday after the first Monday in November in each odd numbered year, Elections so held shall be known as Regular Municipal Elections. All other elections held under the provisions of this Charter or as required by law shall be known as Special Municipal Elections.

Section 12.03 Declaration of Candidacy

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. Amended November 5, 2013.

Section 12.04 Designation of Candidates

~~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 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 the two (2) candidates on the primary election ballot receiving the highest number of votes at the

Discussion: cont.

primary. 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 Charter.

In case there shall be no more than two (2) persons who shall have filed petitions for the office of 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 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. 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.

Section 12.05 Independent Candidate-Write In Votes; Ballots

~~Any person desiring to become an independent candidate for election to any office to be voted for at the next succeeding regular municipal election shall, not later than 4:00 p.m. of the ninetieth (90) day before primary election day, file a nominating petition. Such petition shall require signatures of registered electors and shall be accompanied by the written acceptance of the nominees. The petition for offices of council-at-large and all other city offices-at-large shall be signed by that number of electors equal to at least four (4) percent in number of the electors voting at the next preceding regular municipal election. The petition for office of ward councilman shall be signed by that number of the electors equal to at least four (4) percent in number of the electors voting in the next preceding regular municipal election for councilman in that ward. Names of independent candidates will not appear on the primary ballot, but will appear on the ballot of the next regular municipal election.~~

Write-in votes for a municipal candidate in the City of Brook Park shall not be permitted at a primary or general election unless no person files for a 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.

Discussion: cont.

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 Ohio.

Mr. Vecchio polled Council for Sections 12.01 through 12.05 to place on another meeting. Stemm - yes, Mencini - yes, Poindexter - yes, Salvatore - yes, Scott - yes, Burgio - yes and Mr. Orcutt - yes. Charter sections 12.01 through 12.05 will appear on a future meeting agenda.

Section 13.01 - Initiative

Fourth paragraph If the Council fails or refuses to pass such proposed ordinance or resolution or passes it in some form different from that set forth in the petition therefore, the petitioners may require that it be submitted to a vote of the electors either in its original form or in the amended form by filing with the Clerk, within ten (10) days after final action on such ordinance or resolution by Council, a supplemental petition signed by that number of additional registered electors which, when taken together with those who signed the original petition, total not less in number than twenty (20) percent of the electors of the City voting at the last preceding general election, and if said supplemental petition is signed by such number of additional registered electors, the date of the election may be fixed therein, not less than ninety (90) days from the time of filing such supplemental petition. 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 ~~sixty (60)~~ **ninety (90)** days from the filing of such supplemental petition, if no date be so fixed therein.

Mr. Salvatore asked Mrs. Horvath what is the reason for this change?

Mrs. Horvath responded this came up when a member of the BOE came to speak to the CRC and the BOE is trying to achieve this change with all cities, due to military ballots and so forth. This change would allow more time for the BOE to get the ballots to the military personnel and so forth in a timely fashion.

Mr. Vecchio took a AYE or NAY vote of Council with unanimous vote of moving ahead to the ballot.

Mr. Vecchio took an AYE or NAY vote and Councilmembers voted unanimously to move forward to the ballot.

Section 15.02 (b) Removal of Councilmen or other Elected Officials

(b) The Council may by ~~at least five (5)~~ **majority** votes of all the Members of Council eligible to vote thereon remove any Member of Council including the

Discussion: cont.

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.

Mr. Salvatore stated sees no reason for this change the five (votes) is there for a good reason, there have been past situations where members had to change vacation plans due to a possible tie vote. With a vote of four that could change the direction of this city by not having the integrity of the five (votes) and not in support.

Mr. Orcutt agreed with Mr. Salvatore and thinks this could be extremely dangerous and going to pages 47 and 48 shows how that dynamic completes the change. For instance, summer recess there are two members out of town with a special meeting called the majority could be three members, not in support.

Mr. Mencini stated during my tenure on Council he has seen situations where members don't show up for a specific reason and seen that four vote.

Mr. Stemm stated is in support of keeping Section 15.02 as written, this piece relates to removal of office and cannot be amended like ordinances. This is a very important piece and five (votes) of the seven (votes) needs that due diligence to get passed.

Mr. Vecchio took an AYE or NAY vote with Council unanimously voting NAY **not** to move forward to the ballot.

Section 15.03 Vacancies in Elective Offices (b)

(b) Vacancy: ~~In the event of a vacancy in~~ If the office of the Mayor becomes vacant by the reason of: death, disqualification, recall, removal or resignation, the ~~President of Council~~ **Director of Finance** 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 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~~ **Director of Finance** who thus

Discussion: cont.

succeeds to the office of Mayor shall have, and continue to have all the qualifications and duties as an elected Mayor.

Mr. Stemm asked Mrs. Horvath would there have to be a resignation from the Finance Director to resume the Mayoral duties?

Mrs. Horvath responded this would be a dual position. When the BOE came to a CRC meeting there were no objections to that. With Council reviewing and looking at these provisions to determine that would be in the city's best interest or not; which is different issue whether this is being allowed under Home Rule.

Mr. Orcutt asked for Section 15.03 (b) to another meeting for further clarification of page 2.

Mr. Salvatore stated the natural progression is the President of Council to the Mayor that has worked all these years. The President of Council has the strongest ability to work with City Council and elevated to the Mayor's seat. I'm not talking about a person I'm talking about the seat itself, whoever is sitting there. The President (of Council) would move to the Mayor's seat. The Director of Finance is good with numbers but the President of Council works with the Mayor, Council, departments heads in an elected position. Mr. Salvatore is not in favor of changing this section.

Mr. Poindexter stated the Council President campaigns knowing that could be part of his job to step in as Mayor and should be ready to take that task on if called upon. If this were to go forward I suggest a change to Section 7.02 to add this as the Director of Finance duties. Mr. Poindexter is in favor of the Council President stepping in as the Mayor, if the situation arises.

Mr. Scott reiterated statements of five years that the Director of Finance should be the person to succeed the Mayor, if that should ever happen. The Director of Finance knows what is going with the money, contract negotiations, financial decisions and legislation. Mr. Scott thinks the Director of Finance is the next person with the most knowledge of the workings of the city and is not looking at the person he is looking at the seat.

Mr. Mencini agrees with Mr. Orcutt and this could be moved to another meeting for more work. Mr. Mencini also agrees with Mr. Scott that the finance director is in office daily and knows the city's numbers and well aware of the operations of this city, more discussion is needed on this section.

Mr. Vecchio took a poll of Council to move to another meeting for more discussion. Stemm - yes, Mencini - yes, Poindexter - yes, Salvatore - no, Scott - yes, Burgio - yes and Mr. Orcutt - yes. Section 15.03 will be moved to another meeting for

Discussion: cont.

further discussion with a vote of 6-1.

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 **submit** to the Council any amendments deemed by the Commission to be desirable.

(b) The Council ~~may~~ **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.

New Section (c) In the event of vacancy during the commission's term, such seat can remain unfilled and the remaining elected commission members would continue to function as a valid commission.

Mr. Orcutt stated he will not be supporting this section, on page 38 - 13.01 Initiative Petitions explains what the electors of the city can do. This doesn't flow right because something could be placed directly on the ballot that has conflict.

Mr. Scott expressed issues with the recommend-submit and served on two CRC's and doing the work and when submitted to Council the proposals are shot down. Sitting on Council I understand why the proposals come to Council due to items that could be damaging to the city if not explained properly to the electors. With item c I don't know why this CRC had such a problem with outside forces. The second CRC I served on there were seven members for the first month and finished the CRC with six members with all necessary requirements and no questions brought up at that time; this very well defines that the commission can

Discussion: cont.

run properly with six members; fine with section c.

Mr. Stemm agreed with Mr. Orcutt with the submit-shall those are defining words; recommend is what was talked about during this whole process. The CRC made recommendations for Council to put to the voters. With the word may this Council is now having dialogue and networking and is fine with section c.

Mr. Poindexter stated past practice shows that it doesn't matter if there is one less member of the CRC. Seven members were elected as the Charter states and the CRC ended with six members. The CRC's work is very much appreciated and they served the community well and Council is doing diligence reviewing the recommendations, not in support.

Mr. Orcutt commented the precedent has been set with going with six members and past practice mentioned does mean something. Will support an amendment by Council for putting in the Charter.

Mr. Salvatore stated with the dialogue to this point and thinks this has been established with six members serving on this advisory board. If the word **may** is changed to **shall** all recommendations by the CRC would go to directly to the ballot.

Mr. Vecchio took an AYE or NAY vote to send to the ballot with Councilmembers unanimously voting NAY. Section 16.02 will not move forward with a vote of 7-0.

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), $\frac{2}{3}$ is five (5), and $\frac{3}{4}$ is six (6).~~

Having no discussion, Mr. Vecchio took an AYE or NAY vote to send to the ballot with Councilmembers unanimously voting NAY. Section 17.04 will not move forward to the ballot with a vote of 7-0.

Mr. Scott asked Mrs. Horvath how much time is needed to research for the move

Discussion: cont.

to later date items?

Mrs. Horvath responded she doesn't want too much time to go by and it's up to Council to schedule another meeting, seven to ten days seems logical.

Mr. Scott continued the process is Council approved the recommended changes that now need to be put in legislative form?

Mrs. Horvath concurred, the sections requesting more research could be done in that seven to ten-day period.

Motion by Mr. Stemm, supported by Mr. Orcutt to have proper legislation drafted for sections 2.01, 4.05, 9.04, 11.04 and 13.01.

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

Mr. Vecchio asked the clerk what is the timeframe for getting the proposed Charter booklets to the electors.

Ms. Blazak responded with the typing of the proposed changes, formatting by the printer, proofread by the clerk and mailing, the estimated timeframe would be 30 to 45 days.

Mr. Vecchio commented as of now that puts the timeframe of the end of August.

Mr. Orcutt stated with getting the proposals 30 days to the electors is that 30-days before early voting for the General Election of November 5th, with early voting 30-days prior.

Mr. Salvatore suggested an amendment to the Charter to read early voting.

Motion by Mr. Stemm, supported by Mr. Orcutt, instructing the law department to research items moved to a later date.

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

PLANNING COMMITTEE - CHAIRMAN, BURGIO:

1. AN ORDINANCE APPROVING THE LOT CONSOLIDATION OF PERMANENT PARCEL NO.'S PPN 344-30-008 AND PPN 344-30-009 LOCATED AT 16400 BROOKPARK ROAD IN A U7-AE ZONE AND DECLARING AN EMERGENCY. Introduced by Council as a Whole.

Planning Committee - Chairman, Burgio: cont.

Mayor Gammella asked that this be placed on the Special Council agenda immediately following.

Mr. Orcutt asked if this is the final piece of legislation for the company to get started?

Mayor Gammella responded yes.

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

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

Mr. Vecchio stated this will appear as Ordinance No. 11103-2019.

- 2. AN ORDINANCE APPROVING THE LOT CONSOLIDATION OF PERMANENT PARCEL NOS. 342-19-004, 342-19-003, 343-01-001, 342-15-005, 343-07-001, 343-02-001 AND 342-18-002 LOCATED IN THE U7-B/U5-A ZONES AND THE LOT SPLIT INTO PARCEL 'A' AT 17601 BROOKPARK ROAD LOCATED IN THE U7-B ZONE AND PARCEL 'B' AT 18300 SNOW ROAD LOCATED IN THE U5-A ZONE AND DECLARING AN EMERGENCY. Introduced by Council as a Whole.

The clerk read the legislation in its entirety, as requested by Mr. Salvatore.

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

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

Mr. Vecchio stated this will appear as Ordinance No. 11104-2019.

SERVICE COMMITTEE - CHAIRMAN, ORCUTT:

- 1. AN ORDINANCE AUTHORIZING THE CONSULTING ENGINEER TO PREPARE PLANS AND BID DOCUMENTS AND THE MAYOR TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT FOR THE 2019 CRACK AND JOINT SEALING PROJECT AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mayor Gammella commented most of these streets are located on the west end that are county roads; this project is for county roads only. This will cover

Service Committee - Chairman, Orcutt: cont.

\$122,000 of crack-sealing which is approximately 40% of the project; with a lot of work done at an inexpensive price.

Mr. Piatak commented this was a project submitted to the county earlier this year with a list of county roads that were eligible. The county responded by saying not all the roads would get funded but did fund six segments of the roadways. The city will put the project out to bid with the county paying for the material.

Mr. Stemm thanked the Mayor and administration for this progress of fixing up the roads.

Motion by Mr. Burgio, supported by Mr. Salvatore, to place on the Special Council agenda immediately following.

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

Mr. Vecchio stated this will appear as Ordinance No. 11105-2019.

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

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

Mr. Vecchio declared this meeting adjourned at 9:03 p.m.

RESPECTFULLY SUBMITTED 
Michelle Blazak
Clerk of Council

APPROVED August 20, 2019
as amended

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

9,554 words

