



City of South Lebanon
10 N. High St. South Lebanon, Ohio 45065
Ph:(513)494-2296 Fax:(513)494-1656

**Charter Commission Meeting
MEETING MINUTES**

Wednesday, August 10th, 2022 @ 6:00pm

1. Call to Order by Vice Chairman Mason at 6:00pm.
2. Vice-Chair Mason introduced Brianna Koutny who was appointed as Charter Commission Secretary.
3. Roll Call:
Present Members – Susanne Mason, Clyde Adkins, Richard Bertagna, Donald Burke, Aubrey Corcoran, Peter Geraci, Ginger Mandelstein, William Melzer, David Smith, Michael Wells
Absent Members – Bryan Corcoran, David Frasure, Arthur McFarland, Brian Payne, Angela Vick
Staff – Andrew Meier, City Solicitor
Visitors – Catherine Cunningham and Tom Pannett, Kegler Brown, Hill & Ritter
4. Pledge of Allegiance
5. Review and Approval of Minutes of August 3rd, 2022, Meeting
Aubrey Corcoran made a motion to approve and was seconded by Richard Bertagna.
VOTE TAKEN: All yeas.
6. Tom Pannett introduces and reviews topics of the DRAFT Charter provisions relating to South Lebanon City Council. Tom explains that there are “To Be Determined” sections in the draft that would not pertain to the topics being discussed this evening and are excluded at this time.
 - A. Catherine Cunningham recommends looking at each section and taking a formal vote one section at a time, to allow for changes to be made if necessary. Everyone agrees.
 - B. Tom begins by reading Section 3.01 of the DRAFT Charter Provisions – no comments or questions.
 - C. Tom reads Section 3.02 – Composition, Term and Qualifications (A-F) – Catherine clarifies that an incompatible office is determined by the Ohio Ethics Commission and will not fall to the responsibility of the Council. No other comments or questions.
 - D. Tom reads Section 3.03 – Vice Mayor
 - i. Peter Geraci asks for clarification on the final sentence of Section (A), and asks if this puts responsibility solely on the Vice Mayor to appoint committee members. Andrew Meier responds by stating the Mayor is who appoints

committee members currently and explains reasons why. He then asks the Charter Commission if they would like the Mayor to continue to have that authority, or would they rather take that power away from the Mayor and put it in the Vice-Mayor's hands.

- ii. Donald Burke suggests allowing the Mayor or Vice Mayor to make recommendations that Council takes a final vote on. After discussion the Commission decides to leave the recommendation power with the Mayor and leave the final approval to Council. Tom suggests striking "and shall appoint the various committees of Council" from Section (A).
- E. Tom continues to read the next section of the Draft Charter
- i. Peter Geraci asks what happens to the term for the Vice-Mayor if the Mayor is incapacitated for any reason; and what happens to the vacant seat in such an event. Tom Pannett states there will be structures for that in place that they will go over in later sections of the Charter. Pannett states that the Vice-Mayor would take over the Mayor seat temporarily, however he is unsure what happens to the vacant seat since the Vice-Mayor also takes on responsibilities of Council. Catherine Cunningham explains that the verbiage states that the Vice-Mayor "shall have the powers and obligations of any other member of Council" and "they don't get two votes" is to make clear that they are in fact sitting as a Council member only. She goes on to reiterate that they would not get two votes in that event. Cunningham explains that it is a strong risk to not have someone as an acting mayor, but it is less of a risk not to have it be a member of Council.
- F. Catherine Cunningham suggests voting on the verbiage change in Section 3.03(A). Vice-Chair Susanne Mason requests a motion to change verbiage. Donald Burke makes the motion and is seconded by Michael Wells.
VOTE TAKEN: All yeas.
- G. Tom Pannett continues on to read Section 3.04 of the Draft Charter.
- i. Susanne Mason asks what "bond" means specifically in Subsection 2. Catherine states that once Council member take the oath, statute requires they be "bonded", meaning the City must buy a surety bond to insure the employee in the event they steal money. She states the city pays for it, but the individual must be qualified and sworn in. Andrew states there are currently bonds held for all Council members and employees.
- H. Tom Pannett continues on to read the Draft Charter
- i. Andrew states that last week, Council decided they would like to pass an ordinance making the number of allowed absences of a Council member from 3 to 6. Andrew explains that currently, if a Council member is later three times, the next absence will have a 2% deduction on their annual salary, but Council may vote to excuse those absences. Andrew states that upon approval of Council, that deduction in pay would not be applicable until after the 6th absence. Andrew clarifies that under this section there is no "excuse" language, it is automatic. He states the deduction in pay ordinance allows for the excused absences upon 2/3 vote of Council. Donald Burke asks if the 3 absences must be consecutive, and states that the wording would allow for 5 consecutive, regular meetings over the course of a year. Burke states this a lot more grace. Aubrey Corcoran states that they only have 24 meetings a

year and are required one meeting a month. Burke clarifies that one meeting a month is a minimum, so they would be gone before the 5th missed meeting. William Melzer asks if the current wording would null the change that Council is trying to make regarding absences. Catherine clarifies this is regarding removal, where this change is about compensation.

- I. Tom Pannett continues on to read the Draft Charter.
 - i. Donald Burke asks for consistency in voting ratios within the Draft Charter. After discussion, the Commission decides remaining consistent throughout the Charter is most efficient.
 - ii. Peter Geraci asks if removal standards are coming from a state statute. Tom Pannett states that it is compiled of best practices. Geraci clarifies that we are not unique in the standard. Catherine Cunningham states it is unique to address removal at all. Cunningham explains that most Charter Commissions do not address removal until it is required. Catherine states there is actually not a State statute that allows easily for removal.
 - iii. Aubrey Corcoran asks the Sunshine Laws are a State or Federal statute. Catherine responds it is a State statute. Aubrey Corcoran then asks of violation the Sunshine Laws is a felony. Catherine responds with “no”. Aubrey Corcoran then asks if there is a statute to remove a Council member that violates the Sunshine Law. Catherine responds with “no”. Catherine then states that whatever action/legislation that you have violated a Sunshine Law on will not pass – which is the remedy. Andrew states there is a civil process that allows a complaint to be filed by a citizen of the municipality against those individuals, putting them responsible for attorney fees, court cost, etc. along with being ordered to set any applicable legislation aside, but will not necessarily require a removal from office.
- J. Vice-Chair Susanne Mason asks for a motion and second to accept Section 3.04 with consistency change to $\frac{3}{4}$. A motion was made by William Melzer and seconded by David Nathan Smith III.
VOTE TAKEN: All Yeas
- K. Tom Pannett goes on to read Section 3.05
- L. Hearing no objections, Tom moves on to read Section 3.06
 - i. Tom Pannett points out a typing error in the Draft Charter and goes on to read the rest of the section.
 - ii. David Smith asks for clarification of the ending of the section regarding term take-over. Catherine Cunningham responds by explaining that some municipalities will allow a newly elected official who was elected to fill a newly vacant seat to immediately take office. Others impose a 30-day period before allowing that member to take office. Catherine states it is a topic open for discussion. Catherine states she has discussed options with Andrew. Donald Burke clarifies that this situation is worst case scenario and would not be typical. Donald Burke asks why it is necessary to make an elected official wait 120 days to take office, and states they should take office immediately, because the idea is to fill a vacancy. Burke suggests the verbiage read “upon certification of the election results”. Andrew states that the January 1st date would be consistent with the current procedure, but that Burke makes some good points.

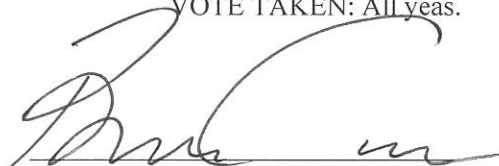
- M. After further discussion, it is decided to change the verbiage to “The person so elected in November shall take office at the first meeting after certification of the election, following such election and shall serve the remainder of the original Council Member’s term or the successive term”. Vice-Chair Susanne Mason asks for a motion to accept the new verbiage for subsection (B) as stated above. A motion to accept was made by William Melzer and seconded by Richard Bertagna.
VOTE TAKEN: All Yeas
- N. Tom Pannett goes on to read section 3.07
- i. Vice-Chair Susanne Mason asks for clarification regarding resignation of a council member. After discussion, the Commission decides it should stay as written.
- O. Tom Pannett asks for a motion to accept 3.07 as written. A motion to approve was made by Vice-Chair Susanne Mason, and was seconded by Richard Bertagna
VOTE TAKEN: All Yeas
- P. Catherine begins to explain issues with transitioning. She states changing the election years from 2 seats up for election, then 4 seats up for election, to 3 seats up for election each year is the amount of time it will take to successfully transition. She explains that everyone running at the same time is not ideal. Donald Burke agrees that would be disastrous. Catherine states she has mapped out options. She explains there were 4 members elected in 2021, and there will be 2 members up for election in 2023. She recommends leaving the 2023 election as it is currently planned with 2 members up for election. She states there is an option to have 3 members elected for a 4-year term, and 1 member elected for a 2-year term. Catherine then explains there could be a normal 4-member election held, and the top 3 votes get the 4-year term while the last person gets the 2-year term. Catherine states either of these options would get the city to a 3-person election each time by 2027, and it would essentially take 6 years. Catherine explains this will be included in the Charter for the next meeting.
- i. Peter Geraci asks if this methodology would carry through for all elections moving forward and would not longer be transitional from 2027 moving forward. Catherine confirms.
- Q. Tom Pannett goes on to read section 3.09
- i. William Melzer asks if the Clerk has to complete special training with the State. Tom responds “yes”. Catherine states that State Law requires that training. Andrew states he does not believe that verbiage needs to be in the Charter.
- R. Vice-Chair Susanne Mason asks for a motion and second to accept section 3.09 as written. A motion to approve was made by Michael Wells and was seconded by Clyde Adkins.
VOTE TAKEN: All Yeas
- S. Tom Pannett goes on to read section 3.10
- T. Hearing no concerns, or questions Tom goes on to read section 3.11
- i. Peter Geraci asks if all Council Members meet in an executive session. Tom responds, “yes”.
- U. Tom Pannett goes on to read Section 3.12
- V. Hearing no concerns or questions, Tom goes on to read section 3.13

- i. Catherine recommends a verbiage change to “the Mayor or Council may authorize a Municipal meeting”. Catherine states she spoke with the Mayor regarding this provision, and he states emergency hearings are common due to City demand for a solution to the problem at hand, which is why she feels the verbiage change is necessary. The rest of the Commission is in agreement.
 - W. The Commission agrees to read Section 3.14 before voting on the verbiage change for Section 3.13. Tom goes on to read Section 3.14.
 - X. Vice-Chair Susanne Mason asks for a motion to accept Sections 3.10, 3.11, 3.12, 3.13 – with the verbiage change of “the Mayor or Council may authorize a Municipal meeting”, and 3.14. A motion was made by Richard Bertagna and seconded by Clyde Adkins.
VOTE TAKEN: All Yeas
 - Y. Tom Pannett goes on to read Section 3.15
 - i. Catherine recommends that “Administrative Officer” be changed to “City Administrator”.
 - Z. Vice-Chair Susanne Mason asks for a motion to accept Section 3.15 with new verbiage of “City Administrator”. A motion to accept was made by William Melzer and seconded by Donald Burke.
VOTE TAKEN: All Yeas.
7. Tom Pannett introduces new topic:
- A. Organization and Rules of Council. He explains Councils typically have motions, resolutions, and ordinances, and asks the Charter Commission if there is anything else that would need to be included or changed. The Charter responds unanimously with “no”. Andrew states there are currently no “Rules of Council” but asked for specific questions regarding procedure. No questions.
 - B. Tom Pannett goes on to confirm what staff members the Charter Commission would like to sit with Council during a Council meeting. Charter Commission confirms: the Mayor, Fiscal Officer/Clerk and City Administrator.
 - C. Tom continues to Topics of Council and who can bring issues before Council. He states it is currently restricted to Council and the Mayor, and asks if the Commission is in agreement with the current arrangement. Commission is in agreement as is. Andrew states there are times where a financial issue that needs addressed will need to be added to the agenda at the request of the Fiscal Officer, so it is not technically the staff that can bring issues before Council as well. After discussion, it was decided that City staff would fall under the Mayor’s duties and would be unnecessary to add “City staff” to verbiage.
 - D. Tom continues to clarify who takes part in discussions and debates. Andrew confirms it is Council, the Mayor, Law Director and City officials.
 - E. Tom continues to Compensation of Council Members and asks for clarification on current rotation. Andrew states they take a vote and set own salaries, but that salary will not take effect until their next term. He explains this prevents Council from changing their own salaries. Donald Burke clarifies that the stipulation is not “THE” next term, but “THEIR” next term.
 - F. Tom continues to talk about who is required to have bonds and confirms that it is currently the Mayor, Fiscal Officer, City Administrator, Law Director and Council Members. Andrew Confirms.

- G. Catherine asks if there should be a separate Charter Provision for bonds. Charter confirms it might be necessary.
 - H. Tom continues to confirm who sets salaries for Administrative Offices. Andrew states that Council sets salaries and position by Ordinance. He explains that the Ordinance shows a pay rate scale for certain positions. Michael Wells asks who sets the scale. Andrew explains that the Ordinance does.
8. Tom continues to the Legislative processes of Council:
- A. Andrew states that the City operates by the Statute as it is written. Charter Commission is in agreement.
 - B. Tom confirms how many readings the Commission would like to require. The Commission agrees on two. Andrew states there might be an issue with giving enough notice to the public with only two readings. Not allowing for a public hearing at the first reading might lead to a situation where the public was not notified in time, in other words, manipulating the system. Catherine states there is a concern about what were to happen if Council were to waive readings. She states there is typically a first reading, a second reading is a public hearing; but if there is no public hearing at the first reading, and only at the second reading, there is potential of waiving all public hearings. She states it is crucial that the public has the right to speak on any piece of legislation before Council, so it would be beneficial have public hearings on both readings to accommodate for the possibility of the second hearing being waived. Peter Geraci asks if having the reading itself is a public hearing. Catherine responds that is not always the case. She explains that some Councils read by title only at the first reading to get the legislation before Council with no public hearing; holding a public hearing at the second reading. Andrew states that our general practice is to have an item on the agenda for the public, allowing for anyone present at the meeting to address Council. He states that time allotment is dependent on how many people are present, but they are always given opportunity to do so. He explains future Councils may not want to operate this way, so contemplation of procedure is necessary. Michael Wells asks if the Commission can restrict the waiving process, to limit their ability to do so. Catherine states that was a discussion but designating both readings as public hearings is the most effective option. Andrew states that restricting waiving process will only elongate the process, even with 2 readings. He explains that taking the effective ability to move quickly away will significantly slow things down. Tom asks if the Commission would want to give Council the ability to suspend referendum, Catherine states that declaring the emergency would give the ability to suspend. Donald Burke states that with an emergency, the referendum period for the public is necessary. Andrew states it is rare that Council reads three times. Susanne Mason asks if there are any disadvantages to holding a public hearing for both readings. Andrew responds “no”, and Catherine confirms. Richard Bertagna asks if there needs to a limit on the public’s time to speak. Andrew states that should be left to the discretion of the Mayor and Council. Peter Geraci asks if there should be a certain amount of people allowed to speak. Catherine states that should also be at the discretion of the Mayor and Council. Tom confirms that the Commission is in agreement with two consecutive readings with a public hearing at each reading; all agree.

- C. Tom requests clarification on the process with Amendments. Andrew states that currently there is an AMENDED ordinance or resolution that is presented to Council as an Agenda Item, and it is voted on.
 - D. Tom requests clarification on Zoning and asks the Charter Commission if they wish to have a separate Planning Commission. Burke states the City has one already. Tom asks if the Charter Commission would like to give the Council the ability to overrule the decision of the Planning Commission by a $\frac{3}{4}$ vote. Donald Burke states that they should have that authority, since they are the ones that were elected by, and have to address the public. Catherine states that some Cities have specific Charter Provisions related to zoning and prevents zoning related issues from being adopted as emergencies, and states it is an option. Donald Burke states he does not believe Zoning should be able to be adopted as an emergency. The Commission decides to table to topic until they are ready to discuss Planning and Zoning.
9. Vice-Chair Susanne Mason asks for a motion to adjourn at 8:10pm. A motion was made by Aubrey Corcoran and seconded by William Melzer.

VOTE TAKEN: All yeas.



Bryan Corcoran – Chairman



Brianna Koutny - Clerk