

SPECIAL SESSION

August 27, 2018

The Council of the City of Chardon met in Special Session Monday, August 27, 2018 at 6:30 P.M. in Council Chambers of the Chardon Municipal Center.

Jeffrey Smock, President of Council presiding.

The meeting opened with the pledge of allegiance and roll call.

Members of Council present: Andrew Blackley, Deborah Chuha, Chris Grau, David Lelko, Nancy McArthur, Jeffrey Smock.

Members of Council absent: Daniel Meleski.

Others Present: City Manager Randy Sharpe, Clerk of Council Amy Day, Law Director James Gillette, Todd Hunt, Brad Sekas, Hannah Sekas, Laura Diemer, Michael McArthur, Krista Kano.

ORDINANCE NO. 3028

AN ORDINANCE TO SUBMIT TO THE ELECTORS OF THE CITY OF CHARDON THE QUESTION OF AMENDING VARIOUS SECTIONS OF THE CITY CHARTER TO: PROVIDE FOR A MAYOR TO BE ELECTED BY THE CITY'S ELECTORATE AND TO ALSO SERVE AS A SEVENTH COUNCIL MEMBER; TO PROVIDE FOR THE AUTHORITY, DUTIES AND COMPENSATION OF THE MAYOR; TO PROVIDE FOR SIX OTHER ELECTED COUNCIL MEMBERS; TO PROVIDE FOR A VICE-MAYOR TO BE APPOINTED BY THE MAYOR FROM THE REMAINING COUNCIL MEMBERS AND TO ACT AS MAYOR IN THE MAYOR'S ABSENCE OR INABILITY TO SERVE; AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. Grau moved and Mrs. McArthur seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 3028 was then read for the second and third time by title only.

Mr. Lelko moved and Mr. Grau seconded for the adoption of Ordinance No. 3028.

Todd Hunt, attorney from Walter & Haverfield, LLP, stated that he was asked to advise the City in the Law Director's absence with regards to this issue. He stated that any Charter amendment that is put forth by petition should be approved by Council to go on the ballot unless there are procedural errors with the petition. In his opinion, there are no procedural errors with the petition and Council has a mandatory duty to pass the ordinance to place the issue on the ballot. He added that if there are substantive issues with the proposed charter amendment, they may be challenged only after the issue is passed by the electorate.

Mayor Smock asked Mr. Hunt to review the areas of the proposed charter amendment that may be cause for challenge.

Mr. Hunt stated that there are two areas of the proposed charter amendment that may have issues including: Section 3.01 (Composition and Terms) which would result in eight Council members in the years 2020 and 2021 and a conflict in

the City Manager's and Mayor's duties listed in Sections 2.01 and 3.03.

Mr. Blackley asked if Section 3.03 would require that the Mayor would preside over all municipal meetings.

Mr. Hunt stated that it could be interpreted that way.

Mrs. McArthur asked for clarification about the bold and underlined text in the ordinance.

Mr. Hunt stated that the bold and underlined text is what is being added by the petitioners and the strikethrough is what has been proposed to be eliminated.

Mayor Smock asked if the Vice Mayor would serve out a Mayor's term if the Mayor resigns, noting that the Vice Mayor would not have been voted on by anyone.

Mr. Hunt stated that it would appear that in that instance, the Vice Mayor could become Mayor without having been voted on by anyone.

Mr. Grau asked for further clarification about the Council terms.

Mayor Smock explained that in 2020 and 2021 there will be eight members of Council, including the Mayor and seven members of Council.

Mr. Sharpe asked how this could be resolved.

Mr. Hunt stated that if the issue is passed by the electorate, there could be a declaratory judgement action to challenge the language in court and have the provision thrown out, or another charter amendment could be proposed to change the language.

Mr. Sharpe asked about Section 3.11 that addresses the salaries and compensation of Council.

Mr. Hunt stated that Council has already taken action and has changed salaries so they will not revert back to the salaries in this section.

Mr. Blackley asked if the phrase in Section 3.03, "The Mayor shall perform all other duties prescribed for him/her in this charter, or by general law", is discretionary.

Mr. Hunt stated that he did not think it is discretionary. He stated that general law is state law and that clearly sets out the duties of a mayor of a city. He added that he believes this will conflict with the City Manager's duties.

Mrs. McArthur stated that there are other communities that have a City Manager and an elected Mayor that acts in a ceremonial type of role.

Mr. Blackley asked Mr. Hunt if he had examples of legislative bodies that do not choose their presiding officer.

Mr. Hunt stated that he did not. However, in Villages under State law, there are six members of Council that have an elected Mayor, but there are many Village that have Charters that deviate from state law.

Mrs. McArthur asked who prepares ballot language.

Mr. Hunt stated that it appears that the City of Chardon has not typically suggested ballot language; however, in his experience, he has always submitted proposed ballot language. The Board of Elections reviews it and provides comments, however, it is the Secretary of State that approves the ballot language.

Mr. Gillette stated that this has also been his experience. In the past, he would prepare the ballot language with the former Geauga County Board of Elections Director, Arch Kimbrew, that would then be reviewed by the Secretary of State. Since Mr. Kimbrew has left the Board of Elections, the Board of Elections has prepared ballot language that the City can review and make recommendations on.

Mayor Smock stated that he is opposed to the legislation but he will vote for it because Council is required to.

Mrs. Chuha stated that she would vote for the legislation because Council is required to.

Mr. Lelko stated that under the advice of the Law Director, he will vote in favor of the legislation.

Upon roll call vote the motion passed unanimously.

ANY OTHER BUSINESS TO COME BEFORE COUNCIL - none.

ADJOURN

Mrs. Chuha moved and Mr. Blackley seconded to adjourn. Upon voice vote the motion passed unanimously.

The meeting adjourned at 6:56 p.m.

Attest:

JEFFREY L. SMOCK, Mayor
President of Council

AMY DAY
Clerk of Council