

**City of Maple Heights
Charter Review Commission Meeting Minutes**

Via Video/Teleconference

April 22, 2021

Chairwoman Katurah Johnson called the City of Maple Heights 2021 Charter Review Commission Meeting to order at 6:17 p.m. with the following Charter Review Commission members present via video/teleconference: Ms. Katurah Johnson, Ms. Michele Rudolph Ms. Almeida Dye, Ms. Lakiesha Nevels, Ms. Linda Mitchem, Ms. Angela Oglesby, Mr. Herb Wilborn, Ms. Jackie Albers and Ms. Lois Poole. Ms. Daphne Coleman arrived at 6:42 p.m. Ms. Rikki Brown was absent and excused. Also present were Law Director Frank Consolo, Mayor Annette Blackwell, Council President Ron Jackson, Finance Director Tinita Tillman, Council Members Shenett, Jones, Madden and Agee. Clerk of Council Leonette Cicirella Johnson was absent and excused.

MINUTES: Ms. Johnson asked if there were any corrections to the minutes of the March 25, 2021 Meeting. Ms. Oglesby asked Mr. Consolo if the abbreviation “SC” in the last paragraph of the last page referred to Supreme Court to which Mr. Consolo responded in the affirmative. He advised that the minutes be amended to read “Ohio Supreme Court.”

Ms. Dye, made a motion, seconded by Ms. Oglesby, to approve the Minutes of the March 25, 2021 Meeting as corrected.

ROLL CALL: Ms. Johnson: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Nevels: Yes; Ms. Mitchem: Yes; Ms. Oglesby: Yes; Mr. Wilborn: Yes. The motion passed by the vote of seven (7) ayes to zero (0) nays. Ms. Johnson said the Minutes have been approved as corrected.

Ms. Johnson asked if there was any Old Business for the Commission to consider to which Mr. Consolo answered in the affirmative. Mr. Consolo said the old business was listed on the agenda for tonight’s meeting. Ms. Oglesby read the first item of Old Business that concerned Article III, Section 2 regarding Terms of Elective Officers and Article IV regarding Salaries of Elected Officials and the effect of staggered Council terms on a change in Council salaries per Ohio Revised Code and Ohio Ethics Commission requirements.

Ms. Oglesby read the second item of Old Business regarding the Commission’s proposed amendment to Article V, Section 8 to permit the Mayor to hold other private employment while in Office.

Ms. Johnson asked Mr. Consolo to discuss the Commission’s recommendations regarding these sections of the Charter. Mr. Consolo said his first memo discussed the Charter change regarding the ability of the Mayor to hold private employment. He said his second memo with attachments discussed the proposed changes to the sections concerning how the salaries of elected officials were established. (See copies of Law Director Memos dated April 22, 2021 attached hereto and incorporated herein by reference.)

Mr. Consolo said Article IV of the Charter “required that the salaries of all elected officials shall be fixed at least one hundred (120) days prior to the date set for the Municipal election for the

terms beginning on the next succeeding first day of January, and shall not thereafter be changed in respect to any such term or terms or any part thereof.”

Mr. Consolo said that the 2016 Charter Review Commission recommended, and it was approved by the voters, that the terms of the Council President and all elected District Council members be changed to four (4) year terms and staggered starting with the Municipal election of November 2017, with Districts Two (2), Four (4) and Six (6) serving an initial two (2) year term. He said that under the current Article IV and Article III, Section 2, if Council passed legislation to change the Council salaries for 2022, the mid-term Council members would have to wait until their new term began. Mr. Consolo said the prior Charter amendment to create staggered Council terms would result in staggered salary increases for Council members.

Mr. Consolo said the Commission had requested that he review the prohibition on in-term pay increases under Ohio law and that it was his opinion that such in-term salary increases were permissible under Ohio law if provided for by a validly enacted ordinance. He said this was based upon the City’s power of home rule under the Ohio Constitution. Mr. Consolo said previous Ohio Attorney General Opinions have concluded that where a City Charter conferred full authority on the Council to fix the compensation of municipal officers, that authority may be exercised without regard to the provisions of R.C. 731.07 that prohibited any increase or decrease in the salary of an elected official during their term for which they were elected or appointed. Mr. Consolo said that municipal Charters such as the City of Maple Heights that have language that would prohibit in-term changes in salary for the elected officials however, must be followed.

Mr. Consolo said if the Commission wanted to propose this change, he would recommend that Article IV be amended to eliminate the second sentence of Article IV that states: “the salaries of all elected officials shall be fixed at least one hundred (120) days prior to the date set for the Municipal election for the terms beginning on the next succeeding first day of January, and shall not thereafter be changed in respect to any such term or terms or any part thereof.” He said with this amendment Council would then have the power by ordinance to set the pay of the elected officials even during mid-terms.

Ms. Johnson said if this would be voted on in November Council would have to wait for any salary changes.

Mr. Consolo said if Council wanted to do this it could pass legislation to set the salaries but he would recommend that Council follow the current Charter provisions since it was not known what would be approved by the voters in November.

Ms. Johnson asked if only Council needed to act or if the Commission needed to write something up, to which Mr. Consolo responded in the negative. He said Council does have the power to pass salary legislation, but the Charter will have to be changed to delete the second sentence of Article IV.

Ms. Johnson asked if there was a motion to make the change to Article IV as recommended by the Law Director.

Ms. Dye made a motion, seconded by Ms. Oglesby, to delete the second sentence of Article IV to allow Council to pass legislation to permit in-terms salary changes for the City's elected officials.

ROLL CALL on the motion to approve the Amendment of Article IV: Ms. Johnson: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Nevels: Yes; Ms. Mitchem: Yes; Ms. Oglesby: Yes; Mr. Wilborn: Yes. The motion requiring passage by 2/3 of the members or six (6) affirmative votes passed by the vote of seven (7) ayes to zero (0) nays.

Mr. Consolo said the second items of Old Business regarding the recommendation to allow the Mayor to hold private employment had already been voted on in concept by the Commission. Mr. Consolo said his recommendation for this Charter change would be to amend Article III, Section 4 to add the following sentences: "The Mayor shall hold no other public employment. The Mayor may hold private employment which does not conflict with the duties of Mayor." He said Article V, Section 8 would also need to be changed to delete the second clause "and, effective the first day of January of the new term, shall hold no other public or private employment."

Ms. Johnson asked if the Commission was ready to vote to accept the changes suggested by the Law Director to Amend Article III, Section 4 and Article V, Section 8 to permit the Mayor to hold private employment as set forth in the Law Director's Memo dated April 22, 2021.

Ms. Johnson made this Motion, seconded by Ms. Rudolph.

ROLL CALL on the Motion to approve these Amendments: Ms. Johnson: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Nevels: Yes; Ms. Mitchem: Yes; Ms. Oglesby: Yes; Mr. Wilborn: Yes. The motion requiring passage by 2/3 of the members or six (6) affirmative votes passed by the vote of seven (7) ayes to zero (0) nays.

Ms. Johnson asked if there was any other Old Business for the Commission. There being none, the Commission proceeded to the New Business on the Agenda. Ms. Johnson said that Article VII concerned the Council and that Section 1 described Membership and Election and vested the legislative powers of the City in Council. She said Section 2 described the Vacancy provisions and the procedures to appoint a successor from that district. Ms. Johnson said this provision allowed the Council President to vote in the case of a tie. She said the Charter provided that if the power of Council to fill the vacancy lapsed, the Mayor was required to select the successor within ten (10) days. Ms. Johnson said this Charter provision defined when a vacancy was determined to exist and required that the successor meet the same qualifications of an elected member under the Charter.

Ms. Johnson asked if there were any questions regarding this Section. There were no questions.

Moving to Section 3, Ms. Johnson said this Section concerned the Meetings of Council including the meeting to officially swear-in the newly elected members of Council and also the provisions for Special Meetings of Council.

Ms. Johnson asked if there were any questions or comments regarding this Section.

Council President Jackson asked Mr. Consolo if Council had added language to allow for e-mail delivery of meeting notices.

In response, Mr. Consolo said that Council had passed legislation to amend the Council Rules to allow for e-mail delivery, but that did not change or amend the Charter to allow for e-mail deliver.

Mr. Jackson also asked about the language concerning the swearing-in of newly elected officials being the first Wednesday and the procedure if this date fell on January 1st which was a legal holiday. He asked if this meeting day would fall on a legal holiday would it go to the next business day. In response, Ms. Oglesby asked if this would automatically go to the next business day.

Mr. Jackson said that per the Council Rules meetings that fall on a legal holiday do go to the next business day but that's not in the Charter.

Mr. Consolo said the Chart Review Commission could consider these changes that Mr. Jackson had suggested including the electronic transmission of meeting notices and moving the swearing-in to the next business day if it would fall on a legal holiday.

Councilwoman Jones asked Mr. Consolo if a change could be made to permit Council members to still attend meetings electronically even after we returned to in-person meetings. She said with the new electronics this would be a way for Council to join the meetings if they were out of town for example. Ms. Jones said instead of being absent they could attend electronically.

Mr. Consolo said that until Covid, elected officials could not vote unless they attended the meeting in-person. He said as a result of the Covid state of emergency, the Ohio Legislature changed these meeting rules and allowed for audio/video conferencing of meetings during this time.

Ms. Jones asked if the Charter could be amended to allow for other than in-person attendance for elected officials at public meetings.

Mr. Consolo said he would need to do more study and research on this suggestion and that he was not prepared to give an opinion to the Commission on this issue tonight.

Ms. Jones said there would be qualifications put on this and that it would only be used as an option when an elected official was late for a meeting or out of town for example.

Ms. Rudolph asked if elected officials were voting by video/teleconference now, to which Mr. Consolo responded in the affirmative. He said that since March/April of 2020, the Ohio Public Meeting Laws had been changed to allow for legislative voting to be done remotely. Mr. Consolo said the in-person meeting requirements had been suspended until June 30, 2021.

Mr. Consolo said the requested Charter change would be to allow the option for elected officials to meet by video/teleconferencing. He asked if the other Council people in attendance at tonight's meeting had any thoughts on this issue.

Ms. Nevels asked if the City would need technology to do this to which Mr. Consolo responded in the affirmative. He said that currently the City did not have this technology except for the use of private cell phones and computers.

Mr. Wilborn asked if there was something in the Charter now that could be reworded for this change or would something need to be added to the Charter.

Mr. Consolo said an option for elected officials to attend public meetings by video/teleconferencing would need to be added to Article VII, Section 3 entitled "Meetings." Mr. Consolo said that this type of change would probably need final review from the State. He said a municipality with a Charter may be allowed to bypass pre-Covid State rules.

Ms. Rudolph asked if the State would allow for this Charter change.

Mr. Consolo said he thought a Charter provision that allowed for elected officials to meet by means other than in-person would need further research.

Mr. Wilborn said Mr. Jackson's requests were still pending.

Ms. Johnson said all of these issues concerning the e-mail notification for special meetings, the legal holiday issue and elected officials being permitted to attend meetings via video/teleconferencing were under the same Section and the Commission should wait until they had clear information on them. She said these could be discussed further as Old Business at the Commission's May meeting.

Regarding the issue of electronic notification of meetings, Ms. Nevels asked if Mr. Jackson was asking to add written notice and e-mail.

Mr. Jackson said it could be either way.

Ms. Rudolph asked if the electronic notification could be by text message.

Mr. Consolo said that text messages were considered a form of electronic communications and text messaging does allow for group texts.

Ms. Rudolph said she concurred with Mr. Consolo.

Ms. Dye said text messaging was small and that e-mail would be preferable since the notices could be printed out as public records.

Ms. Nevels said electronic transmissions would be important for reading messages quickly.

Ms. Johnson said it would be easier to deliver the meeting notices via electronic means rather than personal delivery.

Ms. Jones said that prior to the changes in technology the notices for special meetings were delivered personally to the Council Members by the Police Department. She said Council would need to have sufficient time and notice to make the meetings anyway. Ms. Jones said in true

emergency meeting situations e-mail would be the best way for notification and that “e-mail” could be added to the language for that Section.

Mr. Consolo said adding the language “personal service, text, e-mail” created the problem of when a Charter was too detailed. He suggested language for notice of Special Meetings as “upon notice as determined by Council per Ordinance.” Mr. Consolo said too much detail in the Charter made it too rigid.

Ms. Johnson said she concurred with Mr. Consolo and said the Commission was getting bogged down with specifics.

Ms. Johnson asked the Commission Members if they needed more information regarding the other part of this discussion regarding the use of video/teleconferencing by elected officials when they cannot attend public meetings in-person.

Ms. Johnson asked Mr. Consolo if the Commission should vote on this issue or wait.

In response, Mr. Consolo said he would recommend that the Commission wait to vote on any changes regarding this issue. Mr. Consolo said he will discuss this with the Administration and Council regarding the City’s ability to provide video/teleconferencing of meetings. Mr. Consolo said he would also check with State officials on this matter.

Mr. Consolo said he would draft language for the recommendation by the Commission to change the special meeting notice provision and would also give the Commission options for Mr. Jackson’s suggestion regarding when the first Wednesday was a legal holiday.

Ms. Johnson read Section 4 regarding the Organization of Council and asked if there were any questions or comments. There were no questions or comments.

Ms. Johnson read Section 5 – President of Council and asked if there asked if there were any questions or comments.

Mr. Wilborn said he was okay with this Section.

Ms. Johnson read Section 6 regarding Clerk and Other Officers and asked if there were any questions regarding this Section.

Mr. Wilborn asked if this Section created positions in Council to which Ms. Johnson responded in the affirmative.

Mr. Consolo said that for clarification this Section referred to positions to assist Council only. As an example, Mr. Consolo said this referred to the Clerk of Council who was Council’s employee.

Ms. Johnson read Section 7 – Ordinances and Resolutions and asked if there was any discussion on this Section. There was no discussion by the Commission.

Ms. Johnson read Section 8 – Approval By Mayor and asked Mr. Consolo if this Section dealt more with legislation concerning the finances of the City to which Mr. Consolo responded in the

negative. He said this Section described the procedure for legislation to be signed after it has been passed by Council and also dealt with the veto power of the Mayor.

Ms. Oglesby asked if the Ordinances and Resolutions were everything passed by Council to which Mr. Consolo responded in the affirmative.

Ms. Johnson asked Mr. Consolo if this Section meant that even if the Mayor did not approve something but Council had passed it, then it would still go through.

Mr. Consolo said that under the procedure described by this Section the Mayor was given ten (10) days to sign legislation that has been passed by Council. He said the Mayor can send written objections to any legislation which was the Mayor's veto power. Mr. Consolo said after receipt of the Mayor's veto, Council could override the veto at their next meeting. He said 2/3 of the Council members (five (5) or more) must vote to override the veto.

Mr. Consolo said if the Mayor does not sign the legislation but does not object to it, this was not a veto and the legislation would go through as unsigned by the Mayor and become law.

Mr. Wilborn asked if that had ever happened.

Mr. Consolo said that to his knowledge this had not happened under Mayor Blackwell, but other Mayors may have allowed legislation to become law without their signature.

Ms. Johnson asked if there was any other discussion on this Section. There was no further discussion.

Moving to Section 9 – Estimate of Expense; Appropriation Ordinance, Ms. Johnson read this Section.

Mr. Consolo asked if the Commission would allow the Law Department and Administrative Staff time to discuss this Section and perhaps suggest some changes. Mr. Consolo said that this Section referenced the "First Day of March" but typically the Finance Director would do this before March. He said this Section did not coincide with the current process under State budget law which required Council to pass the budget by March 31st.

Ms. Johnson said the Commission would hold the discussion on Section 9 to their next meeting.

Ms. Johnson read Section 10 – Appropriation of Balance or Accruing Revenue Not Already Appropriated.

Mr. Consolo asked if Finance Director Tillman could explain this Section in more detail for the Commission.

Ms. Tillman said this section permitted Council to appropriate any accrued revenue that had not already been appropriated and any balance of appropriations that have not been used. She said this appropriation cannot conflict though with the specific use of the revenue that has accrued.

As an example, Ms. Tillman said if the City had revenue of \$10 million dollars but it only appropriated \$8 million dollars, then if the City needed to adjust the appropriations to appropriate additional revenue to make sure it did not go in the negative, Council could approve that adjustment.

Ms. Johnson asked Ms. Tillman if this process was working to which Ms. Tillman responded in the affirmative. She said that the Finance Department has made sure that the City stayed under budget and that she has tried to be proactive. Ms. Tillman said the budget was an estimate but that when the actual revenues have been received by the City, then the Finance Department will make that determination. She said the Finance Department will see if any other revenue could be appropriated.

Ms. Tillman said she made sure that she had not overestimated City revenues and was conservative by not using all of it. As an example, Ms. Tillman said that if the City estimated \$15 million dollars in revenue, she might try to appropriate only \$9 million dollars. Ms. Tillman said she liked to leave a cushion.

Ms. Tillman said Council had a Finance Committee that worked with the Administration. She said the Finance Committee will meet with the Administration on a regular basis to prepare and review the budget and discuss other financial issues as needed and that all of this has worked well.

Ms. Tillman said Council must also approve any expenditure over \$3,500.00 and that Council will see actual numbers for these expenditures.

Ms. Tillman said that as Mr. Consolo already mentioned, the Finance Department will begin at the end of the year using the information from that prior year to prepare the next year's budget. She said the budget was based upon an estimate from the previous year.

Ms. Tillman said she also distributed a copy of each monthly financial report to Council and the Staff that used the actual numbers for that month. Ms. Tillman said that if what was estimated was off from the actual numbers, then the budget will be adjusted throughout the year. She stressed to the Commission that the process was working.

Ms. Johnson said she felt that if the process was not broken then it did not need to be fixed and asked if there were any concerns with this Section.

Ms. Rudolph said she was okay with it.

Ms. Johnson read Section 11 – Drawing Money From Treasury; Unexpended Balances. Mr. Consolo asked Ms. Tillman to explain to the Commission what “appropriations” meant and what “expenditures” meant since this was the basic provision followed by the City.

Ms. Tillman said the terms “expenditures” and “expenses” were used interchangeably and basically referred to the money spent by the City. Ms. Tillman said “appropriations” was what the Finance Department has budgeted or what the City believed it will be going to spend.

As an example, Ms. Tillman said the City may have estimated revenue of \$1,000.00 but it will appropriate or budget only \$800.00 of that amount. She said the appropriation was basically the

budgeted amount, whereas the expense or expenditure was what was actually spent from an appropriation.

Ms. Tillman said sometimes there will be an appropriation that was not fully expended. Going back to her previous example, Ms. Tillman said she may have budgeted \$800.00 for supplies, but the appropriation would be \$100.00 so she would set aside \$100.00 for that expense. Ms. Tillman said the City may only spend \$600.00 of the \$800.00 so that expenditure or expense would only be \$600.00 even though \$800.00 had been appropriated. She said in other words, the City did not use the entire amount that had been appropriated or budgeted.

Ms. Oglesby asked what would happen if an expense would go over the budgeted amount.

Ms. Tillman said that since her appointment as Finance Director in 2019 she has worked to make sure that the City followed its budget and has made sure it did not go over it. Ms. Tillman said she paid attention to the budget and made sure the City followed it. She said there have been times when a Director may have requested to expend funds and they were denied because it would put them over-budget.

Ms. Tillman said she will also meet with the Council Finance Committee to determine if the budget needed to be amended. She said this would be done when the amounts that had been expended were getting close to the estimated amounts. Ms. Tillman said that any changes in the budget must be approved by Council.

Ms. Tillman reiterated that the City has never gone over-budget since she has been here and that she tried to be proactive in meeting with the Finance Committee to make sure Council will approve any changes to the budget ahead of time.

Ms. Tillman said the Finance Department also looked at trends in revenues and expenses and sometimes things can be underestimated. For example, Ms. Tillman said the City may pay more for maintenance this year. She said the City had a couple of line items that actually needed to be increased, but she was proactive to make sure the City stayed within the budget.

Ms. Tillman said another procedure she started in the Finance Department was that every single transaction needed to be connected to a purchase order.

Ms. Tillman said going back to her earlier example, if we had \$1,000.00 in revenue and we appropriated \$800.00, when we put in a purchase order before we expend any dollars, that purchase order would put that money aside. She said before the City would ever spend the money, it was putting the money aside through the purchase order.

Ms. Tillman said she will look at the revenue, will appropriate it and then once appropriated, the Finance Department will use a purchase order to set the money aside for a particular expense.

Ms. Tillman said the use of purchase orders has allowed the City to catch any expense that would be putting the City over-budget. She said that putting the purchase order in the system first before allowing the expenditure to come out will help to catch any mistakes that may otherwise not be detected.

Mr. Consolo said the first sentence of this Section (“No money shall be drawn from the treasury of the City, nor shall any obligation for expenditure of money be incurred, except pursuant to appropriations made by Council.”) was the safeguard right there for the City to stay within its budget. He said that language tracked the budgetary law, but that sometimes out of necessity it may be necessary to adjust the appropriations. Mr. Consolo said going back to Ms. Tillman’s example of the \$1,000.00 of revenue and the \$800.00 appropriation for office supplies, sometimes there might be the need to use more or might need \$900.00 for those expenses.

Mr. Consolo said in this case the Finance Director would need to go back to Council and amend the appropriations which was ok as long as it was done before the end of the year. He said the Finance Director had the ability to go back to Council and say that originally \$800.00 was appropriated for office supplies but we found out that we need \$900.00 so the Finance Director would go back to Council to amend appropriations. Mr. Consolo said this procedure still stayed true to the first sentence, that no expenditures be incurred except pursuant to an appropriation by Council.

Ms. Oglesby thanked Ms. Tillman and Mr. Consolo for the clarification and said this was a checks and balance process.

Ms. Johnson read Section 12 – Ordinance Record; Appropriations and said she was trying to understand what this Section was about.

Mr. Consolo said this Section described the requirements for the Clerk of Council to keep the legislative permanent record and the procedure to post and publish legislation. He said if necessary the Clerk of Council could elaborate on this Section but it was not necessary for the Commission to spend time on it.

Ms. Johnson asked if there were any questions on this Section. There were no questions.

Ms. Johnson read Section 13 - Bonds Required. Mr. Consolo said this was another Section that he would like to talk with the Mayor and the Administrative Staff about and then come back to the Commission. He said this was a common provision in public employment that employees and elected officials have to give a bond, but now this was covered by the City’s liability insurance. He said the City carried liability insurance on all the elected officials and employees for theft, etc. Mr. Consolo said he would check with the City’s insurance broker to see if this Section was still necessary.

Ms. Johnson said the Commission would wait to discuss Section 13 as requested by Mr. Consolo and moved on to read Section 15 – Emergency Measures. Ms. Johnson asked Mr. Consolo to discuss this Section.

Mr. Consolo said the Commission discussed this in their first or second meeting on how Council operated regarding the passage of resolutions and ordinances. He said Council has the requirement that all legislation have three (3) readings by Council before they vote on it. Mr. Consolo said for example, legislation regarding the salaries of Council would have to have three (3) readings. He said sometimes however, legislation may need to be done in an emergency because time is running out or there was a deadline that needed to be met, then Council can procedurally suspend the requirement of three (3) readings and vote for passage of that legislation right away instead of with three (3) readings.

Mr. Consolo said if Council was going to suspend the rules it needed a super majority, so that for a Council of seven (7) members, a majority was four (4) but a super majority will be five (5) affirmative votes. Mr. Consolo said in reality what happened during a Council Meeting if legislation needed to be passed on emergency, there will be two (2) votes. He said the Clerk will call the for the first vote to suspend the rules, then the second vote would be to adopt the legislation on emergency.

Mr. Consolo said if people attend Council Meetings they will hear this and would now know what that meant to suspend the rules which was the rule that says you have to have three (3) readings for legislation. He said if there were five (5) or more votes to suspend the rules, then the Clerk will call the second vote and that will be to pass the legislation on emergency. Mr. Consolo said you will hear the Council President ask to pass the legislation on emergency and then five (5) or more have to vote for the legislation on the second vote as well.

Mr. Consolo said the second part of this Section was kind of confusing concerning ordinances that involve appropriations of money such as the budget, etc. He said this part permitted these ordinances to be passed on emergency, but the other measures concerning grants, etc. of a franchise, or a special privilege or regulating public utility rates cannot ever be passed on emergency. Mr. Consolo said "franchise" was a kind of antiquated term but a cable franchise would be the same as Spectrum or WOW now. He said in the old days these types of companies would have what was called a franchise with the municipality.

Mr. Consolo said that what this Charter Section says is that Council cannot pass any legislation concerning a public utility on emergency. Mr. Consolo said he was not aware of any reason to change or amend this section, but the members of Council or the Council President may want to weigh in on this.

Mr. Wilborn asked for clarification regarding the earlier discussion of 2/3 vote by Council and asked if this other possible vote would still exclude the Council President. He asked how would the Council President vote apply to this other voting process.

Mr. Consolo said that per Section 5 the Council President has no vote, except only if there would be a tie and it did not matter whether the vote would be on emergency.

Ms. Johnson asked if there were any other questions regarding this Section. There were no additional questions.

Ms. Johnson said Section 15A regarding the Annual tax Levy was confusing.

Mr. Consolo suggested that instead of reading this Section he could explain it to the Commission. Mr. Consolo said that basically this was another common provision that allowed the City to tax the City residents by putting assessments on their property taxes. He said when a property owner received their property tax bill they may wonder what some of the charges were comprised of. Mr. Consolo said most of the money went to the School District, but a certain portion of it will come to the municipality and that this Section says the City can assess it. He said according to this Section there were 10.5 mills for each dollar of assessed valuation. He said this meant that the most the City can add to property taxes was 10.5 mills.

Ms. Johnson asked if this was the standard how would the Commission know how to change this Section and what to change.

In response, Mr. Consolo said the Commission would not want to change this Section because these tax levies have been in place since the late 1950's and the City still used them. He said the City still had a street lighting levy and we still have the Police and Fire pension levy. Mr. Consolo said basically these were certain pots of money that have been set aside for certain uses. He said these were special revenues coming in based on this tax. Mr. Consolo said the City received a certain amount of money to pay Police and Fire pensions and the City received a certain amount of money through taxpayers for street lighting.

Mr. Consolo said the City also had a Senior Center levy as well that was just voted to be renewed that was also paid by taxpayers. He said these were things that needed to be kept in place and that there was no recommendation to change this Section.

Ms. Johnson read Section 16 – Council Investigation and asked if there were any questions.

Mr. Wilborn said he assumed that there would be probable cause for a Council investigation.

Ms. Johnson said one would assume so.

In response, Mr. Consolo said it would not be appropriate to make this assumption. He said the Section does not say anything about probable cause. Mr. Consolo said that Maple Heights was one of the few municipalities that included such a Section and that it was similar to the earlier Section regarding the Mayor's Investigation. He said the Sections were almost identical. Mr. Consolo said he did not know if either of these Sections had ever been used by either Council or the Mayor, but he did not think it was fair to assume that there was some type of probable cause requirement. Mr. Consolo said "probable cause" was a term of art for criminal-type of investigations and that this was not what this Section was referring to. He said this was more of an administrative or civil-type proceeding.

Mr. Wilborn asked about a situation for example with an employee coming in late for work every day or who left early and that could be probable cause to investigate.

Mr. Consolo asked the Commission if they wanted to put in language regarding "probable cause" or just leave that Section alone.

Mr. Wilborn asked Mr. Consolo what probable cause meant and said that in general the Section did not specify a reason for investigation. He said there should be some clarity in this area and asked why would Council have this right. Mr. Wilborn said there had to be a reason to be in effect and to take action.

In response, Mayor Blackwell said City employees worked on the honor system and that if there was some reason to believe that an employee was habitually late or perhaps using City resources to run their own business, this Section referred to an investigation in a generic way. The Mayor said in real life, the Department Head and employee would have a conversation with the HR Department and there would be an informal investigation and the employee would be given notice to try to change their behavior.

Mayor Blackwell said this Section just said in writing that an investigation could be conducted. She said there have been some criminal investigations in the past so this just codified it.

Mr. Wilborn said the Mayor's explanation made sense that he completely understood what she was saying.

Ms. Oglesby said there was a certain process that would be taken by City Hall before it would go to Council.

Mayor Blackwell said the process would start with the Administration and that it was an Administrative function whereas Council was the legislative body of the City. The Mayor said that as Council themselves observed the behavior of Administrative personnel though, this Section emphasized the same power to address something that they may believe to be inappropriate.

Ms. Johnson asked the Commission Members if they wanted to recommend any changes in this Section.

Mr. Wilborn said he was ok with this Section as long as it was workable and as long as the Council and Mayor were on the same page.

Ms. Johnson said if there were no objections, the Commission would not suggest any changes to this Section.

Ms. Johnson read Section 17 – Manner of Making Public Improvements.

Mr. Consolo said this was another Section that he requested that the Mayor and Staff be able to come back to the Commission with some recommendations. He said this section dealt with the process for the City to make public improvements and said that public improvements would be projects such as installing a roadway, installing water lines or fixing the sanitary sewers. Mr. Consolo said those types of projects were what was meant by the term "public improvements."

Mr. Consolo said when this Section was written and when there was no date after it being done that meant this went back to the original Charter. He said it looked as if there was a time in the City where there were a lot of things put on the Department of Service and the Service Director. Mr. Consolo said that basically this Section said that the Service Director and the Department of Service was responsible for making all of the City's public improvements which was not possible nowadays, or do it by contract which meant they could hire somebody else to do it.

Mr. Consolo said the reality today was that the City worked with the City Engineer who pretty much oversees the public improvements and has helped the City to get the loans and grants for these projects. He said this Section was a little antiquated since it used the Service Director as the one who entered into these contracts and the Service Director was the one who would get approval from Council.

Mr. Consolo said this Section was one that would need to be updated and that he would talk with the Mayor, the City Engineer and the Service Director to come back to the Commission

with a suggestion on how this Section should be improved, or maybe it did not even need to be in the Charter anymore.

Ms. Johnson read Section 18 – Contract Signature and asked if this Section required that all contracts be signed by the Mayor.

Mr. Consolo said that was correct but that here again he would talk with the Mayor and Staff about this Section. He said the Administration may want to make a suggestion to amend this Section. Mr. Consolo said this Section also did not match the reality now that sometimes it was the Mayor’s Designee who also signed contracts for the City. He said sometimes the Mayor was not available to sign or sometimes there were agreements that the Finance Director or Law Director may need to sign or that it would be more appropriate that they signed.

Mr. Consolo said the Commission may want to add language here such as “shall bear the signature of the Mayor or Mayor’s Designee.” He said it may be as simple as just adding that language, but he would talk with the Mayor and Staff to suggest any changes.

Ms. Johnson read Section 19 – Powers Vested In Council.

Mr. Consolo said what this Section stated was that if there was some power or authority not provide for in this Charter, then it would go to Council. He said Council was required to pass appropriate legislation to give themselves this power or to delegate it.

Mr. Consolo said this was a pretty common provision that most Charters have and that he was not aware of any reason why it should be changed.

Ms. Johnson asked if there were any comments on this section. There were no comments.

Ms. Johnson read Section 20 – Limitation On Taxation.

Mr. Consolo said he would give a quick explanation of this Section, but that this one was going to take some study by the Commission. He said the Finance Committee of Council, the Council, the Mayor and Staff would be involved in discussing this Section.

Mr. Consolo said the first part, Part A, was pretty standard and that it concerned the power of Council to levy taxes.

Mr. Consolo said Part B stated, as most of the Commission Members may know, that the City had a 100% income tax credit and that the City’s current tax rate was 2.5%. Mr. Consolo said that if a resident worked in another city such as Cleveland, which also had an income tax rate of 2.5%, what this Section said was that since the resident was getting taxed in the City of Cleveland at 2.5%, the resident would get a 100% tax credit and Maple Heights would not tax the resident 2.5% to match. He said in this example the resident did not pay any municipal income tax in Maple Heights.

Mr. Consolo said that this provision has not always been 100% over the years. He said the tax credit has been various different percentages over the years and that the Council and longtime residents would have a better history of it.

Mr. Consolo asked the Commission to give Council and the Mayor the chance to weigh-in on whether or not they would want to recommend changes to this Section or keep it as-is.

Mr. Consolo said if the tax credit percentage was lessened, for example, if it was only an 80% credit, then it would increase revenue for the City. He said there would be 20% income tax that could come to the City and the City's revenue stream would increase.

Mr. Consolo said this would be something the Mayor and Council will want to review and asked the Commission to set aside some time to give them a chance to review it and make recommendations whether they would want to make any changes or not.

Mayor Blackwell said that currently there was pending a House Bill in Ohio regarding where income taxes will be paid because of the pandemic and many people worked from home and some people were still working from home. The Mayor said there was an argument being made that because employees were working from home, for example an employee who lived in the City of Independence, the issue was which municipality should receive their income tax money. The Mayor said would Independence get the income tax money since that was the employee's true place of employment, or would the City where the physical location of the employer was be the one to receive the income tax money.

The Mayor said this would be great for cities with a significant base, but that for the City of Maple Heights, our largest employer was the Board of Education and over 80% of the teachers lived somewhere else. Mayor Blackwell said if this legislation would pass, then all the time the teachers had been working at home teaching students remotely, their income tax money would go to city where they lived and were working from and not Maple Heights. The Mayor said the City will lose all that revenue so it was fighting against this legislation. The Mayor said this legislation would devastate cities that were heavily reliant on income tax revenue. She said income tax was the City's largest source of revenue.

Mayor Blackwell said almost 60% of the property taxes went to the School District and funding for Parks and Libraries also came out of property tax revenue so income tax was the City's lifeline.

The Mayor said if residents joined the Council Meetings they would have hard discussions on the conditions of main roads, streets that needed to be repaired and trees that needed to be cut down. She said the City needed revenue to do this this work.

Mayor Blackwell said the City went into fiscal emergency in 2015 and just got out earlier this year. She said it took the City six (6) years to get out of fiscal emergency. She said the City needed to find new revenue streams and that the City needed to aggressively pursue economic development.

The Mayor said she believed the City could begin at an 80% credit and that this would need to be reviewed annually.

Mayor Blackwell said she was not being critical, but that when residents volunteered to take assignments they needed to understand what the Administration was trying to understand. She said it was important to give these opportunities to learn.

The Mayor said this was a complicated process and that this discussion was important for Council and that decisions needed to be made that would keep this going in the years to come.

Ms. Johnson thanked the Mayor for this explanation and said that the Commission would discuss this Section further at their next meeting.

Ms. Johnson said there were several Sections that the Commission would have to come back to address at their next meeting. She said there were some other questions regarding Section 19 that would also be discussed at next month's meeting.

There being no further business, Ms. Johnson adjourned the meeting at 8:08 p.m.

Passed: August 19, 2021

ATTEST:

S/S Leonette Cicirella Johnson, Clerk of Council