

Lance Warner opened the meeting with the **Pledge of Allegiance**.

Members Present: Dick Brady, Jim Corso, Wendy Dempsey, Darwitt Garrett, Sharon Johnson, Terri Johnson, Lovey Leavell, Steve Poggiali, Wesley Poole, Jim Recker, Herman Robinson, Dennis Timple, Naomi Twine and Lance Warner.

Upon motion of Jim Recker and second of Steve Poggiali, the members voted to approve the minutes of the June 15, 2010 meeting. All Ayes. The Chairman declared the motion approved.

Public Comment

John Ginty, 5055 Providence Drive, asked the members to consider amending the Charter so that legislation cannot be passed as an emergency if money is being spent unless the City Commission has an opportunity to hear from the citizens and discuss it ahead of time. Wesley Poole said the Commissioners always have the option of passing legislation under Section 13 rather than Section 14.

Regular Business

Don Icsman gave a **presentation regarding Ordinance and Resolution enactment under Sections 12, 13 and 14 of the City Charter**. Section 12 establishes that five Commissioners are required to constitute a quorum. Section 13 has been interpreted requiring the normal process to allow for two readings of the legislation in a 30-day period, and the legislation then takes effect 30 days after passage. In essence, this can mean a period of 60 days prior to legislation becoming effective. Don Icsman said when the rules are suspended, the second reading is dispensed with to allow for immediate passage of Ordinances or Resolutions. Don Icsman said the City Commissioners do have the ability to change the Section under which legislation is adopted based upon information presented by the staff. He said just because someone does not agree with a certain piece of legislation, it should not call for this discretion to be removed altogether. Don Icsman said Section 14 covers emergency measures and means the Ordinance or Resolution goes into effect immediately upon its passage.

Don Icsman said the wording in the Sections of Sandusky's Charter dealing with passage of legislation are consistent with and mirror Section 731.30 of the Ohio Revised Code, as well as other statutory cities in Ohio. He said ORC Section 731.30 states a vote of two thirds (2/3) of the members are required to pass legislation while Sandusky's Charter calls for at least five Commissioners to pass legislation. He said he did not know what would happen if more than two Commissioners were unable to vote on an issue but this situation has never occurred. Herman Robinson asked if the word "emergency" has to be used if the rules are suspended under Section 13 and Don Icsman said we use the phrase "in accordance with Section 13" so that a second reading would not be necessary. Don Icsman said any right to referendum is protected by this 30-day period against an Ordinance; he said we try to do this with issues pertaining to zoning to make sure the public's right to referendum is protected. Jim Corso asked if the language in Section 13 can be changed from 60 days to 30 days and Don Icsman said a Resolution was recently passed in this fashion and this was a choice made by the City Commission.

Dick Brady said the difference between Sections 13 and 14 is whether the legislation becomes effective immediately, or 30 days after passage; he said this seems cumbersome. He said people are suspicious, but when dealing with this from a business management perspective, waiting for 60 days could be a deal breaker in a lot of cases. Don Icsman said waiting an additional 30 days after passage does not really do anything to protect the public. Naomi Twine asked why the 60 day rule was originally put into effect and Don Icsman said he did not know, but he believed it ends up this way because the Sandusky City Commission meets bi-monthly. Wendy Dempsey said she thought people were upset because

emergency provisions are used to pay for things that are more of a routine nature or for housekeeping. Lance Warner said he would like language added to Section 13 that states "routine and expedited" to make a distinction between emergency measures. Don Icsman said new words should not be put in the Charter that are not found anywhere else (i.e., in the State Code). Don Icsman said this could conceivably cause a petition to have street work done, as petitioned by residents, held up if legislation cannot be passed and go into immediate effect. Dennis Timple asked if the reason for immediate passage could be stated in the legislation to waive a second reading under Section 13 to get away from this perception. Don Icsman said this would be identical to Section 14 and the remedy would be to not re-elect persons if someone believes elected officials are abusing this. Wesley Poole asked the difference between the "usual daily operation of municipal departments" and "emergency passage" and Lance Warner said there is no difference, making a change will simply help the public to understand. Wesley Poole said democracy is not easy and there will always be people who interpret things differently and he said the current language is not complicated. Darwitt Garrett said it might be helpful to explain what emergency language means, in common terms, three or four times each year. Wesley Poole said the City Commission should be explaining why they use a certain Section of the Charter to pass legislation.

Don Icsman said the Ohio Supreme Court has recently reaffirmed the reasons for declaring an emergency must be set forth in the preamble of each Ordinance or Resolution and he believes the staff can do a better job in planning and to let things that are under our control dictate what we are doing. He said the City Commission should not be a rubber stamp and should state the reasons for emergency passage of legislation. He said this duty is in the state statutes and in the Sandusky Charter. Don Icsman said the reason(s) for emergency passage is written in every communication submitted and has been brought up in a public meeting. Don Icsman said the Commissioners are allowed to vote to avoid referendum, even if it is going to be sought by the people, and this is legal. Don Icsman said this is discretion that the City Commissioners are allowed to exercise and being upset about the process should not result in taking this tool away from a Council/Commission because someone does not agree with how it is used. Lance Warner asked if the reason for the emergency is included in legislation and Don Icsman said it is always included.

Sharon Johnson asked if the affirmative vote required of five members could be changed to six members. Don Icsman said he does not see a reason why this could not be changed. Dennis Timple said if it were changed to six, there may be potential that some legislation could never pass, even if the public were behind it. Wesley Poole said Don Icsman's legal description of the language in the legislation is what makes it legal; the Commission, by five votes, provides for passage. He said he sees this will always be a problem as there are people who will disagree or not understand what this is about.

Don Icsman said in order for legislation to be legally sufficient, certain words need to be included as well as the real reason(s) for requesting immediate passage. Don Icsman said a good example of an Ordinance requiring immediate passage is for legislation requiring the placement of issues on the ballot after review by the Charter Review Committee. He said with the new deadline for ballot issues recently announced by the Erie County Board of Elections, the Charter Review Committee has less time to complete their task. This caused a shorter window of time for their decision-making and ultimately will mean the City Commission will only have until August 9 to make a decision. The August meeting is actually on August 9, so July 26 will be the last day they can vote to place an issue or issues on the ballot.

Sharon Johnson said this Committee should begin meeting in January during Charter Review years so that they can complete their review without being rushed. Sharon Johnson asked the cost for each proposed ballot issue and Don Icsman said there has been a change in the state law since the last

election and this would have to be checked. He said there are some fixed costs that are shared and the cost is dependent upon the number of issues on the ballot. He said if issues were placed on the ballot during a special election, the costs would be much higher. Wesley Poole said the Charter Review Committee should be chosen by the City Commission sooner as there is impact for waiting. Darwitt Garrett said there is no place in the Charter stating when the members of the Charter Review Committee are appointed and Don Icsman said the 2010 Committee started earlier than the one in 2005. Sharon Johnson said this could be addressed in Section 87, Review of Charter.

Lance Warner asked Don Icsman if he could explain the **Platting Commissioner** as discussed at the last meeting. Don Icsman said a memorandum was distributed about the Platting Commissioner and that the duties of the Platting Commissioner have been passed on to the Planning Commission. Don Icsman said the duties of the **Sinking Fund Trustees** have been passed on to the Finance Director. Don Icsman said there was a question about **binding future Commissions** and all of the terms of a contract must be disclosed at the time legislation is passed, even if action is to be taken in the future. Lance Warner asked if Charter Sections referencing the Platting Commissioner should be revised or repealed similar to how the references to the Sinking Fund Trustees were repealed. Don Icsman said there is a cost for placing each issue on the ballot and if the Charter is to be 'cleaned up'; these costs would have to be borne by the city. Herman Robinson asked if this is cost prohibitive and Don Icsman said he does not know the exact cost so he cannot say it would be prohibitive. Don Icsman said Kelly Kresser could contact the Erie County Board of Elections to see what the estimated costs would be for placing proposed amendments to the Charter on the ballot. Herman Robinson said if questions about these Sections of the Charter come up with each Charter Review Committee, perhaps they merit some attention rather than continuing to explain it each time. Darwitt Garrett said he asked the question about these terms to make sure everyone knew what they were voting for, not that he had an issue with anything in the Charter referencing them. Wesley Poole said the costs for placing the issues on the ballot should be considered if there is no value added to the process of running our government.

Upon motion of Dennis Timple and second of Steve Poggiali, the members voted to *keep tabled* the motions previously passed to table Sections 13, 14, 34 and 76, until an estimate of the ballot costs are determined.

Discussion: Darwitt Garrett said the costs of editing or changing each Section of the Charter affected should also be considered.

All Ayes. The Chairman declared the motion passed.

Herman Robinson asked if the Charter Review Committee should even be considering the budgetary ramifications of proposed changes. Dennis Timple said once the estimated costs are determined, the Committee members could decide if it would be good stewardship of the city's money to make changes. Lance Warner said the Committee has already recommended one change to the Charter and a determination must now be made about changing others to clean up language. Herman Robinson suggested if this is something that is recurring, changes should be made. Wesley Poole said it does come up every five years because of the Charter Review process. Steve Poggiali said this would also be a question for anyone reading the Charter and five years ago, the members of the Charter Review Committee stumbled over the same thing and that it comes down to cost.

Upon motion of Wendy Dempsey and second of Jim Recker, the members voted to accept Section 82, Amendment of Charter, as written. All Ayes. The Chairman declared the motion passed.

Upon motion of Sharon Johnson and second of Steve Poggiali, the members voted to accept Section 83, Saving Clause, as written. All Ayes. The Chairman declared the motion passed.

Upon motion of Sharon Johnson and second of Naomi Twine, the members voted to accept Section 84, When Charter Takes Effect, as written. All Ayes. The Chairman declared the motion passed.

Upon motion of Naomi Twine and second of Dick Brady, the members voted to accept Section 85, When Amendments Take Effect, as written. All Ayes. The Chairman declared the motion passed.

Dennis Timple asked Hank Solowiej, Finance Director, to address the questions raised at the last meeting about **Section 76, Audit and Appraisal**. Hank Solowiej said cleaning up the language in this Section would only serve for 'housekeeping' purposes. Hank Solowiej said an annual audit is dictated by how much federal money is received and spent by the city and that Sandusky is audited every year (\$500,000 threshold). Our financial statements are presented on an accrual basis and we capitalize our fixed assets and accounts payables for liabilities. Dennis Timple asked if the reference in Section 76 to the Sinking Fund Trustees is addressed elsewhere as it does not exist anymore and Hank Solowiej said a financial statement is filed with the State of Ohio each year per state law. Don Icsman said the Finance Director assumes the duties of the Sinking Fund Trustees according to the Ohio Revised Code.

Upon motion of Lovey Leavell and second of Naomi Twine, the members voted to accept Section 86, Residency Requirement, as written.

Discussion: Dennis Timple said those who are looking to step into city positions should be given additional credit, or preference, toward hiring. He said we should stand behind our own community. Don Icsman said the Ohio Supreme Court has ruled against residency requirements, although he was very surprised at this decision. He said to a limited extent (i.e. response times) and only by referendum, municipalities cannot go beyond a county-wide residency rule. Don Icsman said this brings back the issue of cost.

Upon motion of Dennis Timple and second of Steve Poggiali, the members voted to table this motion to adopt Section 86 as written.

Discussion: Darwitt Garrett said Section 86 should remain as it is as this could again be challenged to the Supreme Court. Wesley Poole said if we put too many issues on the ballot, the voters could vote no on all of them. Jim Recker said by keeping this as it is currently written, the message is that people want city employees to live in the City of Sandusky, whether legally permissible or not. Steve Poggiali asked if it is stated in the Charter that an employee has to be a resident, yet State law is differing, can it be enforced. Don Icsman said the Charter is a constitution passed by the voters yet the Supreme Court said residency is not legal.

Vote to table the motion: Yeas: 5. Nays: 8. Abstain: Terri Johnson, 1. The Chairman declared the motion failed.

Upon motion of Naomi Twine and second of Lovey Leavell, the members voted to accept Section 87, Review of Charter, as written.

Discussion: Sharon Johnson said she would like to see future Charter Review Committees begin in January so that they are not rushed through. Wesley Poole said he pointed this out because decisions made by the City Commission have an impact. Darwitt Garrett said the cost is what is important but he also agrees the staff and members of the Charter Review Committee should not be rushed to make

decisions. Wendy Dempsey said this should be done in the form of a recommendation rather than a Charter change.

Nays: Darwitt Garrett, Herman Robinson and Sharon Johnson, 3. The Chairman declared the motion passed.

Upon motion of Wendy Dempsey and second of Darwitt Garrett, the members voted to adjourn the meeting. All Ayes. The Chairman declared the motion passed and the meeting adjourned at 7 p.m.

Respectfully submitted:

_____/_____/_____
Date

Kelly L. Kresser, Clerk of the City Commission

Approved:

_____/_____/_____
Date

Lance Warner, Chairman