

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

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

**Upon motion of Jim Corso and second of Steve Poggiali, the members voted to approve the minutes of the May 25, 2010 meeting. All Ayes. The Chairman declared the motion passed.**

#### **Public Comment**

None.

#### **Regular Business**

Lance Warner said notification was received from the Board of Elections about the submission date for ballot issues being moved ahead by 15 days. He said this means there will be time for three less meetings than originally scheduled and asked to address this issue before the meeting ends tonight. The new deadline is 90 days prior to the date of the elections, or prior to August 4, 2010.

**Upon motion of Sharon Johnson and second of Wendy Dempsey, the members voted to amend Section 13, Ordinance Enactment, as follows:**

- 1) require all legislation and amendments to be formally typed at the time legislation is presented for passage;**
- 2) disclose the account number and names of accounts being drawn from at the time legislation is presented for passage.**

**Discussion:** Wesley Poole asked if anyone was aware if we have to use these motions according to Parliamentary Procedure before having discussion as it gets cumbersome. Lance Warner said he did not think there was reason to discuss sections which no one has a problem with and Wesley Poole said he would look this up for the next meeting.

Sharon Johnson said legislation should be presented in printed/written form as previous legislation was passed on notes only, was not fully typed up and was rushed. Steve Poggiali asked how legislation is submitted and Kelly Kresser said legislation is usually presented in written form for consideration by the City Commissioners. Sharon Johnson said legislation for the Sandusky Yacht Club was passed on notes only. Darwitt Garrett said he believes the first sentence of this Section covers this and it was already suggested something be done if the Charter is not abided by. Lance Warner said a new Ordinance or Resolution also must show the revision(s) made and it seems as if the entire document must be written first. Dennis Timple said this should be brought to the Law Director if attempted so that he can inform the Commissioners that the Charter prohibits the practice of approving legislation not in written form. Lance Warner said this calls for citizen vigilance. Dennis Timple said the City Commission rescinded legislation to stop a referendum and then passed it as an emergency and suggested the language in Paragraph 2 of Section 13 be eliminated as follows:

*"...unless it be an emergency measure or unless otherwise provided by this charter..."*

Dennis Timple said this would mean that legislation would always be open for members of the public to redress issues. Sharon Johnson said her second point is to include the account numbers and names of

the accounts so that at the time legislation is passed, the public knows where the money is being drawn from and the Treasurer certifies the money is available. Dennis Timple said Section 22, Certification of Funds, may solve this as it addresses the certification of funds by the City Treasurer. Wesley Poole asked what purpose would be gained for the overall population, besides solving Sharon's curiosity and convenience, by adding this extra work when individuals who want this information can simply call and ask. Herman Robinson said this would simplify the accounting and help with public openness. Sharon Johnson said this would show what is being drawn at the time of certification. Dennis Timple asked if administratively, this could simply be a change in procedure. Lance Warner asked Don Icsman to give his opinion about adding this provision into Section 13 versus changing procedure(s) to require this certification. Don Icsman said not all legislation is for expenditures and he believes the Fiscal Officer's Certificate is accomplished with Section 22, when necessary, and it would be appropriate to have Hank Solowiej address this at the next meeting. Don Icsman said he will be modifying the information for his presentation about the passage of legislation for the next meeting.

**Upon motion of Dennis Timple and second of Sharon Johnson, the members voted to table this motion pertaining to both Section 13, Ordinance Enactment, and Section 14, Emergency Measures, until the next meeting. All Ayes. The Chairman declared the motion passed.**

**Upon motion of Dennis Timple and second of Sharon Johnson, the members voted to remove the wording from Section 13, Ordinance Enactment, as follows:**

***"...unless it be an emergency measure or unless otherwise provided by this Charter..."***

*Discussion:* Dennis Timple asked if this would cause a legal problem and Don Icsman said it would. Don Icsman said by State Law and according to the Ohio Supreme Court, determination of an emergency is left to the eye of the beholder and to be careful about taking away discretion. Don Icsman said the Charter sections are the city's constitution and the form they take is how the powers are as authorized by the State of Ohio. He said we would follow State law and/or the Ohio Supreme Court for things that are not specifically addressed in the Charter. There was a recent case at the state level about a referendum issue and the state says it takes a vote of five or a super majority vote to pass legislation by emergency and so long as the emergency is determined to be real, it is legal. Don Icsman said the case is Laughlin vs. James and he will provide a copy of the summary to the members of the Charter Review Committee. Don Icsman said it was determined that the passage of emergency legislation to avoid a referendum was a lawful exercise of their (the Board of Commissioners) discretion. Dennis Timple said the issue is that certain things could not be passed as emergency if this language (above) is removed. Don Icsman said this change would include all legislation as the Section reads "...No ordinance or resolution of a general or permanent nature..." and to be careful with this. Don Icsman said this is not unique to our community and when Dr. Keller was here, he said emergency provisions are abused at all levels and elected officials and employees should be held to the fire to solve the issue. Don Icsman said some legislation should never be subject to referendum such as projects which the residents petition for. Dennis Timple asked if it would be legitimate to remove "...of a general or permanent nature..." from the second paragraph of Section 13. Don Icsman said there is a difference between taking away or restricting the right because of something invoked improperly and taking away a right permanently. He said this is where accountability and responsibility comes in from the elected officials. Dennis Timple said this does not mean it could not be done, it simply would not be allowed in order to bypass a referendum. Don Icsman said this would be in violation of the interpretation from the Ohio Supreme Court. Dennis Timple asked if we have the right to be legally more restrictive in our city than in the State of Ohio and Don Icsman said ultimately, we have to follow State law everywhere we have not specifically spoke in our Charter.

Lance Warner said a third avenue could be to create “expedited” legislation for routine things and to save “emergency” legislation for true emergencies rather than routine things. Don Icsman said this can be confusing if you are not familiar with it, but the term emergency is defined in the Charter and a referendum should not be used to slow the process down. Don Icsman said legislation is now passed “under suspension of the rules” which really says or means emergency. He said the staff and the City Commissioners need to do a better job with this process and we need to improve it. Herman Robinson said the current language is superfluous and discourages public debate and dialogue and we could better serve the public by making the language simpler. Wesley Poole said he did not believe the language could be improved and it is not possible to educate 25,000 people who do not choose to come and be educated. He suggested the majority of the legislation is routine and he does not have a problem with how it is processed. Wesley Poole said if we added another section, we would then begin to parse the words as to what constitutes an emergency. He said there is a large group of people who recognize we have not done a good job with emergency legislation but it is not critical and the solution is to deal with the people elected rather than creating two readings for every piece of legislation.

Dennis Timple asked if there was a legal issue with changing the affirmative vote to six or seven members. He asked if we could edit the term “emergency measures” to read “expedited measures”. Wesley Poole asked the difference in the application and said we are creating problems that do not exist, they are just perception. He said he does not believe the vast majority of the public has a problem with this and does not see it being a problem at election time. Don Icsman said Section 24, Emergencies, would also have to be changed substantially. Lovey Leavell has always been a proponent of ‘having it and not needing it’ rather than ‘needing it and not having it’. She asked Don Icsman if this language is mandated by the State and Don Icsman said Sandusky’s language mirrors state language. Lovey Leavell said ultimately, the state law would take precedence. Lance Warner said if the staff has the option of processing legislation as an emergency or as expedited, this would remove the term “emergency” for routine matters. Don Icsman said the term emergency means it is fact specific and driven by the context. He said changing this would only allow for dragging the process out for some items which have already gone through the processes and would also cause bids to go up. Dick Brady said if this wording is not approved, this seems to be a matter of encouraging the City Commissioners to do the right thing other than at the ballot box. Don Icsman said staff should be encouraged to do a better job through education. Darwitt Garrett asked if changing the wording from “expedite” to “emergency” would make a difference and Don Icsman said it may be something that could make a difference. Dick Brady said he is not in favor of changing this Section of the Charter and morality cannot be legislated. He said he believes this should be done through education and communication with the staff. Herman Robinson said Section 14 and Section 24 use the word emergency but in two different contexts because Section 24 is about expending funds. Dennis Timple said his concern is because of a referendum petition that was submitted with more signatures than necessary. The Commissioners rescinded legislation and then turned around and adopted the same legislation under emergency which eliminated the right of the public to redress the issue.

**Upon motion of Dennis Timple and second of Darwitt Garrett, the members voted to table this motion pertaining to Section 13, Ordinance Enactment, until the next meeting. All Ayes. The Chairman declared the motion passed.**

Lance Warner asked for discussion on **Section 15, Record and Publication**. Wendy Dempsey said the city paid almost \$24,000 in 2009 to publish legislation in the newspaper and said perhaps doing this online would be a means to save money. Dennis Timple said everyone has access to a computer and can go into the library and ask for assistance to go online. Darwitt Garrett said a lot of people do not go to the public library for various reasons (age, disability, etc.) and Dennis Timple said these are the same

people who are probably not reading the newspaper. Sharon Johnson said some people cannot afford to get the newspaper and Darwitt Garrett said people may get newspapers or hear about items in the newspaper from other people. Darwitt Garrett said until a better form of communication (other than the computer) is made available, he would oppose this. Herman Robinson said it is a fundamental engine of democracy to use every means possible to keep the populous informed and information should not be made exclusive to a person with specific software. He said we should work to include as many people as possible. Dennis Timple asked if the topic of the legislation only could be published and contact information for where/how copies can be made available. Don Icsman said most places do this and the last Charter Review Committee had also made this recommendation. Lance Warner said this follows the recommendation in the model charter. Don Icsman said the Sandusky Register disingenuously attacked us last time this was suggested as this was a fiscal issue for them. Darwitt Garrett said the suggestion made could be more costly because if a resident called to request a copy of legislation, the city would have to send it free of charge(s). Dick Brady said he did not think there would be a lot of requests. Steve Poggiali said this is a relevant issue and the cost will only continue to go up. He suggested approving a change to this Section and then letting the voters decide.

**Upon motion of Steve Poggiali and second of Dennis Timple, the members voted to amend Section 15, Record and Publication, to mirror the recommendation made by the Charter Review Committee in 2005, and let the voters decide.**

*Discussion:* Don Icsman said if passed, legislation will be presented to the public in the newspaper by title only, and copies made available in the City Manager's Office, the Clerk's Office, at the Sandusky Library and online. Jim Recker said many newspapers are going to online only and it is coming to that age anyway.

**Nays: Darwitt Garrett and Sharon Johnson. The Chairman declared the motion passed.**

**Upon motion of Darwitt Garrett and second of Dennis Timple, the members voted to accept Section 16, Price and Mode of Publication, as written. All Ayes. The President declared the motion passed.**

Lance Warner asked about continuing tonight with the Sections pertaining to Administrative Officers and Departments. It was decided to pick up here at the next meeting.

Lance Warner said there will be three fewer meetings than originally planned and asked what the members would like to do about this. Darwitt Garrett said Stuart Abrams cannot be at the Charter Review meetings in the evening because of his work schedule and asked if extra meetings could be scheduled during the noon hour to allow him to attend. After some discussion, it was decided the Charter Review Committee will meet weekly, every Tuesday, at 5:30 p.m.

**Upon motion of Herman Robinson and second of Sharon Johnson, the members voted to meet every Tuesday at 5:30 p.m., beginning next week. Nays: Darwitt Garrett. The Chairman declared the motion passed.**

Herman Robinson said if Stuart Abrams is unable to serve, perhaps someone else could be appointed who could attend the meetings as scheduled. Don Icsman said Section 87, Review of the Charter, states "If an individual so appointed cannot serve, the Commissioner making the original appointment shall appoint a replacement to be approved in the same manner and way described." Lance Warner asked Kelly Kresser to see which City Commissioner appointed Mr. Abrams to ask if a replacement could be made for him.

Upon motion of Darwitt Garrett and second of Naomi Twine, the members voted to adjourn the meeting. All Ayes. The Chairman declared the motion passed and the meeting adjourned at 7:06 p.m.

Respectfully submitted:

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Date

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Kelly L. Kresser, Clerk of the City Commission

Approved:

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Date

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Lance Warner, Chairman