

# Canal Winchester

*Town Hall  
10 North High Street  
Canal Winchester, OH 43110*



## Charter Review Commission

### Meeting Minutes - FINAL

**March 11, 2020**

**7:00 PM**

**Town Hall**

### **Members**

*Charles Carpenter*

*Pat DeWitt*

*Steve Donahue*

*Nick Franklin*

*Amy Giesecke*

*Jackie Marion*

*Liana Obert*

*Ryan Rose*

*Marilyn Rush-Ekelberry*

*Katy Santore*

*Michael Stobart*

*Alternates:*

*Jim Bohnlein*

*Rick Deeds*

**A. Call To Order**

at 7:00 pm

**B. Roll Call**

*Present 12 – Charles Carpenter, Pat DeWitt, Steve Donahue, Nick Franklin, Amy Giesecke, Jackie Marion, Liana Obert, Ryan Rose, Marilyn Rush-Ekelberry, Michael Stobart, Jim Bohnlein (alternate), Rick Deeds (alternate)*

*Absent 1 – Katy Santore*

*Also in attendance was Jesse Shamp, legal counsel from Frost, Brown, Todd, LLC*

Chairman Stobart noted that we have a quorum.

Comment by Clerk to remind members to use their microphones when speaking so that they can be heard on the audio for transcribing minutes.

**C. Approval of Minutes**

*Motion to approve Minutes from 2-26-20 meeting made by DeWitt; seconded by Rush-Ekelberry  
Motion carried by the following vote:*

*Yes 10 – Pat DeWitt, Steve Donahue, Nick Franklin, Amy Giesecke, Jackie Marion, Liana Obert, Ryan Rose, Marilyn Rush-Ekelberry, Michael Stobart, Rick Deeds (alternate)*

*Abstain 2 – Charles Carpenter, Jim Bohnlein (alternate)*

**D. Public Comment – Five Minutes Per Person**

**Chairman Stobart** – Let's move on to public comments and just a note from the last meeting that we are looking for public comments that are germane to the business that we are discussing today as well as bringing up any topics for the next agenda if anyone would like to mention those; and from what I recall in new business we are going to review sections one, two, nine, ten and twelve. Any public comments? (None) We can close public comments; do we need a motion or anything for that; Shamp said no.

**E. Items for Discussion*****City Charter of Canal Winchester******Articles I, II, IX, X, XII***

**Stobart** – I am hoping everyone had a chance to review those sections at the very least and also think about what sections we will be reviewing for the next meeting, as well; from what I recall we have six meetings scheduled, five after this is what we have scheduled to date, if we are able to cover these five today that will leave seven for the remaining five sessions, so with that being said, I would like to open up Article One for any discussion, comments or edits that the committee members deem necessary; and if you want I can go section by section. Any comments on section 1.01?

**Marion** – I have a comment; is this the proper place to discuss a city administrator? Or is that further back?

**Stobart** – From what I recall, and you can jump in Jesse, that would fall under the Mayor, article five

**Shamp** – I think it is article five. This is very top level, when we get into it in Article Five we may have to circle back to this if you decide to change some wording

**Obert** – Does this fall under 1.02 where it says charter shall be known as the strong mayor council plan?

**Shamp** – No, only because the appropriate place to discuss that would be article three and five where we already have those powers delegated, this is really naming what we later do, so it may require a change if we decide when we look at three and four and five for changes

**Stobart** – So a footnote to our parking lot we can go back to it, can address articles three and five together

**DeWitt** – They might go together

**Stobart** - With that do we want to continue with article one; just a technical piece Jesse, name and boundary, it says the municipal corporation existing as the Village of Canal Winchester since we are now a city, edit it to say city

**Shamp** – Yes, I was thinking the same thing, I marked it up, there are several sentences in there that aren't really necessary, if you like I can draft something for approval at the next meeting to sort of clean that up since we are a city and that's not changing

**Stobart** – Ok; section 1.02 form of government, Jesse you might be able to answer this, I am assuming this form of the concept is we have both a strong mayor and a strong council, we are indicating what type of governance we want

**Shamp** – Yes, the revised code provides four or five different plans, we don't have to stick to that because we have the charter and that's sort of the point, but they have commissioner plan, city manager plan, federal plan, strong mayor plan, so that is what we have termed it based on our later articles

**Stobart** – So this would be the section we would re-visit when we review three and five

**Shamp** – Correct

**Stobart** – Any additional comments on section one, article one? Any objection to moving to article two? (none) Any comments or concerns with article two, section 2.01, powers granted? (none) Now move onto section 2.02 exercise of powers.

**Deeds** - This is one I read and felt like an attorney needs to weigh in on this one 2.02 and 2.03

**Stobart** – Would you like to address that Jesse?

**Shamp** – Sure, let's start with 2.02, I looked at about six different charters today and almost all of them are exactly word for word what this is and that is really just the rubber stamp that you put on the charter so you are basically complying with home rule and that means you have power as a city to make your own resolutions and ordinances but that is in keeping with the constitution and not going beyond what the laws of the state of Ohio give us.

**Stobart** – The way I read it is taking all power away from the state to the extent we can, so we can rule ourselves.

**Shamp** – That's right, and not going beyond that so the state can't tell us we are doing something wrong

**Stobart** – Strong local government

**Shamp** – Right

**Stobart** – Any concerns with 2.03? comments or questions? (none) Section 2.04? Did you see anything about additional grants of power in any other charters...pretty standard?

**Shamp** – No

**Stobart** – These are pretty standard

**Shamp** – Very standard

**Deeds** - With the changing, it's been ten years right, are there any other entities or mechanisms we have to be careful of?

**Stobart** – This might be a good time before we move on to article three, just to ask from a home rule stand point are there any legislative activity or judicial activity that we should be aware of as we consider these changes?

**Shamp** – So there hasn't been any since we talked last, and I requested a memo from our legislative team that does the lobbying to see where certain proposals stand. There is one big one coming up and our firm actually represents about 115 different municipalities around the state; at the supreme court in May we have an argument that cities have the authority to conduct their own taxation, conduct and collect their own taxation, the state passed legislation two years ago now that forced cities into using a statewide collection and 115 of them didn't want to do that and have to pay a cost back to the state and so we're are the supreme court on that in May, so that will be a big one, and not certain how that might affect what we do here, but I will definitely look into that for your though; that is the big home rule issue that's out there right now.

**Marion** – I have a question; Mike I am having trouble hearing you, did you already do 2.03? And I missed that

**Stobart** – We can revisit it right now

**Marion** – My question is what does it mean "construed liberally" I thought that was interesting and there is another place in here where it also lists that

**Shamp** – So that is a CYA to the village in that the laws as we write them later in our charter and as we enact them from council are meant to be read giving the city broad power, and that's because in a home rule analysis local government rule can exceed the general power that the state gives so we want to just make sure that we are covering ourselves when we write legislation it's construed liberally, widely giving the city broad powers

**Stobart** – There's a principal that anytime you are drafting it can be construed against the drafter, so if you had the opportunity to draft something in your legislation and then it it's not specific enumerated then the courts can say well if you really wanted that you would have put it in, and this is our way of a catch all to say hey if it's not in here you still have to construe it in our favor.

**Stobart** - Any other questions as to form on article one or article two or any general questions as we move through this? Feel free to raise at anytime

**Stobart** – So what we have next is article nine, flying through this

**Deeds** - We didn't do 2.04 did we?

**Stobart** – We can, I thought we covered it but let's do 2.04 intergovernmental cooperation. Do you see any limiting factor on this where we couldn't contract with

**Shamp** – No, I've been trying to think of another government entity that isn't covered here and I can't think of one, so it gives us the power to contract with anyone, any government entity

**Marion** - I have a question about that, does that include the Madison Township Fire Department., or the police department?

**Shamp** – It should yes, townships are considered political subdivisions or they are considered other units of government of the state of Ohio

**Marion** – Number five okay

**Shamp** - And within those are fire and police departments

**Stobart** - And with the fire and police I believe we have...we'll cover in...just want to make sure...section three powers of council, I just wanted to see if that was in there as well...article six, powers of council relative to police and fire...so we can create a department or contract under article six as well which we'll revisit

**Stobart** – Any additional comments or questions or articles one and two? Before we move to article nine. And we can revisit these as we discuss other articles and touch back. Article nine covers nominations and elections for elected offices. Any specific comments on any section 9.01 through 9.04? I have a question, in special elections under 9.03, council can call special elections by ordinance or resolution, is there ability of citizens to call a special election, I know they have the ability to recall.

**Shamp** – They do have the ability to recall

**Stobart** - And the ability of initiatives

**Shamp** – Right

**Stobart** - So I'm not sure what a special election would do

**Deeds** - Called by the public or

**Shamp** – That's a great question

**Stobart** – And maybe if we touch vacancies or something like that maybe later on we can address it; we don't have that capability today, could be something to look at. Are you aware of any litigation around election stuff, special elections or

**Shamp** – No

**Deeds** - Is it something you want to look at other municipality's charters or something where the public can call special elections

**Bohnlein** – Quick question, what about death of a councilman, would that require a special election, I know it hasn't before they have just appointed someone

**Deeds** - If you read the rules, the provision is the rest of the council people can appoint or nominate someone and if they don't the mayor gets to; it's in one of the sections

**Obert** – Section 3.08

**Marion** – I have a question about 9.01, I read it about fifteen times and it's not going through my head...equal in number to not less than one percent nor more than three percent of the electors; why nor more than three percent of the electors, isn't that kind of redundant?

**Shamp** – It is, I believe the point or purpose of it is, and I will absolutely double check this, the purpose is to avoid people going out and getting or needing to get hundreds and hundreds of signatures to get on a petition and so it just sort of provides a cap so you know how much you have to get, that would be the only insight on it, don't think it's a legal requirement

**Marion** – Ok, thank you

**Deeds** – I think there is the other perspective to, you see how these petitions are done, they stand down here on the corner and get anybody walking by to sign and so you're just fishing to see if you can get on the ballot based on getting real electors

**Stobart** - And there is a period you have to validate the rules and you overwhelm them trying to verify the petition, I think that's a great point

**Stobart** – Anything else on section nine? Article ten, this may be interesting, initiative, referendum and recall; and it may generate the most questions as well. Only thing I know on recall is it requires fifteen percent of the electors voting in the last election; it's probably consistent with other jurisdictions

**Shamp** – It is

**Deeds** – Where is the section that talks about if you pass it as emergency you take away the ability for a referendum; maybe the real question is when we get to that section we may need to come back to this; section three or might be four

**Obert** – 4.06 emergency legislation

**Stobart** – 4.06? I am not sure I recall seeing that.

**Shamp** – I think we should put that in there; I think maybe what we have done in the past is fall back on the state code that says if it's passed by emergency you don't have the option to have a referendum on it, but it can't hurt to put that here for everybody to see

**Deeds** – And I think Gene also said certain legislation might not make sense so it might be worth having us understand that too

**Shamp** – Sure

**Stobart** – Are you suggesting adding something in here either in the initiative, referendum or recall section for that emergency to limit the ability to have an initiative or referendum to

**Shamp** – I would think the most sensible place for it would be in 10.01 just because that governs all initiatives and referendums, but we can draft it and bring it to you guys to decide where you want it

**Stobart** – The only thing I will say is in my own opinion we have seen a lot of resolutions and ordinances be passed by emergency and we have also seen a lot as a method of just moving it through without three readings and I would hate to see that be the course of action that gets taken to avoid public comment, public discourse, it may be something we want to limit.

**Deeds** – From being on council, you cringe when you take away the public's right to discuss and review so I would...at the very minimum would should have an explanation as to why and maybe it some kind of explanation

**Donahue** – As to why it's an emergency

**Deeds** – Yes

**Donahue** – It's always given; the years I was on council, you had Matt Peoples saying the reason why a contract; I don't know of any that was thrown through just to get something

**Rush-Ekelberry** - But the outside public I think many times questions why there was emergencies for certain things; or they weren't here to hear the other side as to why we made the necessary decision to do so

**Donahue** – Maybe now with all these meetings being videoed and whatever you call it, I would think you would hear that, and in the past when you didn't have that, and the reporter didn't put it in and you didn't know the reason why, but if you were here and heard it said

**Rush-Ekelberry** - ...people thought you passed everything under emergency...

**Donahue** - And usually one of the council members would always say why are we not having three readings and that's how you would get your answer

**Stobart** – Is it possible to get some alternates, some alternate language on that

**Shamp** – Yes

**Stobart** – So section 10.01 is where we would look for

**Shamp** – The only thing I noticed, today I was looking, haven't had a chance to look at statutes anywhere but in 10.02C I did notice there is no reference to board of election verification of the signatures and I'm just not sure if that is...I don't know if that's ok, so I have that down to find...every other charter I saw referenced the board of elections verification; we very well may not need it, but it sort of jumped out to me that this was the only one I saw that didn't have it.

**Donahue** – As I look at that I see you have the clerk of council doing all this stuff, if all of a sudden you don't have a clerk of council you need to have a "or designee" in here

**Shamp** – Sure

**Donahue** - Cause there's been times when we didn't have a clerk

**Stobart** – Now who would be the successor to that? Or the temporary?

**Donahue** – Well it's a strong mayor, I think it would be up to the mayor...you know

**Stobart** – To appoint someone?

**Donahue** - Yea, I would think so, somebody on staff yea

**Stobart** – To your point, what’s the clerk really looking for other than signatures at that point?

**Donahue** – They have to verify addresses and whether or not you can say Canal Winchester or not be in the city of Canal Winchester, you could be way out

**Stobart** – That’s why I think if it’s board of elections...maybe we can get out of that altogether

**Donahue** – I agree with you

**Stobart** - Maybe we can get out of that all together in this section

**Donahue** – If they will do that...that’s the question; if they’ll do it that would be the way to go

**Stobart** – Something to question. Other questions? On 10.01 or 10.02?

**Rose** – In D it mentions anything...that they should publish it in a newspaper on the same day in two consecutive weeks; I know a lot of people my age do not read the newspaper; should there be some provision about maybe adding it to the website as well, the city website that has to be made public on there as well, might make it more public knowledge

**Stobart** – posting in a public place

**Deeds** – Just taking a broader look there are several places in here about how to notify the public; reference here is how we notify the public; I agree because we are going to change it three or four times; council rules too

**Donahue** – Used to be law that you had to do this, not sure what it is now, that’s why we have you

**Shamp** – That’s right, this is the legal baseline

**Donahue** - If legally you could do that legally and put website you would get a lot of people, a lot of people don’t get the paper anymore

**Stobart** – Website and public places where we post ordinances

**Clerk** – Mr. Stobart, if I may interject, I am required to post ordinances, resolutions and notices of public meetings; there is a board in front of the municipal building, there is a board outside of town hall and a there is a board at the community center; so currently that is what I am required to do; there is no requirement for website posting, etc. because when the charter was done we didn’t have that yet, if that clarifies a little bit.

**Stobart** – And is it specific to those three public places or is it just three public places in general? Does that make sense

**Clerk** – It’s written two different ways, it’s specified in council rules as to those three locations

**Bohnlein** – Is there any place that says how long it has to be posted?

**Stobart** – I believe it’s two days

**Bohnlein** - Is there any stipulation on how long after the event that it has to still remain posted? Cause I think the board down here has had postings six months old or so; might put a limit on how long they are up, it has to be current, bugs me when items still posted but have the date has passed; would think a business or the city would not want this to happen, want to keep it fresh, maybe put in “no longer than” or week before and week after or something like that to keep things fresh

**Marion** – So are we suggesting or recommending that we do postings on the website, I still can’t hear very well down here

**Stobart** – Yes, I think we are recommending that we post at the very least on the website and three public places and put a time limit on it as well; trying to find how many days it needs to be posted; codification in section 4.13 as an example, council may cause ordinances and resolutions to be revised, codified, re-codified, rearranged or published one time in a newspaper at least seven days prior to council’s action and no further publication is necessary. Section 4.14 ordinances shall be published by

posting copies in not less than three public places in .... not less than fifteen days after their adoption; we could put a cap on that if you wanted to

**Bohnlein** – where are you referencing again

**Stobart** – 4.13 and 4.14; these are examples of posting; what Mr. Donahue or Mr. Deeds mentioned we would be better off having a section dedicated to public notices and references

**Donahue** – I don't know how specific you want to get, in a ten year period, with new building coming, this building may not a place where you want it posted, I think that's in the rules, in council rules

**Stobart** – in 4.14 they actually specify the public places shall be determined by the council, we can leave that, it gives the flexibility to the public...we'll set it to a minimum number of places and council can determine where, that's an option

**Stobart** – we move back to section 11.01, no sorry, 10.02D we would look for a reference change there, too, maybe shall give notice of recall election to be published in accordance with, something along the lines of, with section 1.02, or whatever section we determine that to be; and since this is going to be in effect for ten years, are there any other avenues of public notification...technology changes so quickly, I don't know how you anticipate, but, a website seems like a minimum; could do a blast text, but, ten years from now there aren't going to be texts

**Stobart** – The only other section we have tonight for new business is section twelve which has even less to comment on; so I am assuming we'll just have an update for a section

**Shamp** – 12.03 and if approved take effect in 2021

**DeWitt** – Let me ask you a question, in 12.01 was the beginning of the charter and then they put 12.02 in, do we have to leave 12.02 in or can we just change that date or do we put a 12.03 in

**Shamp** - I think you have to put a 12.03 in, but I will double check; it would be tidier if we don't have for the next hundred years if we don't add another section

**DeWitt** - It will be way past our time so

**Stobart** – I think we'll start getting into the meat of additional changes in the upcoming meetings so we can go ahead and set the stage for that, sections that committee members would like to talk about and what we think the next agenda would be and maybe get any questions answered so we can get a kick start

**DeWitt** - We can discuss some but not take any action on them

**Stobart** - Yes

**Giesecke** - It seems we referenced three and four quite a bit tonight so maybe those would be the next two to start looking at

**Stobart** - And as we think about discussing that for the next meeting as well, are there specific things that you guys would like to call out now that we can get counsel pulling examples from so that we'll have something to speak to at the next meeting

**DeWitt** - So you're saying we'll do article three at the next meeting

**Donahue** – Three and four

**Stobart** – Can do three and four; any other sections anyone would want to address that goes with those

**Marion** - I notice it doesn't say anything about how long someone has to live in Canal Winchester before they file for office perhaps residency requirements should be something, or term of residency or length of residency

**Stobart** - 3.02B is what we are looking at; it has no length or residency, it just says you need to be an elector at the time that you file for office so there is no residency requirement; is it possible to see what others do, I think some have 180 days; there's probably a range that's out there, of other jurisdictions is it possible to get a sense of that; theoretically what you could have under 3.02B is when there are four

council members coming up, the day of the time to file you could have four people move into the district from the outside and take over council, that's theoretically possible, as it's currently written

**DeWitt** - I would find it highly improbable

**Donahue** – I would, too

**Stobart** – If you get the right money from another

**DeWitt** - A lot of us know a lot of people we wouldn't recognize that; sometimes you can overrule yourself

**Stobart** - My advice is to have people who are invested in the community, who live here, running for office, that's the key for me...other sections or?

**Deeds** - Well we did touch on 3.04 the clerk of council, so just kind of curious, I don't know if it has, in case it's vacated what happens, it seems like council appoints that person, but it's not exactly, I don't know if it's a separate staff position or a staff position or somewhere else that a staff can serve as clerk of council; so it seems interesting that council can decide who it is but it might be someone that's already on staff so I don't know if that's a conflict

**Stobart** - Are you thinking for a person who is independent?

**Donahue** – For example a person can be a treasurer and if they had the time available and the clerk was gone that person could then be the clerk for the remaining of the meeting or whatever, I mean that has happened before

**Rush-Ekelberry** – Some have been doing the job for a long time

**Donahue** - Right, so that's where you get sort of where council supposed to be the person, people picking and overseeing, yet the person has their own half time job and the evaluation, who's evaluating...it gets a little touchy

**Stobart** – What would you be thinking on that, some sort of independence requirement or not serving any other position within the city

**Donahue** – Well that's easier said than done...finances and that type of thing, too

**Stobart** – Jesse, do know if there are any other cities if they have this and how they do it, larger cities maybe a full time position

**Shamp** – Dublin has a deputy clerk; I am seeing the clerk may hold other positions; I think theoretically you council have council appoint a deputy clerk who only serves in the event the current clerk is gone and that could be an interim and I don't know how you would structure the pay for that added duty but that would at least give a gap if we hire a full time clerk again

**Carpenter** – Why wouldn't council just appoint another clerk, they have the power to do that, if that person is gone

**Shamp** – Sure

**Carpenter** - If that person is gone, they would just appoint another clerk, I think it's covered in here

**Stobart** - I was just wondering if former council members, do you guys have any special experience with that that you could enlighten us on

**Deeds** – It's been a while; is it a separate position...is your position separate, because there was a point in time where we had dual duties, so

**Clerk** – Currently, as I was hired in September, I was hired by the seven council members, and I serve and work for the seven council members specifically

**Deeds** - So it's a separately funded position

**Clerk** – Now in addition to that, I also work with the finance director, Amanda Jackson, closely, so she is my direct contact with the Mayor and the directors for the city

**Donahue** - So the question is who does your evaluation

**Clerk** – The council members and most recently it was our new council president and vice president

**Donahue** - So the council hires you and or fires you

**Clerk** – Correct; I am an at will employee, so I don't have any, I always get the word wrong...I am not exempt or classified?

**Shamp** – You're non-exempt

**Clerk** – Non-exempt, so I don't have any what a lot of people call state employee protections, I am an at will employee of council

**Donahue** – So, for example council hired you and then you also took on another position within the city, right, half time or whatever with Amanda

**Clerk** – No, I am clerk to council only and I am hired for twenty hours a week

**Donahue** – Ok

**Deeds** – You just work closely with Amanda to do your job as clerk

**Clerk** – Yes, because she was fulfilling the clerk to council position and the finance director position so she has been instrumental in teaching me what I need to know as far as the administrative side of it; I consider her my link to...she's my contact for the Mayor and the city directors, the department directors

**Stobart** – So, for example 3.04 says the clerk of council may hold other office positions or employment within the municipality, but you do not today

**Clerk** – Correct; I think as it's written in prior clerks they were employees of the city and they did the clerking to council in addition to their city job duties; in my position I am clerk to council only and currently at twenty hours per week

**Stobart** – So I can see someone wanting to strike that provision and then I can see the detriment of that we could be losing talented resources to serve the clerk position, that's the counter balance to that as well if we don't have those people that can apply for the job we could be missing out on the right people for the job; any thoughts, edits or concerns with that? And again we'll be discussing this, 3.04 again, sections three and four next meeting so just getting a kick start on it

**Stobart** - Is there anything else we want counsel to look at in section three? He can bring us some options; council vacancies 3.08

**Deeds** – I'd have to read this again, I'm not sure it says how, so let's say someone on council leaves and you have six council members is it a free for all, do you go through the Roberts Rules or something and someone nominates and you vote cause it just says you can fill a vacancy

**Stobart** - And if you end up in a tie what happens then it falls to the mayor after

**Deeds** – Or it comes down to ... I will read that again

**Stobart** – You need four members is the way I read it, a majority; question, if you didn't have...a quorum would be four

**Shamp** – Right; I think maybe that's covered in B because if council is sort of at loggerheads then it kicks it to the mayor

**Stobart** – And so if I am reading it correctly, under A, if the vacancy occurs at least fifteen days prior to the date when a candidate for the office for council member must their nominating petitions and more than two years remain in the term of the incumbent the person elected by council shall serve until the next regular election

**Deeds** – That's so someone doesn't get elected in and leave the day after they can serve a four year term without being; so it really doesn't talk about how the council members come to ; it's only happened a couple of times

**Stobart** – So if you are at three years we would have at the next election cycle you would be up for election so if it was the normal three-person cycle you would have four for election

**Deeds** - The Unexpired term

**Stobart** - For a two year period and the others would be elected for four years as it is currently written; did you guys hear that down there? The way we are reading it, 3.08 council vacancies under A, that if you had a council person who served two days in office and then quit or moved it would be up to the council to elect a new council member to serve out the remaining term, they would serve until the next election which would be a year and a half then

**Deeds** - Next general election, right

**Stobart** - Next general election, so if you had three years and nine months left that person would be appointed by council and serve until two years remained on that term and then in the next election they would elect for the two years remaining term as it stands today; I think there is concern right now though about how council elects that individual; you have the option of a special election

**Bohnlein** – It's expensive

**Stobart** – Other options? If it's not council or the mayor

**Donahue** - I would just think the council would announce it and give a deadline date, names would come in and remaining council members would review those, bring people in for interviews and select a person; that's what was done in the past

**Stobart** - Do we want something along those lines about how people come up before council, how they are selected by council

**Donahue** – Such as?

**Stobart** – You could set up or require a committee of the public; think about this, if you end up in a situation where you have a deadlock of three-three, you could set up a committee where the mayor appoints someone and each of those committee members appoints one or two and you get a community voice on making a recommendation of a council member, the proposed council members to be put to a vote of council

**Donahue** – I have no problem...we elect the council members, they are speaking for us

**DeWitt** - Well there are seven council members

**Donahue** - Yea, but if one is gone, you got three and if you can't come to a decision, then the best place is the mayor makes the decision

**DeWitt** – You don't want it to be so tight that you can't function under it

**Donahue** – We've had this in the past and there's never been a problem

**Deeds** – Is it in council rules?

**Donahue** – I can't remember

**Rush-Ekelberry** – I have a small request; in 3.08A in the very last line, shall take office on the first day of January following his election; shouldn't that be his/her election

**Obert** – Or their or the election

**Giesecke** - So another question in the discussion are we wanting to add language about how they are going to make that selection, does that become too cumbersome or should there be something in here about an interview selection process

**Donahue** - That to me is just common sense

**Deeds** – That comes to who is in service on council at that point in time; I'll look at council rules it might be in there, too

**Stobart** - If you find any alternatives, Jesse, that are interesting or easy to administer

**Shamp** – Sure

**Stobart** – I know this may have been easy in our community in the past but I know of all the municipalities within the state of Ohio they have run into the same issue and run into situations which

we have not, so it would be helpful to just take their learnings in case that one situation pops up that we weren't prepared for; there may be nothing

**Stobart** – Anything else on article three? We can move onto things we want to explore next week for article four; I didn't know where this would go but I'll tell you from a personal previously attending council meetings I know when we have those moments of great public interest we have run into an issue before of not having enough public space, I know we are working on solving that now with the additional building but there will be situations where that building won't be big enough if we have enough individuals who want to participate, it's something that we would love to have addressed either through technology or requiring a larger venue, I know we have run into the situation where people couldn't just come in and be heard; I think the actions that were taken by council were always appropriate but I don't want to leave people out from being heard.

**Donahue** – I think it's important when people who want to speak, at least when I was president, I didn't want it regurgitated over and over the same thing, if you had something new, because otherwise you can be there forever; and another thing we did, you had five minutes, and you only use two, you can't give somebody else your three minutes otherwise you are going to have a filibuster situation

**Stobart** – And I would say my concern is that others just want to be here to listen and participate and making sure we have the form or venue or requirement that anyone who wants to attend has that capability to attend

**Donahue** – I think I read about the new building don't you have places where people can watch from other rooms

**DeWitt** – Aren't there going to be fifty some seats or ninety some

**Ebert** (from audience) – about seventy-five

**Marion** – I agree that sometimes the speakers are redundant but I think people want to show by their presence that they are concerned about an issue and it would be unfortunate if they didn't have that opportunity, so I agree with Mike that we do need a space to have people really express their opinion by their presence

**Obert** – I think maybe the reason why people maybe say the same thing that the last person said was so that officials understand that it isn't just one person that thinks that way, it's two people or three people or four people, so I know you don't want to hear it over and over again but I think people just want you to know there is a whole group of people that feel the same way

**Rose** – How would we know even when to implement this special occurrence, do we have to have a number of signatures saying people are going to show up cause if you change the venue and five people show up

**Stobart** – My experience in the past has been the fire marshal or police officers would prohibit people from entering the building because you have reached capacity so that would be a triggering point for me; if people can't get in to be seen or heard we got a problem

**Rose** – So if that happens would we have to reschedule the meeting to a new date

**Rush-Ekelberry** – We ran into a problem with over-crowding, this room holds fifty people legally and when I served as president on a couple of occasions I had to have the deputy close the door; now that isn't something that council wishes to do

**Stobart** - Absolutely agreed

**Rush-Ekelberry** - But it's a necessity for safety to everyone that can legitimately can be inside this room

**Stobart** – Yep, that's fire code

**Rush-Ekelberry** – Fire code, correct

**Stobart** – But still it creates a situation where people feel left out or ostracized from public

**Rush-Ekelberry** - It makes people unhappy

**Stobart** - Yes

**Carpenter** – But I don't think that is this charter's task to say you have to go to a building that's going to hold 1500 people or whatever, that's up to council on any given ordinance

**Stobart** – We do have the capability though as a committee to make recommendations on when ordinances can be passed, where certain business can be taken up by the council and so it would be one of these situations of hey, you are not allowed to vote on that unless the public has the ability to be heard and viewed; that would be something that we could propose to council; you are right, council has the right to approve or not these recommendations but it's our chance as a community to get that voice to council to say hey, we want to be heard and this is providing...we are really serious about wanting to be heard and given the opportunity for the public to heard when you are holding these council meetings; I don't have a solution for that either, but I know it's been a pain point

**Bohnlein** - I find it a little disconcerting sometimes when there is a five minute discussion period at the beginning of a council meeting and then after that the public is basically shut out; that if something does come up during council, try to give an example, during Lucas Haire's report he talks about a building that is going to be constructed and it's just kind of passed along, but there might be a question that the public might have that they would like to raise at that time and they are not allowed; the five minute discussion before a council doesn't necessarily lend itself to asking questions during council meetings

**Donahue** – That's where you hope you have three readings and you can come back at the second reading

**Stobart** – Unless you waive them

**Donahue** – Right, and the president of council has the right to recognize people at any point in the meeting

**Bohnlein** – Ok...and that was done

**Marion** – I think these new informal sessions are helpful in that regards, because you can ask questions and get answers, I think that is a very good format

**Stobart** – Agree; emergency ordinances...has been previously a concern and I know we are able to address most of that now through technology, I know there were concerns in the past and we're going way back now before you had the ability to post minutes so quickly and that's the one thing I commend council for doing is the minutes are getting posted fairly quickly, agendas are being posted ahead of time and people have that ability to see and it doesn't feel like it's being done in the secret, it feels like an open format now, and I have not seem how many times emergency ordinances or resolutions have been put through recently

**Marion** – I haven't either but I wonder how many pass the criteria of peace, health, safety or welfare, that's the criteria for emergency legislation, according to this they would have to fit into these categories; maybe there is another category that's not there

**Donahue** – When the president of council asks what is the emergency and your attorney will say that

**Marion** – I'm sorry Steve I am having a difficult time hearing you

**Donahue** – When the president of council asks why is there an emergency and Gene Hollins who is our counsel says to make sure we have blah, blah, blah and then you have it

**Stobart** – And Jesse may be able to help with this one in particular, the problem with peace, health, safety and welfare is that it is construed very broadly

**Donahue** – Yes

**Ebert** (from audience) – These are explained; most of the time it's a contract issue that has to be done in thirty days or something like that or a lot of times a road construction project and the bids might only be good for thirty days, might be a million and a half dollar bid, sometimes these kinds of things need to go through emergency process

**Marion** – Well maybe there needs to be another category

**Donahue** – And sometimes it can be a grant and it's not our fault they didn't get it to use in timely fashion but you have to have the grant turned in by this point in time and you don't have three readings available to do that and it has nothing to do with the city it's who is doing the grants

**Ebert** (from audience) – It's the outside world that we have to deal with is the reason for the emergency most of the time

**Marion** – So I guess it could be welfare; I think the comment came up earlier and I have heard comments about this too that people grouse about it after the fact because they don't understand what the parameters were and why it was an emergency so maybe that is communication and we need to figure out a way to communicate better

**Bohnlein** - I think every piece of emergency legislation that I have been able to listen to it has always been explained why; it's always asked why and it's always explained, especially by Amanda Jackson, she has a lot of dates that have to be adhered to and if it has to have three readings and the last council meeting is after when she is supposed to have the report in, so that's the time...it's always been done

**DeWitt** - And a lot of them saves a lot of money too by not dragging it out

**Marion** – So that's an issue of communication because it doesn't matter what the reality is, it is the perception that bothers people so if you communicate effectively and people understand then it's not an issue

**Ebert** (from audience) – ...with emergency issues...when the papers write it, the papers don't write an explanation, they only say emergency reading

**Bohnlein** - And it's not necessarily the paper, it's social media, and that's faster than the newspaper, it flies, and it's not always the case...it's always not the case

**Rush-Ekelberry** – Fake news

**Donahue** - In 4.06 at the end that sentence it says it shall contain a statement of necessity for the emergency, it's already in there

**Stobart** - I think what you run into is people disagree sometimes whether it's an emergency or not and it usually comes down to communication; development is one I have seen pop up, it's usually not the finance contracts on timeliness, it's the development issues, seems to working the background and all of a sudden a development issue pops up and everybody is like "surprise" and it's not an emergency if you have been talking about it for six months; just because it just got to council doesn't make it an emergency, we knew about the issue that is something that should have been communicated to the public at large so we are not surprised by it, that's the larger issue

**Lynch** (from audience) – Mr. Stobart, the charter does read that it takes two thirds or a super majority in order to eliminate the second and third readings so in other words one third of council can actually stop an emergency reading from going through that is only two votes so it could be very easily stopped if council felt it was not a prudent thing to do just a FYI

**Stobart** - One quick question on amendment for 4.10

**Donahue** - I didn't know we were going into four today

**Stobart** – Looking at three and four for any alternatives to sections that we will want to discuss next week, and I was going to ask Jesse to research this and it's a question more than anything else of me understanding it; so if you had an amendment to a pending ordinance or resolution and you had two

readings of the ordinance and then on the third reading you amended it, you could theoretically replace the whole ordinance on the third reading

**Shamp** – Yes, in theory

**Deeds** - It's been done

**Stobart** - Just as an awareness for the committee

**Obert** – But not go back and read it three times again...even if it's totally new

**Stobart** – Correct; it kind of undoes the whole purpose of the three readings; I just wonder if that is consistent with what you have seen

**Shamp** – It is; I have never seen it as a whole sale change, but by this language it could be

**Stobart** - If you could just see if you find anything with limiting language on it

**Shamp** – Sure; something with general intent, substantially similar

**Stobart** - You don't want to read something that says police services contract and at the end of third reading it says contract for fire services; theoretically it can happen

**Stobart** - With that is there anything else in section four you would like to tee up for Jesse so that we can be prepared to discuss next committee meeting; not hearing anything; would you like to set agenda for the next meeting, I have heard discussion of articles three and four...any motion?

#### **F. Items for Next Meeting Agenda**

*Motion to set agenda for 3-25-20 meeting to discuss Articles III and IV made by Donahue; seconded by Giesecke*

*Motion carried by the following vote:*

*Yes 12 - Charles Carpenter, Pat DeWitt, Steve Donahue, Nick Franklin, Amy Giesecke, Jackie Marion, Liana Obert, Ryan Rose, Marilyn Rush-Ekelberry, Michael Stobart, Jim Bohnlein (alternate), Rick Deeds (alternate)*

Shamp – I am suggesting to add a section to the next agenda for me to discuss what you all asked about today on articles three and four

*Motion to add section to agenda for city attorney to give responses to questions asked by commission members made by Obert; seconded by Stobart*

*Motion carried by the following vote:*

*Yes 12 - Charles Carpenter, Pat DeWitt, Steve Donahue, Nick Franklin, Amy Giesecke, Jackie Marion, Liana Obert, Ryan Rose, Marilyn Rush-Ekelberry, Michael Stobart, Jim Bohnlein (alternate), Rick Deeds (alternate)*

#### **G. Adjournment**

*Motion to adjourn made by Donahue; seconded by Deeds*

*Motion carried by the following vote:*

*Yes 12 - Charles Carpenter, Pat DeWitt, Steve Donahue, Nick Franklin, Amy Giesecke, Jackie Marion, Liana Obert, Ryan Rose, Marilyn Rush-Ekelberry, Michael Stobart, Jim Bohnlein (alternate), Rick Deeds (alternate)*

*Adjourned at 8:14 pm*