

# Record of Proceedings

## VILLAGE OF MINERVA PARK CHARTER COMMISSION

**Minutes of the**

**March 17<sup>th</sup>, 2019**

**Drafting Sub-Committee Meeting**

*Council Chairwoman Conger called the meeting to order at 9:01am*

**Roll:** Commission Chairwoman Conger, Vice Chair Parks, Members Townsend, Brackett, Bell Wolf, Beeba, Silverman-Star, Allison, Park-Curry, and Estes. Member Lewis arrived at 9:12am.

**Attending:** Councilman Starr

### **Old Business**

- Vice Chair Parks discussed the work he had done on drafting Article IV of the Charter.
- Member Park-Curry asked the Committee if it might not be necessary to use the term "Emergency" as opposed to "Immediate". Members Bell, Wolf, and Townsend replied that it might be a legal term, but that, in the case it isn't there is no need to use "Emergency."

### **Articles V (Mayoral Powers):**

- Chairwoman Conger read Counsel's memo on the roles of Administrator versus Mayor, and then asked the Sub-Committee what powers might be given to a mayor (ceremonial versus explicit executive).
- Member Townsend clarified that the mayor will be elected separately and not from among Council.
- Vice-Chair Parks asked if it might be better to first determine the executive hierarchy, specifically whether or not the Administrator reports to the Council.
- Member Estes explained that the Commission had chosen a Mayor-Council-Administrator form of Government, and that it was implicit in that choice there be specific duties and responsibilities.
- Member Wolf added that he would like a clear delineation of mayoral versus administrative duties--that the mayor be the point of contact for citizens, but that the administrator handle the actual technical aspects of Village governance (filling potholes, for instance).
- The Commission discussed whether or not the Administrator answers to the Mayor, and whether those positions should be full or part time.
- Member Park-Curry spoke in favor of a full-time mayor, part-time administrator. Member Wolf replied that he thought the Charter should not specify whether they should be full or part time, but rather the Commission should draft a list of responsibilities for both positions and let the Council determine their work requirements.
- Member Townsend agreed, adding that this could provide flexibility and a way to cut costs.
- Member Estes argued in favor of a balance of power, and that the administrator should answer to the mayor so as not to have 7 bosses. She added that it would be then necessary to stipulate that the mayor may not fire the Administrator.

### **Articles V (Mayoral Powers) continued:**

- Councilman Starr explained that most Administrators work on a for-contract basis, and so

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firing them would be a difficult proposition, as it would require the contract to stipulate the at-will nature of the employment and for buying out contracts.

- Member Estes said that she didn't think the full/part time nature of the job nor the money would entice a better mayor to the job.
- Member Townsend said that he didn't think the Charter should stipulate salary, so the Council had the flexibility going forward.
- Member Braskett added that he was in favor of a part-time mayor and full-time administrator, as the administrator will be dealing with the day-to-day running of the Village.
- Member Wolf reiterated his call for the need to draft a list of responsibilities and then allow the Council and situation to determine salary and hours. The Commission agreed for the moment, with a promise to revisit the issue should the situation change.
- Member Estes asked if the Charter had the power to remove Mayor's Court, Vice-Chair Parks replied that it did, enumerating the benefits of Mayor's court. The Commission agreed to maintain Mayor's Court.
- Vice-Chair Parks and Chairwoman Conger enumerated the abilities of the Mayor with regards to appointing/contracting a magistrate, etc.
- Councilwoman Starr explained that he would like the Charter to specify a point-of-contact for the media. Vice-Chair Parks added that he would have no problem with this.
- Member Bell asked if it might be better to have the City Administrator be the media-liaison. Member Silverman-Starr disagreed, explaining she would like the Village's public representative to be an elective official.
- Members Estes and Wolf added their support for the Administrator being the media point-of-contact, as it is incumbent upon an administrator to bring a degree of professionalism and public relations experience to the table.
- Member Silverman-Starr and Vice-Chair parks replied that this was not necessarily the case.
- Member Park-Curry asked if perhaps there was no issue--as the Administrator would report to the Mayor, the Mayor will shape the message whereas the Administrator would actually deliver the message.
- Member Townsend asked if it wouldn't be helpful to have the Council appoint a spokesperson. The Sub-Committee disagreed.
- Chairwoman Conger asked the Sub-Committee if it agreed with the idea that there should be *one* point of contact for the Village. The Sub-Committee agreed. She then added that it might be useful to move on with the understanding there would be one spokesperson, who will be decided upon later.
- Moving onto the duties of mayor, Vice-Chair Parks stated his preference for not allowing the Council to substantively change the duties of mayor, and that any changes should be by ordinance rather than by Council rules.

**Articles V** (Mayoral Powers) continued:

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- Member Wolf added that his understanding of this section was that the Council could not change the duties as laid out in the Charter, but they could add duties.
- Member Beeba directed the Commission to the Groveport Charter which specifically codifies how the duties of mayor may be altered. The Commission agreed this would allow for flexibility but also balance of power.
- With regards to Police oversight, Member Estes stated her preference of a system of checks and balances, specifically with regards to HR issues, and that a professional, specifically the Village Administrator should be in charge of all HR issues.
- Member Braskett added that he believes the Chief of Police should report to the Village Administrator, who is a professional, and can be assumed to know how to do their job.
- Member Park-Curry asked if this might be a question for Counsel, if Police oversight must be performed by an elected official. Vice-Chair Parks replied that Ohio law does not stipulate this, but that the Administrator does report to the Mayor, so there is elected oversight.
- The Commission agreed that the Administrator should have direct oversight, but that he/she should report to the Mayor. And that they would adopt similar provisions to those laid out in the New Albany Charter, save for the duties section, which it would adapt from Groverport. The Mayor would countersign reports, but it would be the administrator who prepared them.
- Chairwoman Conger elaborated on the current feeling of the Commission--that the Administrator handles day-to-day issues and oversight of all departments, but ultimately reports to the Mayor.
- Member Silverman-Starr and Vice-Chair Parks referred the Sub-Committee to the Pickerington Charter, which enumerates the powers and responsibilities of the Village Administrator and places them under Mayoral supervision.
- Member Starr asked, if the Mayor did not have veto powers, how would it provide a check on Council? Suggesting that the mayor be allowed to veto with comment, for the Council to revise.
- The Commission discussed the various powers of the Mayor as enumerated in the Pickerington Charter with a specific eye toward discerning whether or not a veto was necessary.
- Member Estes argued strongly in against the Mayor not having oversight over the Administrator.
- Vice-Chair Park read the portions of the Pickerington Charter dealing with mayoral veto, which allows vetoes to be overridden by a vote of 6 out of 7 Council members (the first vote to pass requiring only 4 out of 7).
- Member Estes spoke in favor of the Mayor having a veto as a stopgap against Council power.

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Articles V (Mayoral Powers) continued:

- Member Park-Curry agreed, drawing on her Council experience. In her years on Council, she could not remember a time when the Mayor might have exercised a veto--although she conceded there had been a few close calls.
- Member Wolf explained that, currently, the Village Mayor's duties primarily involved supervision the Administrator and overseeing legislation.
- The Commission agreed to use Pickerington's Charter as a model for Article V and VI, with specific changes as discussed *and* highlighting sections on which the Commission has not reached a specific decision.
- Vice-Chair Parks asked if the Mayor should be a part or full-time position. The Commission agreed that the Charter should not specify the nature of the position, but allow the Council flexibility to determine based on Village needs.
- Vice-Chair Parks asked about the residency requirements for Mayor. Member Silverman-Starr argued that it should be one-year rather than the six months required of Council members. Member Estes disagreed, saying that there might be someone who is suited for the job that doesn't meet the requirements. Member Wolf added that the position of Mayor was envisioned as someone who understands and represents the community, and as such, should be held to longer residency requirements.
- Member Lewis argued that it might not even be an issue--someone who lives in the Village for six months would have to be a truly exceptional candidate to be elected, not to mention that, by the time they actually took office, it would have been longer than a year.
- The Commission agreed that, in the temporary absence of Mayor, the President Pro-Temp of Council shall serve as acting mayor, or the Council Member with the longest serving term.
- Member Braskett asked about the definition of "temporary" absence. Member Silverman-Starr directed the Sub-Committee to the Groveport Charter, which specifically laid out the definition and procedures surrounding the absence of Mayor.
- Member Braskett then asked what might differentiate a temporary from a permanent absence. Chairwoman Conger explained that, according to the Groveport Charter, it would come up to a vote of Council.
- Vice-Chair Parks spoke in favor of this, as it would allow the Council flexibility to remove a mayor who is hypothetically capable of performing their duties, but practically unable to.
- The Sub-Committee discussed sending questions to Bricker & Eckler, and discussed the costs inherent in Paul Rucker's billable hours.
- Member Beeba asked if it would be better to compare the relevant portions of the Pickerington and New Albany Charters.
- Member Braskett asked if the President Pro-Temp would possess both the powers of Mayor and a Councilmember. They would.

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### Articles V (Mayoral Powers) continued:

- Member Estes then raised the issue of when a Council member could be considered to have forfeited office. Vice-Chair Parks agreed, and the Sub-Committee agreed that the basic provisions could mirror one another.
- Member Wolf argued there should be a high bar to declare a mayor incapacitated, to prevent abuse. There should be specific language separating emergency situations from leaves of absence or temporary incapacitation.
- Member Braskett explained that, with someone occupying both the positions of Mayor and Councilor, it could lead to a situation wherein legislation could be moved through the voting process without proper checks and balances.
- Vice Chair Parks and Member Beeba replied, arguing that they would hope the elected Councilmembers would not bend the legislative process to nefarious ends.
- Councilman Starr explained that the definition of "absence" has changed over the years. With access to e-mail and phone across the globe, the mayor can still function and delegate even if on vacation. That being said, he thinks the issue of incapacitation is one that should be addressed.

### Article VI (Village Administrator):

- Vice-Chair Parks read through the basic powers of the Village Administrator and to what extent the Council/Mayor could intervene in the Administrator's duties and responsibilities. He explained, as currently written, the Mayor would supervise the Administrator, but that the Council could not intervene.
- Chairwoman Conger asked the Sub-Committee about the process of who would replace an Administrator on a leave-of-absence or in the case of incapacitation.
- Member Silverman-Starr said that, in the case of a temporary absence, the Village would survive missing an Administrator for a week or so. If the absence is longer, or the Administrator is incapacitated, the Mayor and Council would then be responsible for selecting a replacement per the Charter language already drafted.
- Member Park-Curry asked what would happen in the case of active-duty service members? Vice-Chair parks responded that the position would be required to be retained by that individual, but that the Village could contract for a temporary replacement.
- Member Wolf argued that, in the case of absence or incapacitation, a replacement can be appointed, but the language should not preclude the Mayor from acting in that capacity.
- Chairwoman Conger asked where the checks and balances are in the situation of a Mayor acting as Administrator.
- Member Braskett said that a check could be requiring the Council to sign off on a temporary appointment, which would also prevent cronyism on the part of the Mayor. The commission agreed that this was a good compromise.

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### Articles VI (Village Administrator) continued:

- Member Lewis asked about performance review for the Village Administrator and the potential for corrective action, but Vice-Chair Parks argued in favor of the Administrator being an at-will employee and that the wording for performance reviews should be relatively vaguely worded to prevent potential legal issues concerning firings.
- Member Wolf asked if there was a mechanism to involve the Village citizens a voice in the hiring/firing of an administrator.
- Vice-Chair Parks suggested that the Charter stipulate a specific length of contract for the Village Administrator, and that it should be put up for a Council Vote (and Mayoral Approval) during each renewal period.
- Member Lewis expressed concerns that this would create a situation where individuals with potentially low administrative skills (at-large Council and Mayor) overseeing an individual with high technical proficiency.
- Chairwoman Conger touched upon the various Members' concerns, and asked the Commission if it was in agreement that there should be some check on the Administrator's hiring/firing, as well as a regular period of review. It was.
- While reading through the Administrator's duties, Member Townsend questioned the use of the word "faithful." Vice-Chair Parks replied that it was a legal term.
- Member Silverman-Starr stated that although the Administrator can prepare contracts and make recommendations, she thought the Mayor should be the one actually signing the contract.
- Member Estes replied that the Village Council or a Sub-Committee is the political organ that signs off on contracts, and that she didn't want to take the Council out of the equation, as they are responsible for the Village finances.
- Vice-Chair Parks added that just because that is currently the way things work, doesn't mean the charter can't specify a different way.
- Member Park-Curry suggested there be a spending limit, under which the Mayor/Administrator can engage in contracts.
- Members Wolf and Park-Curry explained the current procedure--although the Sub-Committee might not do the research/groundwork related to a specific project, they take recommendations and eventually sign off.
- Councilman Starr provided an example of how, specifically, a contract was researched and entered into by the Council--the pool repair. And that this provided an excellent system of checks and balances and cooperative discussion.
- Member Braskett expressed his concerns about the approval process (not necessarily the appropriations process), specifically who would sign contracts. He (and Member Silverman-Starr and Vice-Chair Parks) believed it should be the mayor, but that there should be a spending limit wherein the mayor can engage in contracts with previously appropriated funds.

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- Member Wolf suggested a spending limit of \$5K on previously appropriated funds.

**Articles VI** (Village Administrator) continued:

- Vice-Chair Parks explained that putting a hard dollar amount on spending as it cannot be changed without rewriting the Charter. He suggested leaving the limit flexible and something on which Council can decide through resolution year-by-year.
- Member Bell added that it might be useful to set a \$5K spending limit, but allow the Council to raise the limit as necessary.
- Councilman Starr explained that there is currently no spending limit once Council has appropriated the money, and that setting a limit might be potentially detrimental to the business of governance.
- Chairwoman Conger advised Vice-Chair Parks to find specific language in other Charters regarding spending limits, and provide drafts of Articles V and VI.
- Chairwoman Conger asked the Commission if it would be helpful to have Kim Pulley, the Village Finance Manager, come to speak at the next Commission session (3/21) to answer any questions the members might have. The Commission agreed this was a good idea.
- Chairwoman Conger advised the Commission Members to prepare relevant questions for Kim Pulley. And that they should also e-mail Vice-Chair Parks any questions they have for Legal Counsel.
- Chairwoman Conger advised the Commission that the topic of a Community Informational Meeting must still be discussed.

*Member Wolf moved to adjourn, Vice-Chair Parks Seconded, all in favor. The Commission meeting was adjourned at 11:59am.*