

Meeting Minutes – BCCRC

Meeting Information

Occasion:	Bexley City Charter Review Commission – Meeting 3		
Date:	12/2/2019	Location:	Trinity Seminary 217
Time:	7:00 PM – 9:00 PM	Meeting Type:	Public Charter Review Meeting
Called By:	John Offenberg	Facilitator:	John Offenberg
Timekeeper:	None	Note Taker:	Stacy Grossman
Submitted by:	Stacy Grossman	Approved by:	None
Attendees:	<p>Present: Mic Foster, Ira Kane, Eloise Buker, John Offenberg, Ed Meritt, Larry Long, Stephanie Wilson, Sam Marcellino, Jim Wilson, Steve Grossman, Becky Guzman</p> <p>Other Present: Marc Fishel, Bexley City Attorney</p> <p>Not Present: Bethany Hahn-Ambrosius, Witt Rush, Rachel Laing, Mark Masser)</p> <p>Guests: Ben Kessler, Mayor, City of Bexley Lori Ann Feibel, President of Bexley City Council Stephen Keyes, Finance Chairman, Bexley City Council</p>		

Agenda Items		Presenter	Time Allotted
1	Call to Order	John Offenberg	Unspecified
2	Attendance – Quorum	All	Unspecified
3	Introduction of Recording Secretary	John Offenberg	Unspecified
4	Review of Minutes from November 18, 2019	John Offenberg	Unspecified
5	Report by Chairman, John Offenberg Report by Vice Chairman, Jim Wilson Report by Coordinating Secretary, Rush Witt	John Offenberg Jim Wilson	Unspecified
6	Invited Guests Ben Kessler, Mayor, City of Bexley Lori Ann Feibel, President of Bexley City Council Stephen Keyes, Finance Chairman, Bexley City Council	Ben Kessler Lori Ann Feibel Stephen Keyes	Unspecified Unspecified Unspecified
7	Old Business Report from Goals and Values Working Group, Ira Kane, Eloise Buker Report from Process Working Group, Jim Wilson, Rachel Laing, Sam Marcellino Discussion of Online Presence and Reaching Out to the Public	Ira Kane Eloise Buker Jim Wilson Rachel Laing Sam Marcellino	Unspecified Unspecified Unspecified

8	New Business Comments from Commission Members Suggestions for Next Meeting's Agenda	John Offenberg	Unspecified
9	Possible Time for Guests to Speak	John Offenberg	Unspecified
10	Adjournment	John Offenberg	Unspecified

Decisions and Details

- 1 Quorum was present. Guests were introduced to the Commission.
- 2 Approval of 11/18/19 Minutes
Larry Long motion, Eloise Buker second, carried unanimously
- 3 Report by Chairman, John Offenberg
Discussed with Ira Kane the Mayor's Bexley Strategic Plan, Confirmed contract with Trinity Seminary to have access to space for meetings for next year
- 4 Report by Vice Chairman, Jim Wilson
Nothing New
- 5 Report by Coordinating Secretary, Rush Witt
Rush Witt was not present at this meeting
- 6 Presentation by Ben Kessler, Mayor, City of Bexley
Mayor Kessler reviewed items for the Commission to consider during the Charter Review process, which are shared items from the list Bill Harvey, Bexley Auditor, presented to the Commission on November 18th, 2019. Mayor Kessler discussed the number of Commissions currently active in Bexley, the term limits imposed on the members of those Commissions, and the difference between Commissions, Boards, and Advisory Committees; which are the least formal of the three. Commission members are electors of the city, but non-electors make sense in certain capacities too. Mayor's Court is really a Magistrate's Court, where the Mayor does not preside. Bexley's Mayor's Court was able to create access of public defenders for indigents, where services are provided in lieu of an indigent paying legal fees. One of the duties of the Mayor is to have a seat at Council. Mayor Kessler thinks it is important the Mayor have the ability to recommend a necessary ordinance or resolution before Council in the event the Chair of that Council Committee doesn't want to read it. The Mayor referenced Article II of the Charter and one of the powers of the Mayor is to work with the Auditor regarding the financial condition and needs of the city, which he believes works well and is a good checks-and-balance system. The Mayor also provides Council with financial updates. Larry Long asked the Mayor of the financial implications of Mayor's Court since there isn't a

cost-benefit analysis, and whether citations are under municipal ordinance or by state law. The Mayor replied that was a legal question. Eloise Buker complimented the Mayor on the success of the Giant Eagle Market initiative and the Mayfield Rejuvenation initiative, and asked what powers of the Mayor made that possible, as well as what roadblocks were encountered. The Mayor attributed the success to the groundwork laid by Mayor Madison for the success of moving City Hall to a new location and building Giant Eagle in its old location, the will to do it, and having a supportive Council behind the initiative. He gave credit for the factors all having the right type of energy to support it. As for the roadblocks, he commented it was the appropriation process, but that it was an expected roadblock. For Mayfield, it was more difficult because it was a slow process, was a difficult project to take on, it had difficult economic benefits, and there was a great deal of sensitivity to the displacement of its residents. Council and the CIC worked towards a resolution to make the initiative possible. Jim Wilson asked the Mayor about City/Manager form of government versus Council/Mayor form of government. Mayor Kessler is a member of a group of Mayor/Managers and they work closely with Mayor/Managers across Ohio. They found that in larger cities with larger populations and more financial sophistication, City/Manager governments work better. For smaller cities like Grandview, Bexley, Gahanna, each have Mayors. Those types of cities have smaller populations, smaller budgets, and require a more hands-on customer service approach, which Mayor Kessler feels that a Mayor can provide. The Mayor thinks that City Manager's don't have the same ethos and aren't the right fit for Bexley; where the voters are well-informed and hold their elected officials accountable. Ira Kane asked about the next Commission, and if they don't meet in the next ten years what would be different then versus now. The Mayor answered the land use pattern technology. Steve Grossman asked about the City/Manager versus Mayor/Council form of government and asked if the Managers in cities with City/Manager governments have any sense of stability, if any have been politically forced out, and how their salaries differ from Mayor/Council governments. Mayor Kessler replied that Grandview Heights had a poorly compensated Mayor and the challenge the city will face in the long term because of the poor compensation. He did state that Bexley compensates well, and other forces are considerations in City/Manager governments where political forces could force a manager out, Council could vote the Manager out, and the challenge of a city not being able to properly compensate their Manager could all be factors. Marc Fishel, City Attorney, stated that City Managers could stay a long time or not long at all, could be voted out by Council, and could leave the city in a situation of 'Can I get done what I need to get done'. The Mayor added that Bexley had a challenging past few years with the cohesion of Council, but that Council still managed to function and keep their eye on the bigger picture. The Auditor was for restricting drive-thru's in the city, while the Mayor felt that those types of establishments would work well on Livingston, but would not fit well or maintain the character on Main Street. Larry Long asked about a provision in Section 26 of the Charter where the Mayor and Auditor work together on the operating budget, and if the Mayor would change that. If so, how? The Mayor said the Auditor assists in the operating budget and the Mayor presents it to Council. It's a joint process the Mayor appreciates. Larry Long asked what happens when the Mayor and Auditor disagree. The Mayor stated the Mayor presents it to Council, who is responsible for reviewing and approving it. Mic Foster asked the Mayor about sponsoring an ordinance before Council. The Mayor stated he would like to have the ability to have an ordinance read before Council, as well as send a draft ordinance or resolution to the Chair member of Council, which is not part of the current process. Ira Kane asked the Mayor about Section II, if the Mayor becomes unable to perform their duties of office and the President of Council becomes the acting Mayor, who becomes the President of Council. Marc Fishel answered that someone would have to be appointed

as President of Council. The Charter currently says that the Auditor stands in until then. Ira Kane then asked if a provision should be in the Charter that would allow the Mayor to declare a state of disaster. The Mayor said after the storm in June of 2012, he had to come up with ways to make property available for access for those without water, power, etc. Chairperson Offenberg asked if the Mayor should have the ability to terminate the Chief of Police. Stephen Keyes referenced Charter Section 47, which addresses removal and appointment of the Chief. Council would have to approve termination. Mayor Kessler referenced Charter Section 9, removal of officers, but has never had to invoke this. Jim Wilson asked about privileged communication and an ethical responsibility to report it to the Mayor and Council. Marc Fishel replied there is a responsibility to the city which includes the Mayor and Council. In an Executive Session, the Mayor, City Attorney and Auditor have a seat at Council and can't be excluded under the Charter's current language. Council can't exclude its own members, but can/should the Mayor, Auditor, and/or City Attorney be excluded?

Presentation by Lori Ann Feibel, President of Bexley City Council

President Feibel provided three items for the Charter Review Commission to consider during the Charter Review process, along with a description of the duties of Council President and the roles and responsibilities of City Council. President Feibel passed out her roles and duties as President of Council and suggested items for Charter Review in a hand-out. She quoted one duty of the President, "who shall preside at meetings of Council and perform such duties as presiding officer as may be imposed upon *him* by Council" (Chapter 220; Rule 1). She asked that the nomenclature for defining the President" be gender neutral. At the beginning of the year, after new members are elected, committees and Chairs are assigned. Council voted 6-1 in favor of a committee of the whole, which allows up to three members to meet and discuss business without being in violation of sunshine laws. Council President attends pre-Council meetings and sets meeting agendas. In Rules of Council, Chapter 220, it states the President "shall preserve order and decorum" (Chapter 220; Rule 7). The President sets the flow of Council in terms of efficiency and productivity, and communicates information that is pertinent to all members of Council. Correspondence from the public can be done via email and phone calls, and Council President will respond to all correspondence as well as forward to the appropriate channels for a response. The President can also invite special guests and members of the audience to give insight into matters that are being discussed. Council President can also call special meetings when necessary. President Feibel discussed having the public provide comments before an item comes to a vote. Hearing from the public is important to Council and the public has the option to speak on every piece of legislation. For the sake of efficiency, President Feibel suggested the Charter Review Commission consider adding language in the Charter that would limit public comments to three minutes at Council meetings for more efficient use of time. Currently Rule 13 in the Code limits the public to five minutes. Ira Kane asked if this should be legislative or something Council could include their rules as procedural. President Feibel replied that it could be added to Rules of Council as procedural, but that having it reinforced in the Charter would make the meetings less harried for the President and Council. Ed Meritt asked if the public was allowed to speak after all three readings. President Feibel answered yes. She then discussed Article IV, Section 32 Compensation for Council. She asked that the Charter include a means for members of Council to get a pay raise, without the discomfort of having to ask for one, due to the fair amount of work the members do. President Feibel also asked the Commission to consider addressing how the Council/Mayor selects members for Charter Review.

She also discussed that in pre-Council meetings, there were times when a member could not be present and called in to the discussion by phone. She also stated that in the current Charter, the President doesn't have the ability to make changes in the rules, and that sometimes it was

necessary to make changes mid-stream. She also referenced term limits and stated that she had faith in those who elected the officials, and felt that changing to a City/Manager form of government would be a hard sell. Steve Grossman asked if compensation is set up for the next set of officers. Ira Kane asked about recommendations for compensation. President Feibel said it should be addressed in the Charter. Ira Kane asked about public comments in the Rules of Council and if a revision to the time limit could be adopted by Council. President Feibel replied that rules in the Code that addressed it were vague and laid on the President of Council. Ira Kane said that Council publishes its rules and thought that the time limits were voted on. President Feibel said that they did vote on it, that there was kick back, and that the President should be allowed to limit public comments to three minutes. She said that this was the practice of many other municipalities, and that by limiting comments to three minutes, it would act as a safeguard at meetings so Council could get business done while being respectful of time. Larry Long is concerned with writing restrictions and provisions into the Charter that are more specific because no one can anticipate every situation, and there needed to be flexibility to respond to those unforeseen situations. He also asked if there should be something written into the Charter about an automatic increase of Council member's compensation. He stated that the Commission looks and makes recommendations, then the recommendations become what happens unless Council vetoes it. President Feibel said that Council will revisit their salaries, and it was part of the culture to review compensation. Larry Long asked if it was a provision of Council. Eloise Buker said Council revisits this to update it. Steve Grossman asked about phone calls in special meetings and asked if three or more members could have phone calls among themselves. Marc Fishel replied that in special meetings, no sunshine laws apply.

Presentation by Stephen Keyes, Finance Chairman, Bexley City Council

Chairman/Councilman Keyes provided two primary items for the Charter Review Commission to consider during its review process, as well as his thoughts on the Charter Review Commission and a reflection of his time spent on the prior Charter Review Commission. Council member Keyes provided a handout for the Commission members to review, which provided the role of Council, the role of Councilmembers, and his role as the Finance Chair. Council members were elected to represent the voters, and were elected at-large, meaning they do not represent one portion of the city's population. Councilmembers agree and disagree with the Mayor, they get behind the Mayor's suggestions, and they represent the residents. As Finance Chair, the Charter is followed, where the Councilmembers are members of legislature, not the Mayor, not the Executive Branch, and not the police. The Finance Chair ensures the budget is drafted on time. He said that the Charter Review Commission allows for the circumstances to be set up that are good for Council and good for the Mayor. The Charter operates in both good and bad times. Councilmember Keyes also stated that the Commission should spend its time on the bigger issues instead of going down rabbit holes. In terms of audience participation at Council meetings, there should be guidance to what the role of participation should be (Section 25) in the Charter. Council provides the public with the rules they are proposing to pass, and at the next Council meeting there could be changes to those rules to be discussed. He asked for a better definition of participation to be spelled out, and echoed President Feibel's statement that other municipalities are much more restrictive of public comments during their public meetings. He also stated that members of Council could be contacted any time, but members receive few comments from residents and limited public input. Councilmember Keyes suggested approaching the "Rules of 3s" regarding time limits from the public. Eloise Buker asked if that meant having three minutes only on the third reading. Councilmember Keyes said that there is time for the public to speak at the start of the agenda, and that the public is able to comment after the first or second readings, as

well as after the meeting. The public can also view the draft online and contact Council via email, and there is opportunity for public input before and after the meeting. Eloise Buker commented about time limits and asked if it was problematic when there were comments on the first and second reading. Councilmember Keyes replied yes. Larry Long asked if there was discussion after the first reading was introduced, as well as what happens at the second reading. He also asked if the public perspective was thought about when Council received public input at the first reading. Councilmember Keyes said that the public cares and the input is the responsibility of the residents. Ira Kane asked when enabling legislation for Council to implement, does Council want something so clear that it is enforced in perpetuity? And, if Council President changes does that change the way Council handles its affairs? Becky Guzman asked if a trend is the issue, or is the issue a few people or many pervasive people. Councilmember Keyes stated that is everywhere, and other municipalities have more restrictive processes, but that some have abused the privilege. The Mayor interjected that the rules are no different now than they were before, but in the past eight years Council meetings are now streamed online and residents speak on the topic, there are small but dramatic changes to Council meetings, and some members of the public get shut out. Councilmember Keyes said there would be tools in the Charter to use when an abusive Councilmember displays disruptive behaviors, and would allow for disciplinary action; such as stripping the Councilmember of their Chairperson role. He then mentioned Section 41 in the Charter regarding Suspension of Office which states that if the Councilmember is indicted for a felony, that member would be suspended from Council while the trial is pending. Mic Foster asked what other tools Council has in instances like this. Councilmember Keyes would like other tools to discipline the members. Mic Foster added that other tools didn't affect participation. Sam Marcellino asked if there was anything Council used to define behavior. Councilmember Keyes referenced Section 41 where it suggests suspension but not removal of a disruptive Council member, and said that they are working inside the confines of the law and asked what else Council was able to do. Ira Kane asked if the Ethics Code guided the conduct of Council. Councilmember Keyes said yes, and there were violations in the Ethics Code. Ira Kane asked about penalty versus cause. Councilmember Keyes answered it was to sit out for three meetings. Marc Fishel brought up Section 40 Removal from Office. Larry Long wanted to know Councilmember Keyes comments on the Mayor's suggestion on the submission of the budget. Councilmember Keyes agreed with the Mayor on the responsibilities of the running of the budget, and that failure of the Auditor's duties undermined the Mayor. Larry Long asked about the operating budget and appropriations, if it was done by line items or by account. Councilmember Keyes stated that it was important for the Mayor to be able to present their own ordinance. The Mayor said gender neutrality in the Charter and the selection review process. Council usually selects members, but for Charter Review both the Mayor and Council appointed members and Council voted on them. The Mayor " would like something in the Charter stating that the Mayor has some role in appointment. The Mayor also touched on term limits and said that limits are chaotic.

- 7 Chairperson Offenbergl asked the Commission if the members still wanted both retiring Council members at the next BCCRC meeting. One of the retiring members was discussed not in name, but in context, at the meeting this evening. Eloise Buker said to stick with the schedule.
- 8 Members presented their questions at the end of each guest's presentation
- 9 Adjournment time was extended by 15 minutes at the request of Chairman Offenbergl
Jim Wilson motion, Steve Grossman second, carried unanimously

- 10** Sections of the Charter discussed during the guest's presentations were Sections 9, 25, 26, 40, 41 and 47, as well as Chapter 220; Rules 1 and 7 Rules of Council, Article II, Article IV, Section 32, Article XIX, Section 32, and Rule 13 of the Code.
- 11** Ideas from the Goals and Values Working Group were distributed by Chairman Offenbergl for members to review
Larry Long motion, Steve Grossman second, carried unanimously
- 12** Amendment to Process for Public Input to include the Bexley Historical Society
Jim Wilson motion, Steve Grossman second, carried unanimously
- 13** Meeting adjourned at 9:14 PM

New Action Items

	Responsible	Due Date
1 Jim Wilson discussed getting the website up and having it include sections for the agenda, sign-up for meetings, and public comments		Unspecified
2		
3		

Other Notes & Information

Steve Grossman commented that the ESAC and Green Bexley were one and the same

Guests invited to the 12/16/19 meeting: Tim Madison and Mary Gottesman