

Meeting Minutes – BCCRC

Meeting Information

Occasion:	Bexley City Charter Review Commission – Meeting 4		
Date:	12/16/2019	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:	Stephanie Wilson	Note Taker:	Stacy Grossman
Submitted by:	Stacy Grossman	Approved by:	None
Attendees:	<p>Present: Ed Meritt, Stephanie Wilson, Eloise Buker, Ira Kane, Sam Marcellino, Rush Witt, Mic Foster, Rachel Laing, Larry Long, Steve Grossman, John Offenberg</p> <p>Other Present: Marc Fishel, Bexley City Attorney</p> <p>Not present: Becky Guzman, Jim Wilson, Bethany Hahn-Ambrosius, Mark Masser</p> <p>Guests: Mary Gottesman, Member of Bexley City Council Tim Madison, Member of Bexley City Council</p> <p>Other Guest: Chris Bournea, Journalist</p>		

Agenda Items	Presenter	Time Allotted
1 Call to Order	John Offenberg	Unspecified
2 Attendance – Quorum	All	Unspecified
3 Review of Minutes from December 2, 2019	John Offenberg	Unspecified
4 Report by Chairman, John Offenberg Report by Vice Chairman, Jim Wilson Report by Coordinating Secretary, Rush Witt	John Offenberg Jim Wilson Rush Witt	Unspecified
5 Invited Guests Mary Gottesman, Bexley City Council Tim Madison, Bexley City Council	Mary Gottesman Tim Madison	Unspecified
6 Old Business Review of Online Presence and Reaching Out to the Public		Unspecified Unspecified
7 New Business Comments from Commission Members Discussion of future direction of our Commission Suggestions for Next Meeting’s Agenda Possible Time for Guests to Speak		Unspecified
8 Adjournment	John Offenberg	Unspecified

Decisions and Details

- 1 Quorum was present. Guests were introduced to the Commission.
- 2 Approval of 12/2/19 Minutes
Pending revision to include meeting number and verification by Eloise Buker on a statement in the minutes made by Lori Ann Feibel
- 3 Report by Chairman, John Offenberg
Three incoming Bexley City Council members are invited to speak as guests at the 1/6/2020 meeting
- 4 Report by Vice Chairman, Jim Wilson
Jim Wilson was absent
- 5 Report by Coordinating Secretary, Rush Witt
Nothing to add
- 6 Presentation by Mary Gottesman, Bexley City Council
Councilperson Gottesman started off by advising the Commission members to use independent thinking throughout the review process, and provided four main items for the Commission members to consider. The first is term limits. Councilperson Gottesman stressed that this was the most important of the four items. There is a history of Council members serving four or five terms in Bexley, and she suggested that by limiting the number of terms a Council member can serve would provide a time for fresh thinking and fresh experiences, and would serve our city well. The second item she brought up is to address the importance of separation of powers between the executive and legislative, adding that incurring separation of those powers is worth addressing. She referenced the important duties of Council members and that separation of power would be appreciated when writing legislation and with oversight of the budget. The third item she brought up is assuring resident's voices are heard at public Council meetings. Council moved to approve a Committee of the Whole because some members thought it worked well. It would mean to not have to assign a committee when a member has no expertise or time for the effort. She said the members should have the flexibility to say yes and that it is better than what is circumscribed. By not having separate committee meetings, it assures that residents can speak to Council and have the opportunity to ask questions, and allows Council the opportunity to

ask presenters at Council meetings questions, and let it rest with the person who is President of Council to watch limits when public comments are being made. She said that the person who is Council President should have the moxie to speak up, let the public and Council have a fruitful discussion but won't derail progress at Council meetings. This past year, current rules have prohibited Council and presenters from asking questions. She feels public discussion time at Council meetings should speak to value the residents, so they can gain clarity and get answers. The fourth item she brought up for review is regarding impinges on ethics. She discussed ethics around current and past physical relationships between Council members and current city employees. She stated that it was difficult to give an unbiased decision in regards to hiring city employees and when working on the budget, and felt that was something this Commission should address. She also discussed House Bill 1 (HB1) in the United States House of Representatives, where it said that members can't serve on for-profit Boards. She would like that to apply to our city and its elected officials as well. She brought up a fifth item to discuss, which is to what to expect in terms of behavior from Council members. Current processes are vague, and she would like how to deal with problematic behavior to be addressed. The current processes are not well specified and subject to perception. She said that they could be twisted, and that having a range of processes available would be helpful. Steve Grossman asked if the Mayor had the power to kill a piece of legislation before it is presented. Councilperson Gottesman said yes. Steve Grossman asked how, and Councilperson Gottesman answered that she could not discuss it since it was addressed in an Executive Session. Marc Fishel added that the Mayor does not legally have the power to prohibit legislation from going forward, but can veto it. Marc Fishel said it was "small pen politics". Councilperson Gottesman added to the discussion that issuing threats was inappropriate, and that she had been in an Executive Session and had been threatened by the Mayor, but was not comfortable providing specifics of details. Ira Kane asked if a number of points raised could be addressed with greater clarity by Council, whether or not they fall in the legislative view of this Committee, and asked if the Ethics Code addressed them. Councilperson Gottesman said that they were not so much procedural. Council voted 4-3 on the Ethics Code, and was adopted by Council, and there was consistent unwillingness to compromise. Sam Marcellino asked Councilperson Gottesman if, assuring resident's voices are heard, and encouraging unlimited time for them to speak, are the same people the ones speaking consistently at Council meetings and drowning other resident's voices out. Councilperson Gottesman answered that she has no problem with some time limits, is not repetitive and circular, and the conversation keeps moving forward. Having "time up" gets people off path. She also said that Council can move to extend time, and that what consistently happened is that people got flustered and conversation got derailed. She suggested three minutes be the minimum and possibly five minutes be the maximum amount of time for each member of the public to have. Eloise Buker asked if the three minute rule was voted on by Council. Councilperson Gottesman answered no. Rachel Laing asked how often time limits arose and if they happened at every meeting. Councilperson Gottesman said that sometimes it happened a couple of times per meeting, but depended on the topic and the frequency. Rachel Laing asked if it made it more succinct. Councilperson Gottesman said it didn't allow to ask questions and information shared. Ira Kane asked if it is in Council's adopted rules. Councilperson Gottesman said it was not in Council's Rules. Ira Kane asked if there is a procedure of Ethics in Council's Rules. Councilperson Gottesman said it was an Administrative Rule. Marc Fishel said that in Section 220, if a codified ordinance or service of rules was not addressed, procedure would follow Robert's Rules, where authority would be given to the President of Council to set parameters. Steve Grossman asked when a new President comes in, do the parameters of the old President go away. Mic Foster asked if there was a benefit to the rules changing. Councilperson Gottesman said that the rules are different

between them, it was a jolt. She isn't saying that anyone has it all right or wrong, but that a consistent set of rules helps. Larry Long asked if in the Charter Council adopted Rules of Procedure. Councilperson Gottesman answered no. Larry Long said he is concerned having to rewrite requirements presiding over operational flexibility for Council. He also asked if there are personality issues which make it difficult to write something direct. Mic Foster asked how to define how to establish Rules of Procedure and Rules of Ethics. Chairman Offenberg asked if term limits would apply to Council, the Auditor and the Mayor. He also asked if each had the ability to ask questions, suggesting resolutions, ordinances, and if members spoke at committee meetings and at each other's ordinances. Councilperson Gottesman said at the second reading, if people don't know about the ordinance, and the ordinance is struck as concerning, it's confined to amendments. Chairman Offenberg asked if the people present were familiar with it. Councilperson Gottesman said that you can speak to it at any time. Chairman Offenberg then asked about officials not being allowed on for-profit Boards. He asked if this was a conflict of interest. Councilperson Gottesman said that the US House of Representatives rules have enhanced ethics guidelines that speak to this. In Ohio, elected officials can't serve on for-profits Boards if they, their spouse, or their family member, personally benefit from it. Larry Long asked if the state Ethics Law wasn't adequate. Councilperson Gottesman said that it might cover it.

Presentation by Tim Madison, Bexley City Council

Councilperson Madison began by saying how important the Charter Review is, and stated that there needed to be real changes and independent thinkers involved in the process. He said that he has been on Council for nine years and has been in roles such as Strategic Chair, Financial Chair, and President. Based on that, and at meetings, he agrees with Councilperson Gottesman that there should be separate powers, and that the residents have a right to speak at Council meetings. He stated that there was never a time limit to speak and that residents always had the ability to speak. The first issue he would like to review with the Commission is, if nothing else, to change Section 79 of the Charter to state "shall" rather than "may". The process of Charter Review goals in that were started in 2017, and on February 13th, 2018 an oral motion was made that was not on the agenda. The President made a motion that there would not be a Charter Review in 2018 and voice votes were made. Charter Review was voted on taking place in 2020. The second issue Councilperson Madison discussed is also regarding changes to Section 79 for the process of selecting Charter Review Commission members. Presently there is no process on how to choose, and he provided four options included as Attachment 2 in the handout he provided to all Charter Review members. Right now the application process is to come talk to Council. The Mayor interviews the applicants and sends a list to Council, then Council votes to approve. Councilperson Madison said Council shouldn't be the ones to decide. He thinks the residents should decide the correct process. The third issue he feels is imperative, which is having an elected City Attorney. Currently the Mayor chooses the City Attorney and proposes their salary and pay increases. Council members, the Mayor and the Auditor are all elected, and Councilperson Madison stated the same should be done with the City Attorney. Section 33 of the Charter, which applies to the City Auditor, could apply to the City Attorney. That way no one is beholden to anyone. The fourth issue he discussed is eliminating silent voting. He said that in silent voting, all votes are written and tabulated and no one knows who voted for what. He said that this is a violation of the Sunshine Laws. He asked that it be put into the Charter to eliminate silent voting. The fifth issue he discussed is Section 42 of the Charter. Councilperson Madison said it needed to be changed to prohibit the City Attorney from being a voting member on any Board. He brought up the CIC as an example where the City Attorney is a voting member and employed by the City. He said that this is a conflict of interest. The sixth issue Councilperson Madison discussed is term limits for

elected officials. He said that this is a tough one and has historical perspective of “the way it has always been done”. He likes the idea of having new people, but doesn’t want to lose the perspective of the way things have been done. The seventh issue Councilperson Madison discussed is Council’s Ethics Policy. He doesn’t think Council should be formulating its own Ethics Policy. The previous Charter Review adopted Sections 39 - 41. Council voted and the ordinance passed 4 – 3. The Mayor didn’t sign the resolution or the ordinance. He provides this in Attachment 7 in his handout. Normally it goes to the Mayor to sign, who has the right to veto it. This ordinance went to the Mayor but was not signed. The ordinance goes into law after 30 days. This was given to Council the day before. It was introduced by the Safety Committee, not Judiciary Committee, the day before the first reading. Four people voted for it, and no one proposed any modifications to the original proposal. Ira Kane asked for a point of clarification. If it was passed by Council, it’s law, and is Councilperson Madison asking this Commission to change Sections 39 – 41 because it punished one member. Councilperson Madison stated it was inappropriate. Four members passed the ordinance. The Mayor didn’t sign it. No one changed one word in the original proposal. The eighth issue Councilperson Madison discussed is to clarify Section 22 of the Charter, which he included in Section 8 of his handout as an attachment. The Charter says that Council shall make rules, not the President of Council makes rules. He also discussed a procedural change regarding resident’s speaking time. January 9, 2018 public comments were limited to three minutes by President Feibel without discussion of Council or vote of Council. Rules were made that applied to the public where public comments could not include any questions/answers or debates and the public could only speak once on the topic. Councilperson Madison said that he has been through five other Council Presidents, none of whom demanded these kinds of rules without Council discussion or debate. Councilperson Madison also mentioned that Committees were eliminated, and when eliminating committees it eliminates one more opportunity for the residents to speak. He also said that it was embarrassing, that with no Chair of the Committee at the meeting there is no one to give a report. Councilperson Madison’s ninth issue stated that the Charter says no elected official can be in an ad for a private business. The tenth issue he discussed relates to a proposal brought before Council asking for help to pay for 25% of a salary for a School Resource Officer (SRO) at St. Charles. That since changed, with the school paying 100%. He said there is a separation of Church and State, should be no city funds provided to pay for the salary, and should come from that school’s budget to pay for their SRO. The eleventh issue Councilperson Madison discussed was voters should decide which day the 4th of July parade falls on. The twelfth issue discussed is Section 32 of the Charter, where Council members use good faith efforts to attend all meetings. Councilperson Madison said this needs to be addressed. For pre-Council meetings, those in attendance include the Mayor, City Auditor, City Attorney, Council members and Finance Chair. The meetings are important meetings and critical for members to be present to discuss the agenda and set the agenda. Every prior Finance Chair has attended every pre-Council meeting except for the current Finance Chair. Issue thirteen Councilperson Madison discussed is the use of the word “he” in the Charter, and stated the terminology should be gender neutral. Issue fourteen discussed by Councilperson Madison is should the Auditor take Roll Call and Votes at Council meetings. The fifteenth issue brought up for discussion is to disband Council if its sole purpose is to support the Mayor. He also referenced separation of powers, and having to understand the purpose of Checks and Balances. The sixteenth issue he discussed is having the Charter state that no President shall be President for two consecutive terms in Council. The succession is Finance Chair to President. Larry Long asked if Council President should be made to be independently elected. Councilperson Gottesman answered she was 100 percent for this. Councilperson Madison said he hadn’t thought of it, but offered that the

President of Council should be a member of Council. Ira Kane asked about a balanced budget provision. Chairman Offenbergh said a balanced budget was a state requirement. Marc Fishel added that only the Federal government was allowed to not have a balanced budget. Chairman Offenbergh said that was the role of the Auditor to figure out how much is available to spend, based on what there is to spend. Councilperson Madison mentioned the estate tax, and estimate amounts come in. We no longer have the estate tax, so the money didn't come in. Chairman Offenbergh said that a balanced budget didn't spend more than the city has. Rush Witt left the meeting. Marc Fishel added that the city can't borrow money to make the budget balanced, and can't go into deficit spending. Eloise Buker asked about the selection of Charter members, and if the Council members felt that the mixed process worked, or if there should be another process. Councilperson Madison answered that it was a compromise. There were seven Council members and one Mayor. Seven members decided the process and proposed the Mayor pick members, and Council would be the ones to approve. Council picked ten members and the Mayor picked five. Councilperson Madison felt this was fair. Eloise Buker added that if Council did it all, the outcome would not be balanced. Councilperson Madison agreed and said it worked well for Council to pick ten and for the Mayor to pick five, and that it wouldn't be fair for one to pick all. Sam Marcellino asked if Councilperson Madison's opinion would change about the City Attorney being a voting member on a Board if the City Attorney were elected. Councilperson Madison said no, and they should not be a voting member. Using the CIC as an example, City Council appoints three, the Mayor appoints one. The CIC was formed with the Mayor, one employee appoints, usually the Service Director, but can appoint any employee. The City Attorney advises the CIC on issues regarding Sunshine Laws, but is now a voting member. Councilperson Madison said that it wasn't right for the City Attorney to be a voting member, and can't legally advise members on legal points. Voting members make fiscal decisions, but can't answer legal questions. If the City Attorney is a voting member, then the city should pay another attorney to come in and advise on legal issues/questions. Marc Fishel responded by saying that the City Attorney does not represent the CIC, and his salary is a flat fee every month, and is no longer paid to be on the CIC. He will chime in if there is a Sunshine Law violation, but him being on the CIC won't cost the city a dime. Steve Grossman asked about item eight, Section 22 where it says Council "shall" develop, and doesn't say "may" develop. He is not sure how to make recommendations that affects how Council should be. Councilperson Madison replied that for item eight, it should say Council shall, not the President shall. Steve Grossman asked if this violated the Charter. Councilperson Madison said that it's by vote of Council. Council can change the rules. Eloise Buker asked which rules they were looking for. Councilperson Madison answered they were not posted, but he received and email and that is how he knows they existed. Ed Meritt asked if President Feibel discussed the rules during her presentation. Chairman Offenbergh advised the members to go back and review the minutes. Ira Kane asked if there were copies of the current Rules and Procedure of Council. Councilperson Madison said they were in the Administrative Code. Marc Fishel said they are on the city's website. Rachel Laing asked why there was a motion made not to have a Charter Review. Councilperson Madison said certain members had a rubber stamp for no Charter Review, and wanted to eliminate the right for residents to have speech not on agenda items. Rachel Laing asked if it was for discussion or support. Councilperson Madison said it was no to both. Councilperson Gottesman replied they discussed how many bones of contention were put forth and if there was a sufficient workload to constitute a Charter Review Commission. The consensus was that there was nothing pressing that was needed to be discussed, and at the next meeting Council voted not to have one. There was a voice vote, but as the year progressed there were issues that became worthwhile to review. Ed Meritt asked The Council members what their thoughts were on changing to

City/Manager form of government. Councilperson Madison believes in City/Manager forms of government, but thinks that Bexley can't afford to pay a City Manager what other cities can afford to pay. Larry Long said he was confused and said that Council had committees with three members, but then changed to Committee as a Whole. He wondered why. Councilperson Madison said that Council was attending committee meetings that were being duplicated, and were rehashing the same things in those meetings, and changing to a Committee of the Whole was a legitimate choice. Chairman Offenbergs asked about Sunshine Laws in those meetings and Councilperson Madison answered that with three people in a meeting where two can't talk eliminated the vetting of important legislation.

7 Members presented their questions at the end of each guest's presentation

8 Old Business

Chairman Offenbergs said the Commission would skip the discussion on Status of Online Presence

9 Marc Fishel wanted to clarify a couple of things:

1. Issues regarding him being on the CIC were clarified earlier in the meeting
2. The motion not to have Charter Review was passed by City Council
3. The City Attorney is recommended by the Mayor and approved by City Council
4. Issues relating to Ethics passed 4 – 3
5. Same with regard to issue eight from Councilperson Madison's presentation, City Council addressed this. Pre-Council meetings are not Sunshine Law meetings. Rachel Laing asked about the Dave Gill ad that featured Mayor Kessler. Marc Fishel said that it had been investigated, and that the Mayor was in the ad to support green energy but was not paid and did not receive any benefit from being in the ad.

10 New Business:

Chairman Offenbergs and the Commission discussed how to move forward with the meetings. One suggestion was to have a two pronged approach, and to have a working group that comes up with a way to move things forward. Ira Kane asked what happens if a speaker(s) is on an agenda and the speaker(s) does not show up. He said things need to keep moving.

Working group members were added to the working group. Members are Ira Kane, Mic Foster, Sam Marcellino

Commission members discussed contacting Jason Dolin to learn more about pro bono work in Mayor's Court.

Potential speakers in upcoming meetings were suggested, such as the Police Chief and the Building Director at City Hall.

Succession of topics will move from judicial to legislative, with the possibility of having the City Auditor and the Mayor return.

Sam Marcellino asked how the working group would work, whether to review the Charter as a whole and then review with the Commission, or review a few articles and then bring them to the meetings to review.

Chairman Offenbergs said the minutes were not voted on and asked if there were any last thoughts before bringing to a vote. Eloise Buker said to vote on at the next meeting.

11 Meeting adjourned by Chairman Offenbergs at 8:54 PM

New Action Items	Responsible	Due Date
1 New working group formed	Ira Kane Mic Foster Sam Marcellino	
2 Next Charter Review Commission meeting is Monday, January 6, 2020 from 7:00 – 9:00 PM at Trinity Lutheran Seminary Room 217		

Other Notes & Information
