

**WEIRTON CITY COUNCIL
PUBLIC HEARING – CHARTER CHANGES
WEDNESDAY, March 20, 2019, 6:00 PM**

A Public Hearing was held on Wednesday, March 20, 2019, at 6:00 PM in the Council Chambers of the Weirton Municipal Building.

Attendance:

Mayor and Council Members

Harold E. Miller	Mayor
Tim Connell	Councilmember Ward 1
Mike Adams	Councilmember Ward 2
Fred S. Marsh	Councilmember Ward 3
George E. Ash, Sr.	Councilmember Ward 4
Douglas L. Jackson	Councilmember Ward 5 – ABSENT
Enzo Fracasso	Councilmember Ward 6
Terry Weigel	Councilmember Ward 7

City Officials

Vincent S. Gurrera, Esq.	City Attorney
DeeAnn Pulliam	City Clerk
Diana Smoljanovich	Interim City Manager/Finance Director

Mayor Harold Miller, called the public hearing to order.

Mayor Harold Miller, led everyone in the reciting of the Pledge of Allegiance.

Mayor Harold Miller, Stated the reason for the Public Hearing on Wednesday, March 20, 2019, was for citizens to appear and be heard on their views with respect to the 11 ordinances that would alter the current City of Weirton Charter.

DeeAnn Pulliam, City Clerk, asked for the purpose of public ordinances, should we go by the citizens that signed up or state the individual changes and ask for comments.

Vince Gurrera, City Attorney, the best way to do it is by announcing the ordinance then ask if any would like to speak about it.

CHARTER CHANGES:

1. **Ordinance No. 2060. An Ordinance Amending the Position of Treasurer and Auditor throughout the City of Weirton Charter to Read City Financial Director a Permanent and Full-Time Position. (Councilman Ash)**

Vince Gurrera, City Attorney, would anyone like to speak in regards to the current charter change?

No one requested to make statements relating to the current charter change.

2. **Ordinance No. 2061. An Ordinance Amending the City of Weirton Charter by Eliminating the Position of City Physician from the Charter. (Councilman Ash)**

DeeAnn Pulliam, City Clerk, any statements?

No one requested to make statements relating to the current charter change.

3. **Ordinance No. 2062. An Ordinance Amending the City of Weirton Charter by Eliminating the Position of Recreation Director from the Charter (Councilman Ash)**

DeeAnn Pulliam, City Clerk, any statements?

No one requested to make statements relating to the current charter change.

4. **Ordinance No. 2063. An Ordinance Amending Article III, Section 2 (c) of the City of Weirton Charter Relating to the Removal of Appointed Officers. (Councilman Ash)**

DeeAnn Pulliam, City Clerk, any statements?

Ed Bowman, spoke in opposition of the charter change. He stated the following reason(s) for the opposition:

- When the charter change was changed to two-thirds, I did not really agree with it, but I did not speak up because it was a super majority and you would have been pretty convincing to do anything. Now, there is a change to four. I

do not understand why, the language you had in place has been there for ten years, and you had not had a problem, has there been a problem, if so let me know. I think that you are going into a dangerous zone. As you know, as referred to it before, in a prior administration where I had 4 council people vote, to what I consider a major issue. If you put this kind of language in the charter, and end up in a scenario like that again, you are going to have some serious problems. Here is what else is being set up, if council has that kind of powers with only 4 of them, and then they can go and intimidate the department heads with initiating removal. That is dangerous, very dangerous. Keep in my mind of the appointments. There is only one position here that is elected by all of Weirton, and that is the Mayor. Those are privileges and opportunities for that position to manage with the City Manager. I am here objectively. I do not have a political reason. I only look at this being objected because it is in the best interest of the citizens.

Robert Hinchee, spoke in opposition of the Charter Change.

He stated the following reason(s) for the opposition:

- The reason for my opposition is that removing the two-thirds is taking away the checks and balances in my opinion. In general, I would like to have had more time to review the charter changes. Three business days is not enough to review a hard copy.

5. Ordinance No. 2064. An Ordinance Amending the City of Weirton Charter by Eliminating Article III, Section 3 (a) Qualifications and Requirements for Mayor and Councilman Being a Resident of Weirton for at Least Five Years Prior to an Election. (Councilman Ash)

DeeAnn Pulliam, City Clerk, any statements?

No one requested to make statements relating to the current charter change.

6. Ordinance No. 2065. An Ordinance Amending the City of Weirton Charter by Eliminating Article III, Section 3 (d) Qualifications and Requirements Requiring Mayor and Councilmen to Have Paid Taxes on at Least Five Hundred Dollars' Worth of Real or Personal Property for the Year Preceding His Election to Office. (Councilman Ash)

DeeAnn Pulliam, City Clerk, any statements?

No one requested to make statements relating to the current charter change.

7. Ordinance No. 2066. An Ordinance Amending the City of Weirton Charter Article III, Section 3 (f) Qualifications and Requirements to Include Appointed or Elected Office in the State of West Virginia. (Councilman Ash)

DeeAnn Pulliam, City Clerk, any statements?

Ed Bowman, is this the one that basically states Mayor and Council cannot hold a state appointed or an elected position?

Councilman Enzo Fracasso, yes, or a county position.

Ed Bowman, I am in opposition of that charter change. He stated the following reason(s) for the opposition:

- Again, the question I ask myself is, why? You look to experience. Only one time in the history of the city that a person served in the City and State, and that was me. Correct me, Freddy.

Councilman Fred Marsh, Ronnie Jones also served in both.

Ed Bowman, That is absolutely right. Not sure what benefit came from Mr. Jones in both, but what did I do when I was down there? I was able to bring back money to the City of Weirton. Was that an advantage to the City of Weirton, absolutely. Let's say one of you get appointed to a Board by the Governor. Is that advantageous to the City, absolutely yes. It would give you as an appointee of the Governor to have a voice. I was able to go there and represent legislation that would influence the City of Weirton. What is the disadvantage of having one of you

to serve on a board as a Governor's appointee? You would have a voice in Charleston and represent the City. Is it advantageous to the City, absolutely. I cannot find any disadvantage in it, and look at it as a benefit to the community.

8. Ordinance No. 2067. An Ordinance Amending the City of Weirton Charter Article III, Section 3 (g) Qualifications and Requirements from Missing Council Meetings for a Period of Six Months to Missing Regular Monthly Council Meetings Six Times Within the City's Fiscal Year. (Councilman Ash)

DeeAnn Pulliam, City Clerk, any statements?

Ed Bowman, I am not going to oppose the charter change. I think it is too generous, I really do. You are going to allow someone to miss six meetings in twelve months. I think you need to look at the number and take it down to three or four. If the councilmember has information from a doctor that they have a serious illness, then take that into consideration. I am not opposing it, just want you to look at it.

Councilman Fred Marsh, it is already in the charter. Six times was already in the Charter. We are just trying to clarify it to be six times in a fiscal year versus six times in a regular year.

Ed Bowman, then I guess what I am saying is to look at the six and change it to a lower number or add some additional language into it. I just think six times a year is just too many. There is a responsibility to being here. Reduce the number of meeting being placed in there, but place language in there for considerations of missing. I am not opposing, just suggesting different terms and language.

Vince Gurrera, City Attorney, this charter change corresponds with the charter change relating to being State official. A prior councilman had miss six meetings because he was a state elected official, and he said, "I have a job with the State, I cannot come to all these council meeting."

Ed Bowman, if someone was saying that they were not able to attend the meetings then legitimize the reasons.

Vince Gurrera, City Attorney, we tried to, but we were having some issues with that, and it caused problems. And it was argued by them to "why get rid of me, I am doing so much through the State to help the City. "

Ed Bowman, which is a very unjust reason. I think you can put some language in there to address that issue. It is a benefit to the City of Weirton. I do not believe many City Charters prohibited being a State elected official. Actually, the City of Wheeling has people on their council that is serving on Governmental Boards.

Councilman Mike Adams, with all the technology there is today, like Skype, why cannot someone appear telephonically or by a computer?

Councilman Fred Marsh, I think the State Code prohibits the use of telephones or computer. Are you opposing that, Ed?

Ed Bowman, I am not opposing it. Just recommending, suggesting, or asking to lower the number of meetings missed.

Councilman Terry Weigel, I would just caution one thing with that is we are proposing stricter language in the Charter Change. Is the elected official not responsible to his constituents? Rather than us setting the limits, is it not the constituent's responsibility? If they feel that they are being represented fairly, and re-elect that person, would that not be their responsibility?

Ed Bowman, your point is well made. That person misses seven meetings in his second year, and they can choose not to re-elect him in two years. Place some language in the Charter Change that would give some recourse if that happens.

Councilman Terry Weigel, what I am saying is, if we pick that number, are we not taking that voice away from the constituents.

Councilman George Ash, the six has always been in there. This would change within a fiscal year. I am in agreeance to lower the number. Right now, you get elected in, miss six meetings, and then on January 1 you are good to miss more.

Councilman Fred Marsh, Vince, as a matter of procedure if we make amendments to any of these, are we back to square one in the process?

Vince Gurrera, City Attorney, yes, we would start the process over.

Ed Bowman, there are some options you can do.

Vince Gurrera, City Attorney, there are, but if you amend it, then we start all over again.

9. Ordinance No. 2068. An Ordinance Amending the City of Weirton Charter Article VII, Officers and Employees Section 1 (f) City Manager Relating to Contracts. (Councilman Ash)

DeeAnn Pulliam, City Clerk, any statements?

No one requested to make statements relating to the current charter change.

10. Ordinance No. 2069. An Ordinance Amending the City of Weirton Charter Article VII Officers and Employees Section 1 (d) to Read the City Clerk Shall Work the Hours of Duty Determined by the City Manager. (Councilman Ash)

DeeAnn Pulliam, City Clerk, any statements?

Ed Bowman, I do not oppose that. But ask a question because I am confused. Wouldn't under the current structure, if the City Manager directed that person to work and she says no. Then she is an insubordinate and could get fired.

Councilman George Ash, the current Charter provision states the City Clerk must work 9:00 a.m. – 5:00 p.m.

11. Ordinance No. 2070. An Ordinance Amending the City of Weirton Charter Article VIII: Elections Relating to the Conduct of Municipal Elections. (Councilman Ash)

DeeAnn Pulliam, City Clerk, any statements?

Ed Bowman, I have a lot to say on my opposition against this. He stated the following reason(s) for the opposition:

- My first opposition is the fact that the next administration would get an extra year and half. That means the next administration will serve five and a half years. I am just opposed to adding a charter change that adds years. The proposed change has a goal of saving money. I share that 100%, but this charter change you would not have another city election until 2024, and that will coincide with the National Election for the purpose of saving money.

- My second opposition is only having one election. In Jefferson County a few years back, the county commissioner was elected with 14% of the vote. Brooke County Commissioner James Andreozzi was elected with less than 20% votes casted. Supreme Court Justice Evan Jenkins was elected with 14% of the vote. I do not think that is a fair representation of the voters out there. I think there should be a fair majority of the voters. If you adopt the language, any candidate gets 50% declare them the winner, but if there is a race where a candidate does not get at least 50%, then you have a runoff election.

Councilman Terry Weigel, what you are proposing is that we would have a primary election, and if someone wins by 50% then we are done. Then if the top two in the primary does not get 50%, then they would advance to a runoff General Election?

Ed Bowman, you have the election coming up. One race where there are three councilmen, and another that there are five councilmen. If you break that down, you may only have two races that may not meet that 50% threshold. If you adopt the language I gave you, then you would have two General Elections and eliminated all the other elections. What would it cost to have two elections?

Vince Gurrera, City Attorney, it cost approximately \$35,000, per election.

Ed Bowman, if someone would break down the cost analysis for me because I do not understand how it would not be a cost savings if you went from having eight races to two races.

DeeAnn Pulliam, City Clerk, taking it down to one election would cut the cost in half.

Ed Bowman, you would have a saving if you adopt the language I would suggest.

Vince Gurrera, City Attorney, let me discuss the percentage you expressed with Evan Jenkins. What they basically did, this is the amount of people in West Virginia, and this is amount votes we got. We take your scenario. There is a 100 people in Weirton and only 20 of them show and 80 do not show up because it is not a national election or anything like that. Two people are running, and out of the 20 one person gets 11 and the other 9. That person won by only 11 % of the votes. Jenkins won over of the votes casted. When we do not have an election that is with the National, the City does not have high turnout of voters.

Ed Bowman, you are never going to get all the voters.

Vince Gurrera, City Attorney, my point is we need something to draw the people to the polls, and the national election may bring out more people. The change is two-fold cost saving and to produce more voters.

Ed Bowman, another point I would like to make is, if you adopt this language, then you are violating another section of your charter. In the charter, it states the terms of council and mayor as four years. You adopt this, and then you are in violation of that section. I also called the ethics commission and ask them about this situation that the next administration would get another year and a half on their terms. We have two current councilmembers who are running unopposed. They know if they vote for this change they will get an additional year and a half. I ask if there was an ethic violation. She could not give me a clear decision, but stated it was worth looking at and suggested to look at the Ethics Opinion of 2010-8. Her name was Theresa Kurt.

Vince Gurrera, City Attorney, Council is not an individual person. If this council approves something that does not apply to this council, then they are allowed to take action because it is not one person voting it is the whole council. For instance, they voted today that all councilmen were going to get a \$1.00 pay raise they do not have to abstain because they are running unopposed for in the election. I will look at the Ethics Opinion you have brought up.

Councilman Mike Adams, if we shortened to having the next election to what I call the off-year election, would you not achieve the goal of saving money , solve the potential charter problem on the additional year and a half, and shorten the time and bring it within the four years.

Councilman Enzo Fracasso, you would still be in violation of the charter because the charter states a 4-year term.

Vince Gurrera, City Attorney, my interpretation on that it is not in violation of the charter. If you are changing the charter relating to time, you are adopting that change into that specific change for that election.

Councilman Enzo Fracasso, how do you violate it if you go over the four years and not under the four years?

Vince Gurrera, City Attorney, I do not think you are in violation of either. You are making a specific charter change dealing with that specific situation. That does not mean everything forever changes to five and a half years.

Ed Bowman, I have stated my opposition tonight. Whatever the voters' decision is, then it is acceptable to me. I may disagree with it, but it is their voice we are supposed to represent.

Mayor Harold Miller, if we coincide with the National Election will we have to establish parties.

Ed Bowman, no, I do not think so.

Mayor Harold Miller, then would we not still need to have a Primary to determine who will be on the ballot in November, the top two.

Councilman Fred Marsh, no, his scenario plays that whoever in an election in November does not get at least 50%, they would have another election in December for the runoff. Roughly it would cost us to have a full blown runoff election between \$10,000 and \$15,000. Mayor brings up a good point, if you do this in a primary, Primaries are Partisan. So what this means that a candidate may be a Democrat and may want Republicans to vote for them, but they cannot vote for him in the Primary.

Ed Bowman, right now you have non-partisan races. I guess the only way it would be Partisan is if you would establish that language in your charter.

Mayor Harold Miller, you have five people running on Marland Heights right now. If we go to this system, all five will go on the ballot in November.

Ed Bowman, under this charter language if you all five of those people in the General Election and one of the five people get 14%, they would be declared the winner.

Mayor Harold Miller, we do not want that to happen.

Vince Gurrera, City Attorney, let us look at it another way. Let's say the Mayor wins by 52%. He is not up for the second part of the election. So now you are going to have a separate election for two councilmen in a ward. You probably would get a low turnout of voters to vote for their councilmen.

Ed Bowman, just for clarification purposes, Vince, what does it take for a citizen to implement a charter review?

Vince Gurrera, City Attorney, it occurs by contacting council like any other changes. There is nothing that states you cannot. We did have a charter review committee a couple of years ago.

Councilman Fred Marsh, there was a Charter Review committee after Ed was Mayor. They spent a lot of time and money on the review. And all the changes they decided on got deep sixed.

Mayor Harold Miller, I appreciate everyone's comments. I am not in favor of Council having a simple majority of council to overrule appointments. I would rather have a super majority. I am also not in favor of going an extra year and a half. I have committed to four years. If we do this for the benefit of the City, then I will go along with it. When we first started talking about it, I was not really excited about the change. I would rather it be four years. We are in exciting times, but switching to the five and a half years is not something I want.

Diana Smoljanovich, Interim City Manager, I have a suggestion. You are opposed to the additional year and a half. Did you consider having the term to be one and a half years?

Councilman George Ash, let me see if I understand Mr. Bowman. If the public votes on this, and they agree with it, you are alright with it.

Ed Bowman, yes, absolutely.

Councilman George Ash, then what is the disagreement here.

Ed Bowman, my biggest opposition to this is the extra year and a half.

John Barone, I am in opposition of this charter change. He stated the following reason(s) for the opposition:

- I think there should been more discussion on the change. This has been in place from the beginning. It is a tradition. I think this ought to be up for a vote. Ethically, I agree with Mr. Bowman that you are going to have a problem. There needs to be more discussion.

Councilman George Ash, I request the City Attorney to look at the ethical opinion addressed. If it is unethical, eliminate it. If it is ethical, then let the citizens' vote, and be done with it.

DeeAnn Pulliam, City Clerk, Dave Cline, submitted a written objection to the Charter Change (Attached Hereto):

Reason for Objection: Changing the City Election time frame is in the best interest of the citizens of Weirton. Candidates for Municipal office deserve to have their own time period to present their platforms and ideas to the voters.

Mayor Harold Miller asked for a motion to adjourn the public hearing.

Councilman Marsh made a motion to adjourn the meeting, and Councilman Connell second the motion.

Motion to close the Public hearing passed 6/0