



**CITY OF WALLED LAKE
SPECIAL COUNCIL MEETING
(ELECTRONIC MEETING PLATFORM)
WEDNESDAY, AUGUST 5, 2020
7:30 P.M.**

The Meeting was called to order at 7:30 p.m. by Mayor Ackley.

ROLL CALL: Mayor Ackley, Mayor Pro Tem Ambrose, Council Member Loch, Council Member Lublin, Council Member Owsinek, Council Member Woods

There being a quorum present, the meeting was declared in session.

CM 8-1-20 TO EXCUSE COUNCIL MEMBER COSTANZO FROM TONIGHT'S MEETING

Motion by Owsinek, seconded by Woods, UNANIMOUSLY CARRIED: To excuse Council Member Costanzo from tonight's meeting.

NEW BUSINESS:

- 1. Proposed Resolution 2020-26 Adopting Explanatory Caption for November 2020 General Election Ballot Proposal to Amend Section 4.7 of the City of Walled Lake City Charter**

City Attorney Vanerian explained council requested him to draft a proposed explanatory caption for the proposed amendment to section 4.7 of the city Charter. City Attorney Vanerian said the proposal originates from an initiatory petition that the city received about this time last year. City Attorney Vanerian explained the proposal went through the statutorily required review process by the Attorney General and Governor's office and both disapproved the proposed charter amendment because it does not comply with requirements under state law as determined by the Attorney General. City Attorney Vanerian explained because it is an initiatory amendment, pursuant to statute the city council has an option of providing an explanatory caption. City Attorney Vanerian explained he drafted a proposed explanatory caption by way of resolution which has been provided to council and made part of tonight's packet. City Attorney Vanerian explained he did make minor revisions to the explanatory resolution and asked the clerk to put up on shared screen.

Confidential Assistant Jaquays placed revised resolution on screen for viewing.

City Attorney Vanerian explained he added the ballot question into the body of the resolution itself as it was provided by the petitioner so there was no confusion about what

language of the petition should be taken out and given to the county clerk for inclusion on the ballot. City Attorney Vanerian said he wanted to make it clear that the question the council is going to be submitting to the county is the question that was contained on the initiatory petition itself. He said as indicated the Attorney General did review this ballot proposal including the question that was provided in the petition. City Attorney Vanerian said the Attorney General did note the question itself was somewhat incomplete so his draft explanatory caption addresses some of the concerns that were identified by the Attorney General. City Attorney Vanerian said additional information indicating the proposed charter amendment seeks not only to create a ten year term limit on the office of City Manager but also changes the current provision in the Charter, which says that the City Manager serves at the pleasure of City Council. Attorney Vanerian explained he added language as it pertains to the City Manager's contract because this was pointed out in the Attorney General's review that it did not make mention of the City Manager's contract. City Attorney Vanerian explained the proposed explanatory caption simply described or simply states what happened pursuant to the review by the Attorney General. City Attorney Vanerian said it lets the voter know that the proposal was reviewed by both the Attorney General and Governor's office and both disapproved it due to noncompliance with state law requirements. City Attorney Vanerian explained it further provides the primary problem with the proposal as determined by the Attorney General that this proposed amendment fundamentally changes the structure of the city's government and that is not something that can be done by way of a charter amendment process. He explained what was proposed by the initiatory petition was a charter revision which involves creating a charter revision committee and many other statutory and procedural requirements that clearly have not been met in this case. City Attorney Vanerian explained there is virtually no published authoritative case law available that discusses the explanatory caption in terms of what it means or what it can or cannot be included within the explanatory caption. City Attorney Vanerian said there is no definition of the explanatory caption within the statute itself, so it is a fairly elusive legal concept in terms of what exactly the caption means. City Attorney Vanerian said what was drafted by him provides response to what was raised by the Attorney General and what happened pursuant to the statutorily required process. City Attorney Vanerian said it is important that the voters are fully informed, that they understand what it is they are being asked to vote for, that they have relevant and pertinent information to make an informed decision, that they are not being misled through the suppression of important information, and facts they need to know in order to make an informed decision.

Attorney Vanerian explained he made a minor revision to the last sentence of the explanatory caption but no substantive changes.

Mayor Ackley asked City Attorney to read the changes.

City Attorney Vanerian explained the first two recitals are the same. City Attorney Vanerian then read:

The City Clerk is hereby authorized and directed to submit to the County Clerk the ballot question as stated in the July 2019 initiatory petition to amend section 4.7 of the city Charter for inclusion on the November 2020 general election ballot as follows:

City Attorney Vanerian explained what follows as the amendment was language taken from the petition that would be sent to county for inclusion on the ballot which reads as follows:

City of Walled Lake Proposed Charter Amendment.

Shall section 4.7 of the city Charter be amended to prohibit an individual from serving as city manager for more than ten years in total including any time accrued as city manager before the charter amendment takes effect?

City Attorney Vanerian explained the explanatory caption included:

The city manager's employment contract contains provisions for the payment of severance benefits that include but are not limited to full payment of the city manager's \$160,000 yearly salary through January 2025

Council Member Lublin asked for clarification if the language was from the initiatory petition.

City Attorney Vanerian said yes and read again:

Shall section 4.7 of the city charter be amended to prohibit an individual from serving as city manager for more than ten years in total including any time accrued as city manager before the charter amendment takes effect?

Council Member Lublin asked City Attorney Vanerian to read the entire explanatory caption.

City Attorney Vanerian read:

Explanatory caption regarding proposed amendment to section 4.7 of the City of Walled Lake Charter.

State law requires that an initiatory ballot proposal to amend a city charter must be submitted to the state Attorney General and Governor for review prior to submission to the voters. Both the Governor and State Attorney General and Governor reviewed and disapproved the initiatory proposal to amend section 4.7 of the Walled Lake City Charter because it

fails to comply with state law requirements as determined by the state Attorney General. Both the Attorney General and Governor concluded the proposed charter amendment seeks to fundamentally change the city's basic form of government by legally improper and impermissible means. The proposed charter amendment proposes to abrogate city council's current authority under section 4.7 to employ the city manager for an indefinite period of time and further proposes to effectuate the immediate termination of the current city manager's employment. The City manager's employment contract contains provisions for payment of severance benefits that include but are not limited to full payment of the City Manager's \$160,000 yearly salary through January 2025.

The amended resolution was provided via shared screen for council and audience to view.

Council Member Lublin said he wanted to say potential full payment of \$160,000 yearly salary through January 2025 totaling \$750,000.

City Attorney Vanerian said he would not advise placing a particular total in because there's more than just salary at play there are benefits, it cannot be said with certainty what that final total exposure to the city would be.

Mayor Ackley said before moving forward she wanted to make sure everybody had time to review the amended language.

Mayor Pro Tem Ambrose said the salary plus the defined benefits figure should be included, not so much the cost but the fact the benefits are included. Mayor Pro Tem Ambrose said council needs to inform the public, city residents, business owner's this is going to be \$160,000 a year through 2025 plus benefits.

Council Member Lublin said he would prefer to see the number listed so voters know it will be at least \$600,000 plus benefits there is still 4.4 years left of contract.

CM 8-2-20 TO APPROVE RESOLUTION 2020-26 A RESOLUTION OF THE WALLED LAKE CITY COUNCIL ADOPTING AN EXPLANATORY CAPTION FOR THE NOVEMBER 2020 GENERAL ELECTION BALLOT PROPOSAL TO AMEND SECTION 4.7 OF THE CITY OF WALLED LAKE CITY CHARTER

Motion by Owsinek, seconded by Ambrose:

Discussion

Council Member Owsinek said he wanted to remind the voters this charter amendment will cost the voters three quarters of million dollars for this manager to go into retirement. He said to replace this manager at upwards of \$120,000 a year or more plus add to that the city will have to hire a public safety director roughly at \$100,000 a year, a public works director at roughly \$100,000 a year as the last one we had received a salary of \$120,000. Council Member Owsinek said plus the need for both a downtown development director and the need for labor attorney at roughly \$300 to \$400 per hour. Council Member Owsinek said in sum the city taxpayers will be burdened annually about three quarter of a million dollars in salaries that right now are facilitated by one man and an in-house attorney. Council Member Owsinek said this charter amendment is nothing more than revenge against the manager. Council Member Owsinek said this is a cost to the taxpayers over \$2 million dollars.

Council Member Loch said she also agrees this is revenge does not want to spend money on services that she is not going to be receiving. Council Member Loch opined she does not want to pay Mr. Whitt that kind of money to sit home in retirement all because of a revenge tactic by Council Member Costanzo and shamed ex councilperson Susan Helke. Council Member Loch said enough is enough. She said Council Member Costanzo and ex council member Helke are running off of the taxpayer dollars just because they are unhappy with Manager Whitt.

Mayor Pro Tem Ambrose said having to go hire another city attorney at a cost of \$250 to \$400 an hour and council has seen these high rates in the past from prior city labor attorneys. He said replacing the city manager at \$100,000 to \$120,000 is not going to be enough to bring someone into this toxic environment. He said it is unfortunate this petition is a revenge tactic. He said maybe it is fortunate that Councilman Costanzo is not here to ask him when he signed the petition, what he was thinking, was this his thought of being in the best interest of the taxpayers; resident and business owners of Walled Lake. Mayor Pro Tem Ambrose said it was interesting Councilman Costanzo is not here tonight to answer these questions. Mayor Pro Tem Ambrose opined this behavior borders on malfeasance of duties of council. Mayor Pro Tem Ambrose said there are a lot of costs the residents need to know about, a lot of issues they need to understand going forward in making their decision.

Council Member Lublin said he concurs with co-council members. Council Member Lublin said he wants to see a figure, \$750,000 placed in the explanatory caption so that voters understand it is not just \$160,000 it is \$160,000 through January 2025. He said he wants to be clear the exposure is going to be over \$750,000.

Council Member Woods said totally agrees with Councilman Owsinek, but the numbers will be higher due to healthcare costs and additional benefits. Council Member Woods explained the risk to Walled Lake is much higher than Councilman Owsinek numbers. Council Member Woods said at the same time putting in comparison the council discussed the needs of Tri-A needing new roads and sewers, that cost is well over \$4

million dollars. He said the city is at risk over a million dollars with this charter amendment and money we do not have.

Mayor Ackley said she agrees with Council Member Woods stating this proposal and the other proposal submitted is just a back doorway of doing what this group of individuals led by Councilman Costanzo and ex council person Helke could not do with election results. Mayor Ackley said these people tried to get a majority to get rid of the city manager and to get control of the way they think the city should operate. Mayor Ackley said this current council and some who are not with us any longer have worked extremely hard with the City Manager and staff to bring Walled Lake back from the verge of bankruptcy. Mayor Ackley said it sickens her to see what a small group of individuals can try to do to a city that she truly loves. Mayor Ackley said if the people vote that it is time fine but do not do it in a backhanded way and use backhanded methods to get rid of a city manager that does more in a day than probably four to five people. Mayor Ackley said the city manager keeps the city functioning and mentors the people we do have. She explained so when the time comes there will be people here at city hall that have been trained to keep moving the city forward. Mayor Ackley said mean things have been said around the community and protests have occurred to get rid of the city's police and fire departments. Mayor Ackley said she agreed with Councilman Woods that there are so many projects that need to be done and we would be wasting money instead of doing these projects. Mayor Ackley said she is in agreement with placing a number if council wishes.

Council Member Lublin asked for City Attorney Vanerian's recommendation.

City Attorney Vanerian said it is vitally important the voters know and understand how much it would cost to try and force a termination of the current city manager. Attorney Vanerian said there has been effort by some to conceal this information from the public. He said it is extremely important this information is known and made available to the voting public. Attorney Vanerian explained the problem with placing a lump sum figure within the explanatory caption is that we don't really know the exact cost. He explained the cost could be from \$750,000 to over a million dollars. Even though it is a very big number there is too much of a range to say how much it would exactly cost. City Attorney Vanerian explained that is his hesitation with placing a large lump sum number. He said it is not something he would recommend.

Council Member Lublin said he disagrees, putting the minimum number is acceptable to him or language of at least or approximately or above a certain figure in the caption itself.

City Attorney Vanerian said he gave this issue some thought when drafting, it is vitally important information and voters need to be aware of this, so they do not fall victim to the wool being pulled over their eyes.

Mayor Ackley said she is reading benefits, but not limited to full payment of \$160,000 yearly salary. She said she give the voters some credit when they will read this and see a

figure times five years they will figure it out for themselves it will be over \$800,000. Mayor Ackley said we have a city attorney and she too will error on side of conservatism with the city attorney.

Council Member Owsinek agreed and said the people are smart enough that \$160,000 times five is \$800,000 which is a lot of money.

Council Member Lublin said he hopes so to but would still like to see the numbers in the caption.

Mayor Pro Tem Ambrose said this is for November, there are a lot of items on the November ballot, sheriff, clerk, treasurer, prosecutor, etc. and this proposal is going to be on the back of the back page of the ballot of how ever many pages the ballot will be. He said people are going to have patience to go through this paragraph, having a figure stick out is necessary.

Council Member Owsinek said it is approximately \$800,000 for five years, can language be added to say in excess of \$800,000 as a payout?

Mayor Ackley suggested language to include salary through 2025 with total in excess of \$800,000.

Council Member Owsinek said he thought that would be in line with what Councilman Lublin wished to see.

City Attorney Vanerian recommended using the word exposure instead if using the word cost.

**CM 8-3-20 MOTION TO AMEND TO INCLUDE LANGUAGE WITHIN
THE EXPLANATORY CAPTION TO CONSIST OF
'TOTAL EXPOSURE TO THE CITY IN EXCESS OF
\$800,000'**

Motion by Lublin, seconded by Ambrose: CARRIED: To amend motion to include language within the explanatory caption to consist of 'total exposure to the City in excess of \$800,000'.

Discussion

Council Member Woods said while he agrees the numbers are much higher, he has listened to the city attorney.

Roll Call Vote

Ayes (5)	Loch, Lublin, Owsinek, Ambrose, Ackley
Nays (1)	Woods
Absent (1)	Costanzo
Abstention (0)	

Main motion
CM 8-2-20

Motion by Owsinek, seconded by Ambrose: UNANIMOUSLY CARRIED: To approve resolution 2020-26 a resolution of the Walled Lake City Council adopting an explanatory caption for the November 2020 General Election ballot proposal to amend Section 4.7 of the City of Walled Lake City Charter.

Roll Call Vote

Ayes (6)	Lublin, Owsinek, Woods, Ambrose, Loch, Ackley
Nays (0)	
Absent (1)	Costanzo
Abstention (0)	

AUDIENCE PARTICIPATION:

Jeff Zug, 420 Wellsboro – said the council voted Council person Helke out because she was inappropriately calling people bad names and I know the manager has on multiple occasions chastised people for calling him bad name. Mr. Zug said this is lack of decorum and he did not vote for this.

Jerry Millen, 103 E. Walled Lake Drive – said being a taxpayer here in Walled Lake for several years and investing in Walled Lake he cannot believe Council Member Costanzo did not show to tonight's meeting. Mr. Millen opined this initiatory petition is nothing more than retaliation for a particular councilman that did not win in last city elections. Mr. Millen said Mr. Costanzo cries transparency and that he works for the people of Walled Lake, if this is true, he has several questions for Mr. Costanzo regarding his unethical behaviors. Mr. Millen said this is retaliation from scorned former city employees who lost an election. Mr. Millen said Mr. Costanzo started and signed this initiatory petition. Mr. Millen said this term limit on the city manager will cost Walled Lake taxpayers \$2 million dollars. Mr. Millen said Mr. Whitt will get paid to sit home. Mr. Millen said since Mr. Costanzo will not answer the people he claims to represent, he will do it. Mr. Millen said this began because Mr. Costanzo was upset his friend Susan Helke was removed from office for unethical behavior and Mr. Whitt testified about her improprieties. Mr. Millen said Mr. Costanzo claims he wants to fix sidewalks, yet he can waste money on petty retaliations. Mr. Millen said Mr. Costanzo wants to be so important he is willing to waste \$2 million dollars of taxpayer's money. Mr. Millen opined Mr.

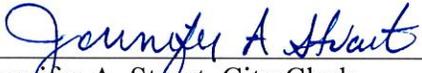
Costanzo was to afraid to show up to tonight's meeting to answer these questions. Mr. Millen said there are other unethical items regarding Mr. Costanzo, such as his wife works for Commerce Township Supervisor David Scott who by the way is under investigation for perjury. Mr. Millen asked why Mrs. Costanzo used a Commerce Township address for her employment application to Commerce Township in 2016 when she and Mr. Costanzo both have lived in Walled Lake for 20 years.

Emily Bertollini, 191 Neptune Drive – asked for clarification on the caption as it mentions severance benefits. She said prior discussion make it sound as if council wants to communicate that it will be \$160,000 times five years will be \$800,000 but that does not capture the health benefits, insurance, and that kind of thing.

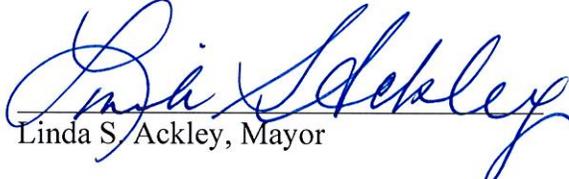
Neal Wolfson – said he likes the wording with the explanatory caption and clarified if this language was going to be on the ballot. Mr. Wolfson explained having a dollar amount draws people's attention right away.

ADJOURNMENT

Meeting adjourned at 8:45 p.m.



Jennifer A. Stuart, City Clerk
approved 8/18/20



Linda S. Ackley, Mayor