

First and foremost, I would like to congratulate Dave on his appointment as Assistant City Judge of Hornell finally being confirmed last night by the Hornell City Common Council in a vote of 7-2.

Second however, I would recommend to the majority of Council a return to Frank Libordi's Civics 101 class if not provided the basic information by their City Attorney. There are actually 3 branches of government at work with 3 distinct tasks which have been blurred or ignored for many years in my City; you had a chance to change that, you haven't. I actually thought a change was taking place with the make-up of council changing over the last couple elections; instead business as usual. The common council, specifically **without** the recommendation from the Mayor is to appoint the Assistant City Judge, the City Attorney and the City Clerk. see the Charter C12. At least 3 times in articles or letters, I am aware of the Mayor ignored the Charter and recommended to the council his choice for the Assistant Judgeship position and further buttressed his recommendation by naming the Chief of Police and District Attorney as on board. Two of the Mayor's recommendations came even after it was pointed out he had no business even doing so. True to form, the majority voted in accordance with the wishes of the Mayor. Without any "process" in place as suggested by members of the council they were left swinging in the breeze despite at least the leadership setting about a process you could use in the appointment. They certainly knew this appointment was coming up but not perhaps that the council would have to decide until forced to do so.

When I was appointed to the Charter revision committee in 2010 to determine whether the **Chamberlain** should continue to be elected or whether she should be appointed a similar vote occurred. Fear stuck that there might actually be a viable candidate independent of the control of the government in power (my interpretation at least). After being appointed to the Commission, along with 8/9 others, the majority concluded that the position should be **appointed** and the power removed from the people to vote on the Chamberlain position.

I, along with Joe Greenthal of Hornell voted no, that the power should be reserved to the people. When submitted to the people, *as required by the Charter*, to take that power from the people it was overwhelmingly rejected endorsing the view of our two dissenting votes. I learned a great civics lesson of the checks and balances

of a government by the people, for the people. The people were in fact able to elect on their own a competent person after all. I will never be convinced that my position in opposition to the Mayor's convictions on the Chamberlain didn't cause me to be a notch down in this selection process.

Perhaps the Council could bring forth a second Charter commission study to take from the common council the right to appoint the 3 positions they haven't been using it anyway. This would then bring the Charter in line with what actually is happening at the common council. Elections by the people might be novel as well.

City Charter section 20 requires the appointment of *an at the time of the appointment* "resident elector". The definition of the term apparently lost on the newly appointed City Attorney Joe Pelych who might be incapable of interpreting or simply refused to define the term for the council. As advisor to the council, his indifference to properly instruct them of the definition of the term leaves me wondering about his ability to avoid laughing at the Charter in the future.

When reaching the resolution portion of the meeting, the Council immediately voted for an executive session to discuss a "personnel issue" about a position clearly NOT about an employee of the City. Wherein the Open Meetings law is run over in favor of an "Executive Session" to discuss a personnel issue about a person who, by all accounts is NOT an employee of the City. Make no mistake about the adjournment, when asked from the gallery of the public in attendance why they were adjourning, it was for a "personnel issue".

Upon return from Executive Session, a motion was made to the resolution to appoint Dave as Assistant City Judge to correct his address from 11 Rural Ave to 238 Main Street. The resolution was voted on and approved 7-2 with the dissenting voters Dan McManus and Jeff Brown.

The biggest laugh (literally) of the night came at the expense of the Charter, the very document that created Hornell and which is the very foundation of Hornell government. Next, the Mayor ignored the Charter yet again, recommended the re-appointment of Joe Pelych as City Attorney. This is the second position he is specifically excluded from making recommendations on. Chambers erupted with hearty laughter by a lot of people inside the circle led by the Mayor and soon to be

“common council appointed” Joe Pelych who was set for his 28th+ year of continuous service; have we not had enough? The accolades of his wonderful performance in City functions over the last years then followed. I don’t believe any local attorney was notified that his appointment was up or that anyone else would be considered for the appointment. This was then followed closely by the third “out of bounds” recommendation to appoint Barb Parrot the City Clerk, who by all accounts does a very fine job. This third recommendation of Barb completed the trifecta of the **only** three positions forbidden by the Charter to allow Mayoral recommendations. There are a number of other persons expressly written into the Charter where the Mayor recommends to the council, these are the only 3 he can not.

In the end, I think it better to not have been appointed to the position in the haphazard rushed process. I was fully aware the hand out was already in but couldn’t watch it roll by me. I should have known better when asked in my interview whether my time commitment to my family would interfere with my ability to show up about once a month and do some arraignments here and there while collecting some \$35,000+ in salary. Who wouldn’t like such a great paying job I heard had been handed out some 6-9 months ago? Honestly, I will be much happier to have your vote in an open election when the next election position of City Judge becomes vacant, a position voted by the people for the people not chosen for you by the Mayor. So this is not lost in a “first to raise their hand” process again; Yes, I am announcing my intention to run for the next elected Judge position available.

I close with a quote I didn’t get to share with the council but one that they had heard before. The Mayor himself used this in his last State of City address in 2013:

“I believe that a man should be proud of the City in which he lives. And that he should so live, that his City will be proud that he lives in it” – Abraham Lincoln

At this time, I am not sure how I feel about my city government but the people in it I will continue to privately serve with honor and respect in their time of need. I

have done this in my City for the last 17 years of my professional life and will continue to do so.