

Minutes of a Meeting of
2012 CHARTER REVIEW COMMISSION
Held March 19, 2012

The second meeting of the 2012 Charter Review Commission was called to order at 5:30 p.m. by Co-Chair Brian C. Cruse. The following members of the Commission were present: Brian Cruse, Dr. Gina Crawford, Clete Miller, Mark Barbour, Barbara Quinn, Sally Fell, Matt Clever, Mike Caputo. Excused: Chairman Don Zwilling. Also present: Fire Chief Chris Lyons.

The first order of business this evening was the review of the minutes of the meeting of the Charter Review Commission held March 9, 2012. **MOTION** by Cruse, second by Barbour, to approve the minutes as prepared and distributed. **Motion carried 8-0.**

Sally Fell has requested that meetings begin at 6:30 p.m. instead of 5:30 p.m. After discussion, it was determined that future meetings will begin at 6:00 p.m. on the first and third Mondays of the month.

PUBLIC COMMENTS

There were no public comments this evening.

OLD BUSINESS

There were no comments.

NEW BUSINESS

Mr. Cruse asked the commission to begin defining issues and thoughts as to how to proceed.

Mayor Sutherland advised that she did post on Dropbox an abbreviated charter that has just the items where there were questions or comments.

Barbara Quinn presented the following comments:

Section 2.6 – President of Council – Duties

Ms. Quinn suggested that the clause that states that the President of Council shall become the acting Mayor in the absence of the Mayor be changed to the Law Director since that has become the routine. Mr. Cruse stated that when he served as President of Council he signed a blanket waiver because logistically it made more sense for the Law Director who is in a better position to be on site in the absence of the Mayor. Mayor Sutherland explained the order of succession, noting that the designee must always be a Bay Village resident.

Section 2.9 – Employees of Council

Ms. Quinn asked for clarification regarding the officers and employees of Council. She was informed that the President of Council is an elected position, the Council chooses their own Vice President, and the Clerk of Council is appointed by the Council. The Council shall choose such officers and employees of its own body as it shall deem necessary. Mr. Barbour commented that it is best to keep the clause as flexible as possible to provide for future Council organization.

Section 2.11 - Special Meetings

Ms. Quinn stated that since society is in the age of electronic communication, she asked why a gallon of gas is wasted for delivery of a notice of special meeting to the “usual place of residence.” Mr. Barbour noted the necessity to prove receipt of notice and the importance of personal delivery if an adversarial situation should arise. Mr. Miller commented that vehicles are on patrol and will expend the fuel whether they deliver the notice or not. Mrs. Fell suggested leaving the item on the agenda for further review. Mr. Clever offered the possibility of adding “or by means of pre-approved electronic communication” following the existing words.

Section 2.15 – Emergency Ordinances or Resolutions

Ms. Quinn suggested substituting the word “rationale” for the word “reasons” when declaring the necessity of an ordinance or resolution to be an emergency measure.

Section 3.8 Temporary Absence or Disability of the Mayor

Ms. Quinn stated that who is in charge during the absence or disability of the Mayor needs to be clarified as to whether it is the Council President or the Directors.

Ms. Quinn further stated that throughout the charter there is reference to two-thirds of the members of Council, and other references to a majority of the members of Council. She asked the rationale as to why sometimes it is two-thirds and at other times the majority. Mayor Sutherland stated that the Law Director will explain those specifics to Ms. Quinn.

Ms. Quinn questioned the absence of language to provide for a replacement for the Director of Law in the case of incapacity.

Mayor Sutherland commented that she would like the commission to look at the whole issue about departments. The Mayor does not think that the departments necessarily need to be in the charter.

Mr. Barbour pointed out that Section 4.1 of the charter states that with the exception of the Law Department and the Department of Finance, Council may combine or abolish existing departments and divisions as it may be necessary, and they may authorize one person to be the head of two or more departments or divisions.

Mayor Sutherland commented that the model charter from the National Civic League contains a very small, succinct paragraph that deals with departments and allows flexibility for the administration but still sets up some structure. She stated that this is what she is looking for.

Mr. Barbour noted that the Ohio Revised Code sets down statutory rules about a Finance Department.

Mr. Cruse suggested inviting the Mayor, Law Director, Finance Director, and President of Council to either supply their thoughts in writing or appear before the commission with their comments. Mr. Caputo suggested flagging sections this evening that will be set aside for review and invite representatives of the subject matter of the flagged sections to be in attendance at the meeting in which their section will be reviewed.

After further discussion, the commission agreed to go through the charter, section by section, and note where further review is necessary. The following sections were identified as needing closer inspection and further review:

Article II - The Council

Mr. Barbour and Mrs. Fell asked that the Law Director further comment on the Hatch Act and prohibition or conflict from holding public office.

Dr. Crawford stated that if there are sections that will be submitted for rewording, she would question using the words "therein" and "herewith" which may be considered archaic. Mrs. Fell noted that there is a way to be able to change all of the archaic language with one proposal. Dr. Crawford noted that she would look for ways to make things short, crisp, and understandable.

Section 2.5

Mr. Caputo asked if the date by which the salary gets set for elected officials be aligned with the filing date of the office. The present wording establishes the salary at least seventy-five (75) days before the regular municipal election at which such office is to be filled. Mr. Cruse noted that adding the primary election changed the filing date to seventy-five (75) days before the primary election. Mr. Cruse commented that this section will need to be changed.

Article III- The Mayor

Mr. Cruse stated that every ten years it is healthy for a body such as the Charter Review Commission to look at the basic structure and form of government and have a discussion on alternatives. Mrs. Quinn stated that the model city charter has two wonderful examples. Mayor Sutherland stated that the National Civic League who put together the model charter is keeping track of all kinds of municipal charters. The model charter is a compilation of best practices. They have assembled good ideas while allowing flexibility for many types of government, including weak Mayor/strong Council all the way to strong Mayor/weak Council and the City Manager form of government. There are distinct advantages and disadvantages to both.

Mayor Sutherland noted that there are a couple of city managers in Cuyahoga County, and several around the state. City manager form of government includes Cleveland Heights, Chardon, and Upper Arlington.

Mr. Cruse stated that a good friend was, for a long time, the city manager in Gahanna. Mr. Cruse will reach out and see if he can come in and speak to the commission. Mayor Sutherland will also invite Mr. Bob Downey from the City of Cleveland Heights.

Article IV- Administrative Officers and Departments

Mayor Sutherland stated that there needs to be some acknowledgement of structure in the charter but it is not necessary to have all of the Directors and their duties listed. The Director of Law and the Director of Finance need to be imbedded in the charter in some way. The other departments can be handled with a paragraph that is general in nature that allows flexibility and is in the administrative code. Mr. Cruse noted that Community Services and Recreation are on an equal level with those in the charter, but are not included in the charter. Mayor Sutherland stated that if there are things that come up in the future the charter does not allow change or reconfigure job responsibilities.

Ms. Quinn reiterated her previous suggestion that a provision be made in the absence or incapacitation of the Director of Law.

Article VI- Civil Service Commission

Mr. Caputo asked that a copy of Ordinance 62-158 adopted November 6, 1962, as referenced in this charter section, be made available for review by the Charter Review Commission.

Mr. Cruse would like to delve into the Mayor's thoughts that are in the margins of Article VI about replacing the Civil Service Commission with a merit system.

Article VII- Planning Commission

Section 7.4 – Mandatory Referral

Mr. Caputo questioned whether the requirement in this section that mandates the Planning Commission to act within sixty (60) days is something that belongs in the City Charter. Mr. Cruse stated that if some of the mechanics are not in the charter it may make an easier process for the flow of business. Mr. Miller commented that the sixty day requirement is for the benefit of the Planning Commission as a reminder that decisions need to be made on a timely basis to afford the applicant the due process.

Mrs. Fell stated that at some point she would like to hear from those who have been involved in the Planning Commission regarding the five year term.

Article VIII- Department of Parks and Recreation

Mayor Sutherland stated that this section should be in the administrative code.

Article XI- Nominations and Elections

Mrs. Quinn suggested that this Article be reviewed. Mayor Sutherland noted that the present copy does not include the change of date of primary elections. The primary date has been changed to September to synchronize with the primary dates of other municipalities. She stated that everytime there is an election the cost to the city is \$30,000 and that cost will probably continue to go up.

Article XIII- Miscellaneous

Section 13.3 –Disqualification

Mr. Caputo stated that he has an issue with this section.

Section 13.5 – Amendments

The Mayor's question about the percentage of registered electors submitting a petition being too low will be reviewed.

Mr. Cruse suggested that the Mayor address the next meeting of the Charter Review Commission on some of her thoughts and the comments she has given to the commission. The Mayor stated that although she is not a member of the commission, she is intending to attend all of the meetings and is at the disposal of the commission.

The next meeting will be held Monday, April 2, 2012 at 6:00 p.m. in the conference room of city hall. The focus of the next meeting will be Article II, The Council. Mr. Miller suggested that President of Council Paul Koomar be invited to be present. An invitation will be extended to Mr. Koomar.

Meeting adjourned at 6:45 p.m.

Brian Cruse, Co-chairman

Joan Kemper, Secretary