

Minutes of a Meeting of
2022 CHARTER REVIEW COMMISSION
Held June 21, 2022

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| Present: Mike Young, Chair | Lynn Linder |
| Brian Cruse | Clete Miller |
| Law Director Barbour | Peter Petto |
| Scott Dwyer | Jim Strunk |
| Jennifer Lesny Fleming | Tara Wendell |

Also Present: Lydia DeGeorge, Councilwoman, Ward 2, Michael Greco Councilman, Ward 3, Peter J. Winzig, Councilman, Ward 4, David L. Tadych, Councilman, Ward 1, Dwight A. Clark, President of Council.

The ninth meeting of the 2022 Charter Review Commission was called to order at 5:00 p.m. on June 21, 2022 by Chairman Young.

Mr. Young called for comments, changes or corrections to the minutes of the meeting of the Charter Review Commission held June 6, 2022.

Motion by Mr. Cruse, second by Mr. Petto, to approve the minutes of the Charter Review Commission meeting held June 6, 2022.

Motion carried.

CORRESPONDENCE

There was no correspondence received since the meeting held June 6, 2022.

Ms. Wendell referred to correspondence that the Charter Review Commission received in March, specifically a letter from Mr. David Sartin regarding the two areas he requested the Charter Review Commission to include in their deliberations. Ms. Wendell wants to make sure that Mr. Sartin's request is honored. One of those areas requested to be reviewed is the procedure to fill vacancies on City Council. That will definitely be addressed. The other matter was regarding City Council members being prohibited from voting on matters that primarily benefit themselves or members of their families. Ms. Wendell asked if that is not already addressed in the Charter in Section 13.3.

Mr. Young commented that it is included in Section 13.3 in the Charter, and more importantly on a state level. Council members must submit disclosure forms which include declaring they, or their family members do not have, or will not have, a financial interest in City matters or contracts.

Mr. Miller noted that in addition to the elected officials being required to declare that they have no interest, members of the Boards and Commissions must sign an ethical statement prior to being seated.

Mr. Barbour stated that this matter is also covered under the Ohio Revised Code.

Discussion items for possible changes in the Charter.

Mr. Young called for comments from the commission regarding possible changes to the Charter, and comments from those members of the Charter Review Commission who were not in attendance at the last meeting.

Mr. Cruse noted that there were two items that were voted to be Level 1 matters for consideration: the Preamble to the Charter, and Section 2.4 Vacancies. The general consensus was that because there were three members not in attendance on June 6, the discussions would be carried through to the meeting this evening.

Mr. Young added that the commission members in attendance on June 6 decided as a group that suggested changes to Section 1.2, Manner and Exercise, did not rise to a level of something that should be addressed.

Mr. Dwyer and Ms. Linder stated that they had no issues with the choices for Level 1 and Level 2 at the meeting held June 6. Ms. Linder noted that she is an advocate of keeping the proposed ballot changes as short as possible, in order not to overwhelm voters who may, as a consequence, vote no.

Discussion of Level 1 Items

Preamble

Jennifer Lesny Fleming will provide the language that will be suggested to be added, including “to affirm the values of representative democracy, political leadership, citizen participation, diversity and inclusiveness.” These are the aspirational goals that were recommended in the model charter rules.

Mr. Dwyer stated that his personal belief is that, while admirable, he doesn’t believe it rises to the level of being submitted to the electors, if that is the only matter that will be considered. If there is something else, it might be worthwhile.

Mr. Cruse stated that he is strongly in favor of submitting revisions to Section 2.4. The preamble would not be the only submission.

Mr. Dwyer noted that he is supportive of changing Section 2.4. If Section 2.4 is to be submitted, he is in favor of including the preamble.

Mr. Cruse asked if the Law Director would begin drafting the question of adding the words to the preamble for potential submission to the Board of Elections.

The words Village of Bay will be changed to “*Bay Village.*”

Section 2.4 Vacancies

Mr. Cruse has recommended the following language for submission to the Board of Elections:

To be placed after the first sentence of Section 2.4:

“Council shall establish such further process as Council may deem necessary to facilitate such vote. However, any member of Council who is a candidate to fill said vacancy is prohibited from participating in such process and vote.”

Mr. Young distributed copies of language that he drafted as follows:

“For vacancies of Council-at-large, Council may first select a sitting ward Council representative to fulfill it. For vacant ward positions, or if no City Council Representative seeks to fulfill a Council-at-large position, Council shall fulfill by appointment by a majority vote of the remaining members of Council.”

Mr. Cruse asked if one of the at-large council representatives moves out of the City and resigns mid-term, and a sitting ward councilman seeks to fill the position, does that sitting ward councilman get to vote on filling that vacancy as a sitting Council person?

Mr. Young stated that he thought the biggest objection was the participation of the council person in the process of interviewing interested candidates.

Mr. Cruse stated that he has a difficult time drawing a distinction between participating in the process and voting.

Mr. Dwyer stated that the section does say the majority vote of the remaining members of Council. The way he reads that is that the ward councilman who has submitted their name could not vote on the replacement.

Mr. Cruse stated with the language he submitted it allows Council to address that situation and develop their process knowing the framework.

Mr. Barbour noted that it is necessary to have a majority of the remaining members of Council. If three people are candidates and they cannot participate, there would not be a majority.

Mr. Cruse referred again to his language that states that Council shall establish the process. If you are an applicant you are out.

Ms. Lesny-Fleming questioned why this section is even being considered. Why does a sitting ward Council person get the option to move into that role of Council-at-large? They were elected for a specific position and the citizenry wanted that person to represent them for that area.

Further discussion followed.

President of Council Clark related the circumstances that occurred when former Councilwoman-at-large Nancy Stainbrook resigned and it was necessary to appoint a new Councilmember-at-large. The opening was published and there was a huge amount of interest. After many candidates had applied for the position, Ward 3 Councilwoman (at that time) Sara Byrnes Maier stated that she would like the position.

Ms. Wendell stated that she believes the Charter Review Commission is talking about two different positions. If there is a vacancy in the at-large position, any ward councilman or any member of the voting populace can put their name in. Let's make sure if a council member puts their name in they cannot sit in on the interviews and they can't vote. That is one issue. Now, we are talking about something different, where we are changing the method and we are saying if an at-large position becomes vacant, there is an opening first for ward representatives who want to take the position, and not open to members of the public. This is totally changing the way this is filled. Mr. Cruse's wording and Mr. Young's wording are totally different. It first needs to be decided if it should be a special election that Council holds within their body to elect someone to fill that vacancy, and then it opens up a ward spot which would be open to the public, or do we want to keep it so that anybody can apply, whether it is a sitting council member or someone from the public. But, if any council member applies, they are out as far as decision-making goes.

Mayor Koomar commented that ward council people have experience and may be better suited to fill the at-large position. The Mayor related his personal experience when he was in a sitting ward position who did not want the vacant at-large position, but three other ward council members did want the position. Ultimately, the President of Council selected a member of the community to fill the position. Otherwise, the vote of council would have not achieved a majority.

Mr. Cruse stated that he does not believe there is a huge difference between a ward councilman and an at-large councilman.

Mr. Barbour noted that if Council fails to reach a majority when voting to fill a vacancy, and Council fails to fill the vacancy after thirty days, the Mayor appoints to fill the vacancy.

Mr. Tadych stated that when Mr. Clark and he were attempting to be appointed to fill the vacancy of President of Council, the vote was tied 2-2. It looked, at that point, like the opportunity to fill the vacancy would be given to the Mayor. The strong feeling that Mr. Tadych had was that Council should choose the person to fill the position. Mr. Tadych withdrew his name, Mr. Clark was appointed, and Mr. Clark suggested that Mr. Tadych be appointed Vice President of Council. Mr. Tadych expressed his wish that the choice always remain in the hands of the Council.

Mr. Tadych stated that he believes if you have two people that want an at-large seat it should be given to the one with the longest experience on Council. Mr. Miller noted that two people may be elected to Council at the same time and have the same amount of experience.

Mr. Strunk suggested language that said that for an open position the remaining members of Council first consider other Council members, and then consider the public.

Mr. Tadych noted that the power of the seat is the same for the ward council representative and the at-large council representative.

Mayor Koomar stated his experience of not wanting a four-year commitment when he initially began serving.

Discussion took place regarding the work of a ward councilman as compared to an at-large council representative. It was agreed that residents seem to reach out to their ward representative more often than a councilman-at-large.

Mr. Cruse suggested combining both Mr. Young's suggested language and his suggested change, putting Mr. Young's as the first sentence, and Mr. Cruse's suggested change as the second and third sentence, then return to the sentence about the Mayor's appointment.

Ms. Wendell noted that Section 2.8, Vacancy in the Office of the President of Council, is the language that it seems that the Charter Review Commission is trying to use for the at-large position.

Ms. Wendell stated that the language that is being suggested by Mr. Young is exalting the position of at-large higher than it should be by first only allowing sitting members of Council to apply, and only if they are not interested, opening it to the public.

Ms. Wendell noted the large number of candidates who applied for the at-large vacancy, as compared to the very small number who applied for the Ward 3 vacancy.

Discussion followed concerning situations that might occur when multiple people apply for a vacant at-large position, and a decision is not possible by the remaining members of Council because they cannot achieve a majority. If the Council fails to act to fill the vacancy within 30 days, it falls to the Mayor to appoint and he does not necessarily have to appoint from the pool of candidates.

Mr. Dwyer noted that it feels to him like the Charter Review Commission is trying to solve an unsolvable problem because there are so many exceptions. He stated that he does not agree with the differences stated between ward council seats and Council-at-large seats, other than desirability. The power of the seat is the same.

Ms. DeGeorge stated that she does not think it is so much a matter of experience. It is unlikely that a councilman-at-large would want to switch to a two year ward seat. It is more likely that a two year term ward council representative will find a four year Council seat more to their advantage.

Ms. Linder suggested writing in language about a majority vote, since that seems to be a sticking point. Mr. Barbour stated that it could be a majority of the remaining numbers.

Mr. Dwyer reiterated that it goes back to the idea of it being an unsolvable problem because there are so many “ifs.”

Discussion followed concerning the agenda for the next meeting which will include a review of the language suggested this evening for the preamble and Sections 2.1, 2.4, 6.3, 6.4, and 6.5. The next meeting will be held Monday, June 27, 2022, at 5 p.m.

Upon motion by Mr. Young, the meeting adjourned at 6:01 p.m.

/s/ Mike Young
Mike Young, Chairman

/s/ Joan Kemper
Joan Kemper, Secretary