

Minutes of a Meeting of
2022 CHARTER REVIEW COMMISSION
Held August 29, 2022

Present: Clete Miller, Vice Chairman	Lynn Linder
Law Director Barbour	Peter Petto
Brian Cruse	Jim Strunk
Scott Dwyer	Tara Wendell
Jennifer Lesny Fleming	

Excused: Mike Young, Chair.

Also Present: Mayor Paul A. Koomar, Project Manager Kathryn Kerber.

The fifteenth meeting of the 2022 Charter Review Commission was called to order at 5:00 p.m. on August 29, 2022 by Clete Miller, Vice Chairman.

Mr. Miller called for comments, changes or corrections to the minutes of the meeting of the Charter Review Commission held August 22, 2022.

Upon **Motion** by Mr. Cruse, and second by Mr. Petto, the minutes of the meeting of August 22, 2022 were approved as prepared and distributed.

CORRESPONDENCE

Mr. Miller noted receipt of the following correspondence:

E-mail communication from Brian Cruse dated August 25, 2022 with suggestion for additional FAQ Language for Article 2.4.

E-mail communication from Tara Wendell dated August 29, 2022 attaching an FAQ Draft for the Bay Village Charter Review Commission, identified as Version 3 and containing modifications suggested during August 21 meeting and via email.

Law Director Barbour advised that in addition to any information that the Charter Review Commission decides to share, the City Council has an obligation under the Ohio laws to publicize the Charter amendments through publication or general circulation. That will be done by the City through publication in a newspaper of general circulation, or by sending a letter to the electors who voted in the last election. The Clerk of Council and City Council will proceed with that Ohio law requirement. It will not be the same as information the Charter Review Commission will send out.

Ms. Wendell asked if the mailing or publication will be in addition to the Mayor's letter.

Mr. Barbour stated that it would depend on what the Mayor's letter says and when it goes out. It could include the Mayor's letter, or it could be in addition to the Mayor's letter. The ordinances will probably be published in a general circulation newspaper. Whatever correspondence the Mayor generates may suffice, it depends on the timing of both.

Mr. Dwyer asked if the timing of the publication will be before or after the Mayor's letter or posting of the FAQs.

Mr. Barbour stated that the publication has to be done thirty days prior to the election. If the letter format is chosen it must be done fifteen days before the election. At this time, the choice is to go with the publication, because there will be correspondence from the Charter Review Commission, the Mayor's letter, and information posted on the City website. City Council has a separate obligation to fulfill under Ohio law to make voters aware of Charter amendments.

Mr. Dwyer asked if the Charter Review Commission will be ahead of the legal publication if they are finished reviewing their communications within the next four weeks.

Mr. Barbour stated that his personal thought is that it doesn't matter who goes out first.

Mr. Dwyer answered that his only thought is that if people see it before the information comes out before the Charter Review Commission information it might have a negative impact.

Mr. Barbour stated that his personal experience in being involved in things of this nature is that people will have to see things multiple times before they tend to draw a conclusion.

Mr. Petto noted that early voting is thirty days before the election. Military ballots go out forty-five days before the election.

Mr. Barbour stated that the legal notice will be published within the next few weeks.

Filing Receipts

Mr. Miller noted that the Charter Review Commission has received copies of filing receipts from the Cuyahoga County Board of Elections. Each proposed Charter amendment filing receipt has the attached ordinance proposing the amendment.

PUBLIC COMMENTS

There were no comments from the public this evening.

COMMUNICATION FOR RESIDENTS OF THE WORK OF THE CHARTER REVIEW COMMISSION.

Mr. Cruse complimented the work of Tara Wendell in the submission of August 29 for the FAQ pages. He suggested using Ms. Wendell's document to review for publication. Ms. Wendell's FAQ is as follows:

FAQ Draft – Bay Village Charter Review Commission

Version 3, Aug. 29: contains modifications suggested during Aug. 21 meeting and via email

Q1: What is the Bay Village Charter?

A: Bay Village is organized around a charter form of government. A chartered city, county or municipality is one that possesses a unique set of laws that forms the legal foundation of its local system of government. The actual legal document that articulates these laws is called a charter. Charters stand in relationship to a county, city, village, or town the same way that a state constitution does to a state or a federal constitution does to a nation. They define the powers and functions of elected officials as well as the organization and procedures of local government.

Q2: What is the Bay Village Charter Review Commission and what do they do?

A: In accordance with Section 13.6 of the Charter, in 2002 and every 10 years after, the Mayor appoints, and City Council confirms, a commission of nine qualified electors who serve as a Charter Review Commission. Within 6 months of having been appointed, the Commission recommends to Council any desired changes to the Charter to be placed before the voters. The current Charter Review Commission was appointed in February 2022 and held 14 public meetings to review and analyze the city's charter.

The 2022 Charter Review Commission consists of the following uncompensated members:

Michael Young, Chairman

Brian Cruse

Scott Dwyer

Jennifer Lesny Fleming

Lynn Linder

Clete Miller

Peter Petto

Jim Strunk

Tara Wendell

Q3: Is the Charter Review Commission recommending any changes? If so, what are they and why?

A: Yes. They are as follows:

- Preamble – changes are intended to correct the terminology from “Village of Bay” to “City of Bay Village” and to reflect what we value as a community.
- Article II (The Council), Section 2.4 (Vacancies) – The Commission believes the proposed amendment provides better transparency to the process of filling a vacant Council seat by creating a framework that is clear and open as to the appointment/election of successors for filling a Council vacancy. The proposed amendment restructures the process by creating two stages: the first allows for the appointment of a sitting Council member to fill the vacancy; the second, if necessary, allows for election from a pool of qualified applicants. It is the Commission's expectation that this will eliminate any real or perceived conflict of interest in deliberations and voting from sitting Council members who desire to fill the vacant seat.

- Article VI (Civil Service Commission), Sections 6.3, 6.4 and 6.5
 - Changes in 6.3 are intended to clarify what positions are in classified and unclassified service.
 - Further changes in 6.3 are intended to extend the probationary period for promotional appointments from 4 months to 12 months to allow for a greater ability for the person in the role to learn the job while also gives a struggling employee more detailed guidance and a sense of urgency about improvement.
 - Changes in 6.4 are intended to clarify the concept of “home rule” for Bay Village and how it operates with the Civil Service Commission. Home rule is the right to adopt local laws and ordinances tailored to the unique needs of the Bay Village community.
 - The change in 6.5 is to correct a typo and clarify how a Commissioner under Civil Service regulations may be removed, requiring 2/3 of the Council’s approval and written notification to the Commissioner. Prior to this change, the removal would have required either of these conditions, not both.

Q4: What is the Civil Service Commission?

A: The Bay Village Civil Service Commission consists of three uncompensated members, appointed by the mayor and confirmed by City Council, serving 6-year terms. The Civil Service Commission regulates the employment and working conditions of civil servants, oversees hiring and promotions, and promotes the values of the public service. Its role is roughly analogous to that of the human resources department in corporations.

Q5: What is the difference between a classified and unclassified position in Civil Service?

A: Classified positions are simply those that fall under Civil Service requirements. Unclassified positions do not fall under Civil Service requirements and may include elected officials, appointees and positions requiring “peculiar,” or unique, skills. Classified positions are primarily in the public safety forces – police and fire/EMS.

Q6: Do these changes result in anyone losing their job or benefits, or see a reduction in pay?

A: No. There are some positions that will move from classified to unclassified if these changes are adopted. In those cases, the people currently holding those jobs are protected under the old classification rules until they leave. At that point in time, the new person would enter that role which will then be unclassified.

Q7: Can I vote YES on some amendments and NO on others?

A: Yes. Each proposed amendment will be placed as a separate issue on the ballot and will be voted on individually. Only amendment(s) receiving a majority yes vote will become part of the city’s charter.

Q8: Is this the only way to change the city’s charter?

A: A Charter Review Commission is appointed every 10 years to review, analyze, and if appropriate, propose changes to the city’s charter, but there are two other ways the charter may be amended:

1. City Council may, by a two-thirds (2/3) vote, submit proposed amendments to the voters.
2. Registered voters may conduct a petition initiative to propose an amendment to the voters.

Mr. Cruse suggested reducing the number of words in the FAQ in order to keep the attention span of the readers.

Under Question 2, What is the Bay Village Charter Review Commission and what do they do, Mr. Cruse suggested taking out the underlined portions of the answer. After considerable review and discussion, the following changes to the draft were made:

First Line: from “in 2002 and every ten years after, to “Every 10 years”

Third Line: leave out “Within six months of having been appointed,” and go directly to “The Commission recommends...”

Instead of naming all of the members of the Charter Review Commission, insert a hyperlink at “The current Charter Review Commission...” to the website page that lists the names of the Charter Review Commission members. For the printed page the list of names will be split into columns.

Under Question 3.

The Preamble will state, “We the people of Bay Village” instead of “We the people of the City of Bay Village..”

Ms. Lesny Fleming suggested using the word “update” instead of “correct” in regarding to the changes to the terminology. The words at the end of the sentence “and to reflect what we value as a community” will be added.

Article II (The Council), Section 2.4 (Vacancies) Take out “The Commission believes” and begin with “The proposed amendment provides...” and take out “for filling a Council vacancy” at the end of the sentence. Take out the next sentence about the two stage process, but leave the last sentence and change it to read “The intent is to eliminate any real or perceived conflict...”

Article VI (Civil Service Commission) Second bullet point – change to “Further changes in 6.3 extend the probationary period for promotional appointments from 4 months to 12 months more closely matches surrounding communities.”

Under Question 4.

The last sentence “Its role is roughly analogous to that of the human resources department in corporations” will be removed.

Under Question 5.

Dispatchers will be added after police and fire/EMS, to read Police, Fire and /EMS/Dispatchers.

Under Question 6.

Change to: No. Future hires for the positions of Clerk-Secretary and Mechanic will move from classified to unclassified. Current employees are not affected.

A copy of the revised FAQs is attached to these minutes.

The commission then reviewed the information to be included on the City website, as follows:

1. What is the Bay Village Charter?

Bay Village has a charter form of government. A chartered city, county, or municipality is one that possesses a unique set of laws that forms the legal foundation of its local system of government. The legal document that articulates these laws is called a charter. Charters stand in relationship to a county, city, village, or town the same way that a state constitution does to a state or a federal constitution does to a nation. They define the powers and functions of elected officials as well as the organization and procedures of local government.

2. What is the Charter Review Commission and what do they do?

In accordance with Section 13.6 of the Charter, every ten years, the Mayor appoints a commission of nine qualified electors to serve as a Charter Review Commission.

The Commission recommends any desired changes to the Charter to City Council to be placed before the voters. The [current Charter Review Commission](#) was appointed in early 2022 and held 14 public meetings to review and analyze the city's charter.

3. Is the Commission recommending changes? What are they and why?

Yes. They are as follows:

Preamble – changes are intended to update the terminology from “Village of Bay” to “Bay Village,” and to reflect what we value as a community.

- Article II (The Council), Section 2.4 (Vacancies) – The proposed amendment provides better transparency to the process of filling a vacant Council seat by creating a framework that is clear and open as to the appointment/election of successors. The intent is to eliminate any real or perceived conflict of interest in deliberations and voting from sitting Council members who desire to fill the vacant seat.
- Article VI (Civil Service Commission), Sections 6.3, 6.4 and 6.5
 - Changes in 6.3 are intended to clarify what positions are in classified and unclassified service, and to extend the probationary period for promotional appointments from 4 to 12 months which more closely matches surrounding communities.

- Changes in 6.4 are intended to clarify the concept of “home rule” for Bay Village and how it operates with the Civil Service Commission. Home rule is the right to adopt local laws and ordinances tailored to the unique needs of the Bay Village community.
- The change in 6.5 is to correct a typo and clarify how a Commissioner under Civil Service rules may be removed, requiring 2/3 of the Council’s approval AND written notification to the Commissioner. Prior to this change, the removal would have required either of these conditions, not both. The Commission believes both of these elements are necessary to protect due process. The suggested language is also consistent with other Charter provisions.

4. What is the Civil Service Commission?

The Bay Village Civil Service Commission consists of three uncompensated members, appointed by the Mayor and confirmed by City Council, serving six-year terms. The Civil Service Commission regulates the employment and working conditions of civil servants, oversees hiring and promotions, and promotes the values of the public service.

5. What is the difference between a classified and unclassified position in Civil Service?

Classified positions are simply those that fall under Civil Service requirements. Unclassified positions do not fall under Civil Service requirements and may include elected officials, appointees and positions requiring "peculiar" or unique skills. Classified positions are primarily public safety positions, such as police, fire/EMS, and dispatchers.

6. Do these changes result in anyone losing their job or benefits, or see a reduction in pay?

No. Future hires for the Mechanic and Clerk-Secretary positions would be unclassified rather than classified. Current employees are unaffected.

7. Can I vote yes on some amendments and no on others?

Yes. Each proposed amendment will be a separate issue on the ballot and will be voted on individually. Only amendment(s) receiving a majority yes vote will become part of the city charter.

8. Is this the only way to change the city's charter?

No. A Charter Review Commission is appointed every 10 years to review, analyze, and if appropriate, propose changes to the city charter, but there are two other ways the charter may be amended:

1. City Council may, by a two-thirds vote, submit proposed amendments to voters.
2. Registered voters may conduct a petition initiative to propose an amendment to the voters.

Ms. Kerber noted that a page on the City website has the entire change of the text, including the existing language and the language approved by the commission with the changes underlined. It also has a very short rationale. She noted that she created the rationale based on an email that was circulated.

Ms. Wendell stated that some have different language. There is some rationale in the FAQs.

Mr. Dwyer asked Ms. Kerber to change the rationale on the City website based on what was discussed at this meeting and to reflect the changes made today.

Ms. Wendell stated that the ballot language for the Preamble does not say anything about changing the terminology from Village of Bay to Bay Village. It says, "Shall the Preamble of the City of Bay Village be amended?"

Mr. Barbour stated that what is in the ordinances is the question that will be asked. The ballot language is not the exact language that will be adopted.

Mr. Cruse noted that none of the ballot languages have the exact language.

Mr. Barbour stated that this is the reason the City is required to publish the proposed amendments in full.

Ms. Linder asked who creates the summaries of the language.

Mr. Barbour stated that the Board of Elections creates the ballot language. The City submits the summary form, which is reviewed by the Board of Elections and sent to the Ohio Secretary of State to make sure it encompasses what is in the proposal. They can add words, which is why the ordinance says it shall substantially state the suggested change. Ultimately, the Board of Elections and the Secretary of State determines the ballot language, which it hasn't done yet.

Mr. Miller stated that the next item on tonight's agenda states Web Site and general information for a mailing to Bay Village residents. This will be reviewed at the next meeting to be held on Monday, September 12, 2022 at 5 p.m.

The following members will not be in attendance: Ms. Lesny Fleming who will be in Germany, Mr. Dwyer, Ms. Linder, Ms. Wendell.

Ms. Wendell asked if anyone reviewed the Mayor's newsletter regarding the proposed changes to the charter. Ms. Wendell will send her suggestions for changes to the Mayor, including the language that states "The Commission has also provided the rationale for each of the ballot issues." Ms. Wendell prefers "the rationale for proposing each of the Charter amendments."

Charter Review Commission
August 29, 2022

The meeting was adjourned at 6:05 p.m.

Clete Miller, Vice Chairman

Joan Kemper, Secretary

Attachments: FAQ Draft showing revisions per this meeting.
FAQ Draft with revisions made

FAQ Draft – Bay Village Charter Review Commission

Version 3, Aug. 29: contains modifications suggested during Aug. 21 meeting and via email with cross outs and additions from August 29 meeting of Charter Review Commission

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Version 3, Aug. 29: contains modifications suggested during Aug. 21 meeting and via email

Version 4 after August 29 meeting changes

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