

MINUTES OF MEETING
2014 CHARTER REVIEW COMMISSION
MARCH 26, 2014

Members Present: Urban, Campanella, Hower, Hanson, Hvizda, Keenan, Robenalt,
Welsh, Yezbak

Presence Noted: Andrew Bemer, Law Director

Council Members Present: Jim Moran, Council President

Chairman Urban opened the March 26, 2014 meeting of the 2014 Charter Review Commission at 6:00 p.m. in Council Chambers at City Hall and welcomed all of the members.

Mr. Urban asked the Commission if they have any corrections to the Minutes of the March 18, 2014 Charter Review Commission meeting.

MOTION: Moved by Mr. Hvizda, seconded by Mr. Hanson to approve the Minutes of the March 18, 2014 Charter Review Commission meeting. Minutes were approved by unanimous acclamation.

Mr. Urban said that today's meeting will be educational in nature, so they can learn more about what a Charter is and what home rule is, etc. He said that some of the members had questions about how a Charter differs from a state statute and Law Director Bemer sent a package of information for the Commission to review. The package included 3 cases that signify what home rule is and when the state can take that away. They will also discuss the schedule of meetings that will include the Articles they will review on each meeting date, who the discussion leaders will be for each article, and the invited guest for each topic. Based on the meeting schedule that was agreed upon last week, Mr. Urban said that they can actually have their last meeting on May 28th if they can cover everything they are supposed to. However, if they need more time, then they can add meetings.

Mr. Urban said that 6 years ago there was discussion about adding more to **ARTICLE I - MUNICIPAL POWERS**. However, they decided not to propose a change to it because they thought Article I says it all. Mr. Urban read Article I – Municipal Powers, aloud. He referred to *Section 4:32 – Organization of Municipal Government Under Home Rule Charter* in the materials forwarded by Law Director Bemer and explained that the Ohio Constitution gives each City the right to draft its own Charter and the freedom to create their own rules and regulations that govern how the City will operate, as long as it is not contrary to the laws of the State of Ohio. There can be some home rule laws that were challenged and the State, through the Supreme Court, has usurped those powers from the City. Mr. Urban said that Council has the right to amend the Charter under certain circumstances.

Law Director Bemer explained that in 2009, City Council passed an Ordinance without Charter Review Commission, to place a Charter Amendment on the ballot that controls

how primaries are held in Rocky River. The Charter Amendment that was proposed and passed, provided that a party primary election shall not be held when all candidates for any particular City office are members of the same political party. He said that it was basically a cost savings measure. One of the factors this Commission should be sensitive to is whether there is cost involved and they will hear that often at these meetings. In addition, they must be sensitive to the electorate and the fact that every elected official derives their power from the voters.

Mr. Bemer continued by saying that Section 3, Article 18 of the Ohio Constitution gives municipalities the authority to have home rule power over all matters of local self-government. However, if a particular challenge is before the Supreme Court, their deliberation examines case precedent and past law and the effect on the health, safety and welfare of the general population. They examine any Statutes that exist on that point and consider whether it is a matter of general application for everybody across the state and whether there is a conflict between state and local law. If it is determined that there is a conflict because it is a matter of general, state-wide, comprehensive concern, then the state statute will control. If cities decide to pass a Charter then they have a right to local self-governance. However, the Constitution says that it is limited in the sense that a local ordinance cannot supersede actions of the General Assembly that apply uniformly across the State to the citizens as a whole, based on a comprehensive plan. He added that almost everything that is in our Charter can be found in the Ohio Revised Code.

As an example for analysis, Mr. Bemer referred to information he provided to the Commission regarding the Clyde Case, which was before the Supreme Court. He explained that the Supreme Court held that a particular city ordinance governing licenses to carry concealed handguns was an exercise of the city's police power that conflicted with general law, and thus was ruled unconstitutional.

Mr. Yazbak asked how long a city ordinance can be overlooked before the state steps in and says that they must change it. Law Director Bemer said that it is a matter of tax payers or a group bringing an action to court and gave the example of when the cities took on the legislation that was passed that said municipalities did not have the right to disqualify an employee that did not live in the City. The Supreme Court ruled that residency should not be a qualifying factor for employment because it does not bear a reasonable relationship to the efficiency of city government. They ruled that residency is a matter of state-wide concern and should have general application among all of the cities in the state of Ohio.

Mr. Urban thanked Mr. Bemer for explaining what home rule is and how it can potentially affect a lawsuit involving the City. Mr. Hanson said that the way he understands it, there is no hard fast rule as to what is turned down by the Ohio Supreme Court and it seems to be on a case-by-case basis. Mr. Bemer agreed with Mr. Hanson and said that the Supreme Court has standards to apply. Mr. Hanson added that this Commission will have Law Director Bemer's guidance on such issues as they go through their review.

Mr. Urban said that he would like to comment on the Certifications they received in their information from Law Director Bemer. These Certifications show the vote counts for each Amendment that was on the ballot following the Charter Review 6 years ago. He found it interesting to see that there is no consistency between the number of yes and no votes on each amendment, which he believes means that voters actually read each Amendment.

Mr. Urban turned the discussion to the *Master List of Items for Further Discussion* that was established at the review in 2008. He explained that at that time, any member could move to add an issue to the Master List and an affirmative vote of at least 3 of the members was needed in order for it to be moved to the list. They chose the number of 3 votes in case they only had 5 members at a meeting, which is the least amount of members required in order to hold a meeting. Mr. Urban said 3 affirmative votes worked well last time and by the end of the review there were a total of 25 items on the list. The list will be compiled and more items may be added at each meeting. He said it is best to save discussion of the Master List items, as well as the vote on whether to recommend items for the ballot, until after the Charter is reviewed in its entirety. The Charter should be looked at as a whole and an early amendment may result in the realization that it does not make sense when they review a later part of the Charter.

Mr. Urban asked this Commission how many affirmative votes they want in order to move an item to the Master List. Mr. Welsh said that he thinks 3 is a good number. Mr. Hvizda said that he would like to see 5 affirmative votes. Mr. Yezbak suggested that they set a percentage of votes that are required in order to move an item to the Master List. Ms. Hower said that since the vote they are talking about is simply to move an item over the Master List, she is fine with 3 affirmative votes. The Commission agreed that 3 votes is sufficient to move an item to the *Master List of Further Discussion*.

MOTION: Moved by Ms. Hower, seconded by Mr. Hanson, to require 3 votes in the affirmative in order to move an item to the Master List of Items for Further Discussion. Motion passed by majority acclamation: 8 Ayes – 1 Nay (Hvizda).

Mr. Urban said that he made a draft of the dates for each Article's review. He proposed that they send an invitation in advance, along with a prepared list of questions to each invited guest. Discussion was had regarding the dates each Article will be reviewed, as well as who the discussion leaders for each Article will be. The meeting schedule, complete with topics and discussion leaders, was determined to be as follows:

April 2, 2014: **ARTICLE II – THE MAYOR**
 Discussion Leaders: Paul Hvizda and Jay Hanson
 Invited Guest: Mayor Bobst

- April 9, 2014: ARTICLE III – THE COUNCIL
All Sections (not Section 12. Clerk of Council – See May 14, 2014)
Discussion Leaders: Jay Hanson, Tom Robenalt
Invited Guests: City Council Members
- April 16, 2014: ARTICLE VII – FINANCES
Discussion Leaders: Tom Robenalt and Paul Hvizda
Invited Guest: Mike Thomas, Director of Finance
- ARTICLE IV – ADMINISTRATIVE DEPARTMENTS
Section 3. Department of Finance
Discussion Leader: Marci Hower
Invited Guest: Mike Thomas, Director of Finance
- April 23, 2014: No Meeting
- April 30, 2014: ARTICLE IV – ADMINISTRATIVE DEPARTMENTS
Section 1. General Provisions
Section 3. Department of Public Safety-Service
Section 2. Department of Law
Discussion Leader: Marci Hower and Bill Welsh
Invited Guests: Mary Kay Costello, Director of Public Safety-Service
Andy Bemer, Law Director
Others To Be Determined
- ARTICLE V - CIVIL SERVICE COMMISSION
Discussion Leader: Bill Welsh and Michael Yezbak
Invited Guests: To Be Determined
- May 7, 2014: ARTICLE VI – BOARDS AND COMMISSIONS
Discussion Leader – Jeanne Campanella and Jay Hanson
Invited Guests: Members of Boards and Commissions
Others To Be Determined
- May 14, 2014: ARTICLE III – THE COUNCIL
Section 12 (only) – Clerk of Council
Discussion Leader: John Urban
Invited Guest: Misao Kurokawa
- ARTICLE VIII – INITIATIVE, REFERENDUM AND RECALL
Discussion Leaders: Patrick Keene and Michael Yezbak
- ARTICLE IX – NOMINATIONS AND ELECTIONS
Discussion Leaders: Patrick Keene and Michael Yezbak

ARTICLE X – GENERAL

Discussion Leaders: Patrick Keene and Michael Yezbak

May 21, 2014: Master List Discussion

May 28, 2014: Master List Discussion

Discussion was had as to when the public would be given an opportunity to be heard. Ms. Hower said that she thinks if someone from the public is in attendance at a meeting, it may mean that they have a pressing issue and this Commission should welcome their comments. Mr. Urban said that he would not be opposed to allowing public comment at the end of each meeting and limiting each person to 5 minutes. Following further discussion, the other Commission members agreed.

MOTION: Moved by Mr. Hvizda, seconded by Mr. Hanson to allow public comment at the end of each meeting session and limit each person's time at the podium to 5 minutes. Motion passed by unanimous acclamation.

The next meeting will be held on April 2, 2014 and they will review Article II – The Mayor, and Mayor Bobst will be invited to attend.

There being no further business, the meeting was adjourned at 7:20 p.m.

Date

JOHN URBAN, Chairman

TOM ROBENALT, Vice Chairman

Kate Straub, Secretary