

MINUTES OF MEETING  
2014 CHARTER REVIEW COMMISSION  
APRIL 9, 2014

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

Presence Noted: Andrew Bemer, Law Director

City Council Present: Jim Moran, Ward 2 Councilmember and Council President  
Chris Klym, At-Large Councilmember  
John Shepherd, Ward 4 Councilmember  
Brian Sindelar, At-Large Councilmember  
Misao Kurokawa, Council Clerk

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Chairman Urban opened the April 9, 2014 meeting of the 2014 Charter Review Commission at 6:00 p.m. in Council Chambers at Rocky River City Hall.

Mr. Urban asked the Commission if they have any corrections to the Minutes of the April 2, 2014 Charter Review Commission meeting.

**MOTION:** Moved by Mr. Hvizda, seconded by Ms. Campanella, to approve the Minutes of the April 2, 2014 Charter Review Commission meeting. Minutes were approved by majority acclamation. 8 Aye – 0 Nay – 1 Abstain (Urban)

Mr. Urban said the minutes reflect that there was a very productive meeting last week. He asked whether there is any old business that anyone would like to discuss. No old business was brought forward.

Mr. Urban said tonight’s review will be of ARTICLE III – The Council, and the discussion leaders are Mr. Hanson and Mr. Robenalt.

Mr. Hanson began by thanking the City Council Members for their presence this evening. They will go through each Section of Article III, discuss them briefly, and ask the Council Members for their comments.

**ARTICLE 3. – THE COUNCIL.**

**Section 1. Powers and Membership.** Mr. Hanson read Section 1 aloud. Mr. Hvizda asked the Council members how they feel about the number of City Council members we have, in relation to the size of the City. Mr. Moran said that they are all comfortable with the size of City Council in relation to the size of the City and with the issues they face. There are four Council members and three At-Large members, which he believes is a nice balance and it works very well. He does not believe that the City and/or the residents would be better served with more or less people.

Mr. Shepherd said that four Ward Council members are necessary because they cover the geographical areas of the City well. He believes that an odd number is necessary and that only one At-Large Council member would not be enough.

Mr. Klym said he agrees with Mr. Moran and Mr. Shepherd in that what they have now works well, and they have seen no issues with the number of Council members in the past.

Mr. Welsh asked whether the Ohio Revised Code governs the number of Council members according to the population of a city. Law Director Bemer said that because we have a Charter, we can deviate from that. However, the model that is used in O.R.C. 731.01, identifies seven members for communities with a population of less than 45,000, which is the model that Rocky River has.

Mr. Robenalt asked if it is possible that the three At-Large Council members would all be from the same geographical district and whether it would be a concern if they were. Mr. Moran said that it is possible that all At-Large Council members could be from the same district, but it is not a problem because it would be no different than the way it is now. They happen to have five people on City Council that have a similar backgrounds. There are five lawyers on City Council, and even when there was an opportunity to appoint another member, they looked at who was the best person for the job. Certainly, all of the Ward Council members have a responsibility to their Ward, but they really have a responsibility to the City, as well. Sometimes residents will call a Council member from another Ward simply because they know them personally and feel more comfortable with that person. If that is the case, then the Council members talk back and forth to be sure they are working together. There are no more important or less important Council members, because they all communicate and are all responsible to the City.

Mr. Sindelar said he is not sure how they would craft language to control the election of an At-Large Council person based on the Ward they live in. Regarding the size of City Council, he assumes our current population will only increase over time. It is his opinion, that an odd number of members is important so they do not run the risk of a tie on a piece of legislation. He does not think that only five Council members with only one At-Large Council member, would do the City justice because of potential population increase.

Mr. Hvizda said that he looked at it in comparison with the Cuyahoga County Council, which is made up of eleven members that represent 2,000,000 people. This is why he asked if Rocky River needs seven members to represent 20,000.

Mr. Hanson said it appears that the City will be growing in population and asked Mr. Sindelar if he sees the need to add to the number of City Council members. Mr. Sindelar said that he does not see a need to add to the number of Council members in relation to the potential population increase.

**Section 2. Term of Office.** Mr. Hanson read Section 2 aloud. He asked for clarification on the third full sentence, which reads, “If any members of Council elected at large shall fail to qualify, then an equal number of the councilmen elected at large who were not reelected and whose terms are expiring shall continue to hold office until the expiration of the term of the councilman who failed to qualify or until a vacancy occurs. Mr. Moran said that when they are talking about Councilman at large, he does not think they are talking about the position of an At-Large Councilman. He believes they are talking about a Council position in general. Law Director Bemer said he thinks it is a qualifier about someone who may be newly elected but is not qualified, and would not be able to serve on Council. The former Councilman, whether he chose to run or not, would continue to be in that place. This paragraph only comes to play if there are two or more Councilman at large that either choose not to run, or are defeated, and you have someone who is not qualified that happens to be elected.

Ms. Hower asked whether they are determined to be qualified or not before they are placed on the ballot. Mr. Sindelar said that it is possible to be on the ballot because the Board of Elections does not know our qualification rules. The Board of Elections simply qualifies a person’s ballot. Mr. Urban added that you can have someone who ran for Council but was offered a job in the meantime, so he no longer qualifies.

Mr. Hanson said that the term, “at large” is confusing in this section, because it then talks about At-Large Councilmen. Law Director Bemer said the only reason they are address the At-Large position is because three people are elected to that position. It is meant to identify that the largest vote getter gets the first shot at retaining the seat if there is more than one candidate that was successful in the election but is later found to be not qualified. Mr. Shepherd said that he thinks the reason is that if someone does not qualify, then you have someone from the same territory who can continue on.

Mr. Urban said that if a Ward Councilman would not qualify, they would have to look at filling that job the way they do now, which is by Council appointment through an application process. Mr. Klym said that if there is a Ward Councilman who is not reelected or they don’t run, then their term will continue until their successor is elected and qualified. There would only be one person to look in a particular Ward, but with Council At-Large, they would have to choose from several people in order to determine who would continue on in that spot.

Mr. Hanson said he was not aware that Councilmembers were ranked. Law Director Bemer said that they would probably rank them by seniority but one does not carry less power than another. This describes the pecking order in terms of those situations where you would have to fill two or more seats because of newly elected At-Large Council members who don’t qualify.

Mr. Urban asked if the City Council Members would like to comment on the 2-year terms, as opposed to 4-year terms. Mr. Moran said that the history of Council members in office in Rocky River shows longevity. If he had to average the last 30 years, then the

average term is probably ten to twelve years. When the Charter was reviewed 6 years ago, he felt there was a good reason to possibly look at 4-year terms. Now that he has been on Council, Mr. Moran finds it less important to go to 4-year terms in order to get something done and make sure they wouldn't have to be running for election all of the time. He agrees with the Mayor when she said that they are running all of the time, and you had better be communicating with the residents and the Administration. The process of running for an election is done after hours and on weekends, requires a lot of time and it is costly. However, it is important for the residents who don't know who the Council members are, to get their opportunity to vote. He would not be upset if someone decided to put it up for vote on a 4-year term, but as has been seen in the past, most residents are happy with 2-year terms and want to keep it the way it is now. They want to make sure they have a voice in that vote and they don't want to see Council members having longer terms. Mr. Moran said that he would have pushed more for a 4-year term six or eight years ago, but he does not see that as a big item now.

Mr. Klym said that he sat on Charter Review Commission in 1996 and they had long discussions about 2 and 4-year terms. They ended up not putting it on the ballot, but there were some people who came to them and advocated highly for 4-year terms at that time. He felt then and feels now, that a 2-year term does provide a great deal of accountability to their constituents and every two years residents get a chance to decide whether or not their city government is doing a good job for them. He agrees with our representative system of government, which provides that our citizens get a chance to decide and let City Council know how they are doing every two years. On the opposite side of that, Mr. Klym said that elections can be expensive, both for the candidate and for the City. He said that the cost of a municipal election is between \$25,000 and \$40,000 every two years. He likes a staggered number of terms and if they went to 4-year terms they could elect Council members in different years. However, that would take away the argument of reducing election costs because they would still have to do elections every two years. If At-Large members were elected in one period and the next time they elected Ward Councilman for 2 year terms, then they would have some continuity in their membership and would not risk a complete turnover of members at one time. He is not sure he would advocate for 4-year terms, but agrees that there are good reasons for both sides. Term lengths of 2 years has worked well for Rocky River for a long time, and accountability is a major issue to him.

Ms. Campanella said they are assuming that the voters wouldn't want 4-year terms putting it on the ballot would be a chance for the voters to decide if they want 2-year or 4-year terms. Mr. Welsh said it was on the ballot 12 year ago. Mr. Yezbak said that as far as the expense to the City goes, the Mayor pointed out that there is an election every 2 years anyway. Mr. Moran said that there would not be as big of an expense to the City because we are only charged a percentage, which depends on the number of City related items on the ballot. Mr. Sindelar said that he looked into this and, as long as there is no City issue on the ballot, the City has no cost to them from the County Board of Elections. If they presently held 4-year terms, then the next City election would be for our judges and that expense is split up among the communities that the Court covers. The next time

we would incur costs from the Board of Elections would be in 2017, since there is no cost to us for strictly State and County ballots.

Mr. Sindelar continued by saying that from a personal standpoint, he would love a 4-year term because he is very dedicated. However, he loved running for election and meeting the people. There is the concept of looking at public sector in a private formula, the way they would strategically plan things, using a longer forecast. If there were 4-year terms, then there would be a symbiotic relationship with the same group, and goals set early on could be realized by the fourth year. He also understands the importance of people having a choice and voicing their opinion through voting. He would advocate for putting the length of terms on the ballot and letting the people decide. He thinks the vote is the purest form of government and, although he is not advocating one way or the other, if there is an important enough decision to be made, then it should be put to the people.

Ms. Hower asked City Council how often they run for reelection with nobody opposing them. Mr. Sindelar said it happens a lot, but the At-Large seats have been contested the last three or four cycles. Mr. Moran said that he faced a contest five years ago.

Mr. Moran said that they have to look at individual situations. Bay Village has 4-year terms for their At-Large Council members and 2-year terms for their Ward Council members. If a Councilmember does a good job communicating well, then their chances of being reelected are better. If they don't communicate well, then chances are they will not do well in an election.

Mr. Shepherd said that he faced competition approximately 50% of the time. He said it is not about whether or not he has competition. From a Councilperson's point of view, an election is a lot of work, but if you do a good job for the people and get stronger, then you don't get the competition. He does not know if the public's appetite is there for the change in terms, it has never been passed. He said he agrees with Mr. Klym that at this point in time, it is not as critical as he thought it was a while ago.

Mr. Moran said that there is a 50-50 chance of winning when you are running as a Ward Councilman and At-Large Council members' odds are better because they only have to beat one person if there are four people running. He asked this Commission should consider why they would put this issue to vote and whether it is because the current system is not working, or by doing so, they think they can make it better for the City.

Ms. Hower said she wonders if four years is too long of a term if they had a situation where someone is not doing a good job. Mr. Moran said that the Charter allows the opportunity for change, but through collaboration and communication, it hasn't happened. The fact that someone would even want to run for Council, makes a statement in itself, because it takes a lot of time and energy.

Mr. Hvizda said that he believes that if they were to propose to change the term to four years, they would draw from a bigger pool of candidates and would present the

opportunity for more debate among the candidates about the issues important to the City. Mr. Hvizda referred to the point he made last week about the fact that 2-year terms may be a deterrent to getting more qualified candidates to run.

**MOTION:** Mr. Hanson moved to add discussion about the length of term in **ARTICLE III – THE COUNCIL, Section 2. Term of Office**, to the Master List of Items for Further Discussion. Mr. Welsh seconded. Motion passed by unanimous acclamation.

Mr. Robenalt said that a School Board member recently raised the question to him about making it a non-partisan election and asked if that issue has ever been discussed. Mr. Sindelar said that he is all for making the election non-partisan because he does not think a candidate's National ideology plays into it. Whether a candidate is democrat or republican, he thinks they all have the same drive, which is the care of the City and Municipal issues, so he thinks that non-partisan elections make sense. Mr. Robenalt said he believes that School Board elections are non-partisan. Law Director Bemer said that the primary for Municipal Judges is partisan if a candidate chooses it, but the general election is always non-partisan.

Mr. Klym said he does not have a strong opinion about non-partisan elections. Many cities are moving in that direction and there can be some good reasons behind it. He thinks most candidates would continue to run with a partisan designation, at least within their campaign materials, and would work with their party system. What it comes down to is a ballot that does not have a party identification on it. He is not sure it would determine the way a campaign is run, but it would change the ballot and the primary system. Currently, there is the possibility of a primary if there is more than several candidates for that position. This last cycle had four republicans running and no democrats, so there was not a primary for the At-Large position. If one democrat would have declared, then they would have had a primary for a republican position, which could add some cost to it. He said he believes the candidates would continue to run with a partisan designation on to their campaign materials, but their party would simply not be identified on the ballot.

Mr. Moran said that they should look at the system. If a person does not vote in two elections, then his or her party designation moves from a democrat or republican, to undecided. If the City was all one sided or the other, then he could see where it would be very challenging. However, in the City of Rocky River, there are more registered democrats than there are republicans. We are at a good balance and he does not mind having a party affiliation. Many times people don't ask them what they will do as a Councilmember; they ask what their views on party stances are. Some people will never vote for a democrat or a republican, and there are those who have all kinds of different reasons for the way they vote. His opinion leans more toward the party affiliation because it tells the voter a little bit about the background of the candidate and what they stand for.

Mr. Urban said that this topic is part of Article IX, which will come up on May 14<sup>th</sup> and suggested they move on. Mr. Shepard said he must leave early but he would like to add that the work that they do as Council members with issues at the local level do not appear to him to be partisan issues. He feels it is more like running a business to the best of their ability and does not see that party affiliation is really important to city business.

**Section 3. Qualifications.** Mr. Hanson read Section 3 aloud. He thanked Mr. Bemer for forwarding information on the definition of moral turpitude. Mr. Moran said that he agrees with the Mayor that one year of residency is a very short time, and the election process itself would probably weed that person out. It is very difficult to be that involved and be recognized by many people in such a limited amount of time. He doesn't know if increasing the residency requirement is that important because the candidates with more time in have a better chance of winning. Ms. Hower said she agrees that the voters would determine whether one year of residency for a candidate is sufficient.

Mr. Welsh presented a scenario where a Council member is elected but is not doing a very good job, and someone moves into the City and is a resident for one year, for the sole purpose of running against that person. Mr. Moran said that would be quite a commitment for a position that is not highly compensated. It would be difficult to find a person from outside the City to move in and run for a Council member's position. He could understand how that could happen for the position of Mayor, but Council positions require a lot of involvement in the community and people who are running for these positions really want to get involved and do more. He said he supposes anything could happen, but he does not see that particular situation happening for a position on City Council. If a Council member was that bad, he thinks the other Councilmembers, the Administration, and residents would force them to resign, or they may even want to leave the position on their own.

Mr. Welsh said that in his experience as an attendee at Council meetings for the last several years, he has seen people who run for a Council seat, but he never sees them at the Council meetings until after they declare their candidacy. To him, this shows that the person is not very interested in the City.

Mr. Sindelar said that he didn't come to the Council meetings, but he read the minutes online and paid attention to the issues in the City. He was involved in plenty of community events and cares deeply about the City, but he does not think it was necessary for him to attend Council meetings. He does not believe that people who run for congress or senate positions sit on the floor and observe those meetings before they run. He believes that in terms of qualification, a person's ability, knowledge and willingness to commit and convey a message, as well as results, are very important and not necessarily the length of time a person lives in the City. He does not believe that a person's attendance at City Council meetings is necessary to be a qualified candidate. A person's interest and ability will show through when they are involved and getting to know people. His time living in Rocky River and lack of time spent at Council meetings

does not reflect his qualifications necessarily. Mr. Sindelar's view is that the time frame is very appropriate, and he would not increase that qualification to more than one year.

**Section 4. Organization.** Mr. Hanson read Section 4 aloud. Discussion was had about members of the community electing the Council President like some cities do. Mr. Moran said that there may be 2 very qualified people running for President of Council and if one doesn't make it, then they are not even on City Council. The Council President in North Olmsted does not vote unless there is a tie, which is a different option. He is in his fifth term on City Council. He was appointed as President in his second term and has served as President since that time. If at any time he became uncomfortable serving as President, then he would step down. Also, if he does not do a good job, then Council would appoint a different President.

Mr. Sindelar said that in Independence, the Council President is the highest vote-getter, and they call him the Vice Mayor. He thinks our system is the best because it allows the members of City Council to elect who will guide them and who has the ability to show them the way, as well as keep order. He is not sure the voters would necessarily know who would make the best Council President. Mr. Urban said that the highest vote-getter would not necessarily be the best person for the job of President of Council. He has seen too many Council Presidents who are voted by the people, who take on a new ego and think they will be the next Mayor, or they act like they already are the Mayor. He really likes our process of City Council choosing who they think is their best leader at the time. He added that the highest vote getter may not even necessarily want the position of Council President.

Mr. Klym said he believes the Council members today and for the past many years have worked very well together. Part of the reason is their ability to choose a leader and set an agenda. Electing the president themselves helps them to organize and work together. He said it has worked very well for Rocky River, and he does not see a reason to change it.

Council Clerk, Kurokawa said most people don't realize that there is a lot more work for a Council President than for any other member of Council. The President deals a lot with the Administration and spends a lot of time preparing for the meetings. The person willing to put the time in and work with the Administration, is the type of person they need. The system is working well for them because the person who is Council President is willing to be President and has the support of all of the other members of Council.

Law Director Bemer said that to the casual observer, it may seem like Council just rubber stamps everything. The fact is, behind the scenes, the Council President is very active and the communication skills are first and foremost. City Council needs a leader who can collaborate with everyone else, and who is willing and available to do that.

**Section 5. Duties of President of Council.** Mr. Hanson read Section 5 aloud. Mr. Moran explained that each of the Council members are appointed by the President to be

Chair of a Committee, along with three other members who are also on that Committee, which works very well. There were no further comments on Section 5.

**Section 6. Removal.** Mr. Hanson read Section 6 aloud. Mr. Hvizda asked what the term “legally incompetent” means. Law Director Bemer said it is a procedure through the probate court. Mr. Hanson said that that the verbiage in Section 6 sounds more comprehensive than the verbiage for the Mayor. They do not talk about violation of this Charter, gross misconduct or malfeasance, and according to the Charter, the Council members are held to a higher standard than the Mayor is. Mr. Robenalt said he thinks they should add “conviction of a felony” in this section just before the word “crime.” Mr. Hanson agreed and said he thinks they should also put this language under Removal in Article II – The Mayor, because it is more comprehensive and detailed.

Mr. Moran said that he believes the voters have that expectation already and if a situation like that were to happen, where someone was serving on Council, by that time it works its way through the judicial system, the media coverage would force a removal from office. He doesn't think it matters one way or the other because the system will not support such a person, and the people would vote that person out.

Mr. Klym said he believes a person is not a qualified electorate or permitted to hold public office, if they have been convicted of a felony. Law Director Bemer said that Council is the judge of their own standards and qualifiers to continue to hold office. Mayors have a different situation, which would probably have to begin with a taxpayers' demand to remove the Mayor. He said there are processes that transcend all elected offices, but traditionally, there is the recall process for an Executive. There are processes for that, rather than being stuck on whether a person needs to be convicted of a felony, or whether the moral turpitude encompasses every conceivable situation. Mr. Hanson said that if standards are going to be included in the Charter, then they should be defined and specific.

Mr. Moran said he believes the electors will guide this, and he does not think they need to make any changes. Mr. Welsh said this section reads that the Council will be the judge of the election and qualifications of its own members, but it does not say who the judge of the Mayor's qualifications is. Law Director Bemer said it is usually the vote of the people, or the impeachment process or a recall election is initiated. He said City Council is self-governing and you wouldn't want Council to be able to decide whether or not the Mayor continues in office.

Mr. Robenalt said that the Removal section as it relates to the Mayor is already the one of the items on the Master List for Further Discussion.

**MOTION:** Moved by Mr. Robenalt, seconded by Mr. Hvizda, to add discussion of **ARTICLE III – THE COUNCIL, Section 6. Removal**, to the Master List of Items for Further Discussion. Passed by unanimous acclamation.

**Section 7. Vacancies.** Mr. Hanson read Section 7 aloud. Mr. Urban said that they have had a lot of experience with this lately and asked Mr. Moran how well he thinks the process worked. Mr. Moran said it happened three times recently and they had not had to go through the process very many times in the past. It seemed to work very well and the process moved very smoothly because everyone communicated. The Council Clerk worked especially hard to keep the communication going smoothly. There were approximately 20 people interested in the position and it was very difficult to tell the people the news that they were not chosen. Mr. Robenalt asked Mr. Moran if he thinks that 30 days is enough time to choose a replacement. Mr. Moran said that he was comfortable with 30 days because there were candidates that were very strong. However, this is what made the last part of the interviewing process very difficult.

Mr. Klym agreed that 30 days is a short time period, but he is not in favor of extending it to a longer period because they want to fill the vacancy and continue with their business. He said the process works well, and he does not think they need more time.

Council Clerk Kurokawa said that Council is very good about being willing to meet even 2 or 3 times per week. Having a short period of time makes everybody focused. It has been very successful this way, and in general, the appointees have done very well and many of them have been elected after that process. The Council has been very competent in appointing someone within the 30 days.

**Section 8. Quorum.** Mr. Hanson read section 8 aloud. There were no comments from the Commission on Section 8.

**Section 9. Meetings.** Mr. Hanson read section 9 aloud. Mr. Moran said that the Charter requires that they have two legislative meetings, but they actually have four meetings per month, made up of two meetings of the whole and two legislative meetings. The two legislative meetings are the when they vote, and the meetings of the whole are more informative. All meetings are open to the public.

Mr. Welsh asked how they feel about having four meetings every month because there are a lot of Councils who only meet twice per month. He asked how they would feel about the two committee-of-the-whole meetings being eliminated. Mr. Klym said that many other communities do have committee-of-the-whole meetings, where they may meet just before the legislative meetings. He said those meetings give them an opportunity to discuss, in public, each of the ordinances that may be presented to them and also to hear from the Mayor about what is going on in the City. It gives them a public presence that is very important and has been a nice piece of tradition in Rocky River. Mr. Moran said that in all of the years he has been president, the only committee-of-the-whole meeting that they have skipped was this year, on St. Patrick's Day, because it happened to fall in a month where they had five meetings, and they passed all of their legislation the meeting before it, and there was no new legislation.

**Section 10. Special Meetings.** Mr. Hanson said he will not read this section aloud. Mr. Sindelar said that Section 10 goes along with state law and he does not believe there is a need to change it in any way. Mrs. Campanella said that she wondered if the section should be updated to say that the posting for the meetings will include digital posting to the website. Ms. Hower said that she thinks the word “posting” is general enough to mean postings are paper or paperless.

Council Clerk Kurokawa said that, from a practical point of view, digital has its issues every now and again. If you require that it must be posted digitally in order to have the meeting, then there can be issues. There is never a problem with putting a piece of paper on a board, but if it is required to be posted digitally, there have been times when the server is down or when something happens and they cannot post it. For instance, the City recently changed website providers, and to require digital posting can cause them problems on a purely practical level. However, they do post the agendas on the website. It is not common that there are problems posting to the website, but it could happen, and to require that there could not be a special meeting unless it is posted on the website, could cause them problems. Mr. Moran said that if Council noticed a problem with the Charter, then he would agree that it needs to be changed to reflect electronic postings. It serves them well right now, and they are all very careful to be sure they are very open. Mr. Welsh said that in all of the years he has been coming to meetings, the Council Clerk has been very diligent about posting the agendas online.

Mr. Klym said that he would like to point out that as you make changes to a Charter to make it very specific to one type of notice, as we have seen over the last number of years, technology changes. There are bulletin boards and websites and who knows what is next. If it is mandated to be in some certain form, then the Charter may have to be changed by the voters continually, in order to change it. He recommends they be careful in terms of how they require it to be posted so that it is not so specific that they suddenly find themselves in violation because of changes in technology.

**Section 11. Salaries, Compensation and Bonds.** No comments by the Commission.

**Section 12. Clerk of Council.** Mr. Hanson read Section 12 aloud. He said there is a separate Article specifically for Clerk of Council. Mr. Urban said the Clerk of Council will appear before them on May 14, 2014 to discuss Section 13 because they may be able to streamline this and save the City money.

**Section 13. Enactment of Zoning Ordinances.** This discussion is scheduled to be held on May 14, 2014.

**Section 14. Action on Mapped Streets.** Mr. Hanson said that he cannot imagine that an application for a building permit involving an infringement on the mapped streets plan is submitted to Council. Mr. Moran agreed that it does not happen very often. Mr. Moran explained that, they have a Board of Zoning Appeals process if this were to happen.

Council has an opportunity to review some of those things and something may come to them occasionally. However, he said it is very rare.

**Section 15. Legislative Procedure.** Mr. Urban asked Mr. Moran if there are any powers that Council needs that are not listed here or any that should be modified. Mr. Moran said that the process of three readings and the way they pass their ordinances works very well and he does not see a need to change anything. Council is there to watch the purse strings of the City and the Mayor is there to run the Administration. He believes that the way the system works now is very effective and there is no need to change it.

Mr. Welsh said he assumes that the “journal” that is referred to in this section is the meeting minutes. Mr. Bemer said that Mr. Welsh is correct. Ms. Kurokawa said that the minutes are kept in her office and they are also posted online.

**Section 16. Effective Date of Ordinances or Resolutions.** Mr. Moran explained that there are some ordinances that they pass that must be effective the day Council votes on them. Other ordinances and resolutions go into effect 30 days after they vote on them. Law Director Bemer said that Section 16 and Section 17 go together.

**Section 17. Emergency Ordinances.** This process was explained by Mr. Moran in the discussion of Section 16, above. There was no further comment by the Commission.

**Section 18. Adoption of Ordinances by Reference.** Mr. Hanson said this is the section where it requires that 10 copies of the Code be kept in the office of the Clerk of Council for reference by interested parties and copies shall be available for sale by the Clerk. He asked if it is really necessary to have 10 copies in her office. Council Clerk said that it never happens that 10 people come in to review the Code, which is also posted online. Law Director Bemer said that this section pre-dated all of the electronic technology. Our ordinances are provided online by Walter Drane, who provides all of the ordinances digitally across Ohio, and we update the Code electronically. There is still a need for copies to be available and there are probably 10 hard copies around City Hall for quick accessibility. To have that requirement in the Charter is not necessary.

**MOTION:** Moved by Mr. Hvizda, seconded by Mr. Robenalt, to place the discussion referencing the number of copies of Ordinances and codes to be available in the Clerk of Council’s office in **ARTICLE III – THE COUNCIL, Section 18. Adoption of Ordinances by Reference**, on the Master List of Items for Further Discussion. The motion was passed by unanimous acclamation.

**Section 19. Independent Audit.** Mr. Hanson questioned the phrase, “without the necessity of competitive bidding.” He is not comfortable that they don’t put that out for competitive bidding. Mr. Moran explained that the group they pick from for their audits is very select and after this term, they will have to change auditors. Law Director Bemer explained that this phrase “without competitive bidding” is very common. The legal language specifies “unique and peculiar expertise,” and it is not necessary to bid that

competitively, because the pool of unique expertise is limited. Mr. Robenalt agreed that public accounting work is a unique expertise. Mr. Moran said that because many of the Cities are limited in the amount of time that they can stay with a particular firm and they are forced to make a change, a firm that is with one city will move to another because their field is very limited. Council works very closely with the Administration to make sure that this is done properly.

Mr. Klym said that there is also a separate Audit Committee made up of residents who are very qualified and experienced in this area and that system has worked very well. Law Director Bemer suggested they defer this discussion until the Finance Director is present.

Mr. Hanson asked whether one copy is enough for the Library and whether the independent audit is posted online. Mr. Moran responded that one copy is enough for the Library and the independent audit is posted online. Law Director Bemer agreed with Mr. Moran.

**Section 20. Dedicated Parks.** No comments or discussion on Section 20.

Mr. Urban said that they have concluded discussion regarding ARTICLE II – THE COUNCIL and added 3 additional items to the Master List for Further Discussion. They will ask the Finance Director for more details about the independent audit next week when they discuss **ARTICLE VII – FINANCES** and **ARTICLE IV – ADMINISTRATIVE DEPARTMENTS, Section 4. Department of Finance.** Mr. Michael Thomas, the City’s Director of Finance will be the invited guest. The Discussion Leaders will be Mr. Hvizda and Ms. Hower.

Mr. Moran said that he would like to make a point that the discussions are for the purpose of either modifying the Charter or simply to make people aware. He hopes this Commission feels very comfortable with the fact that if there is anything they want to know, Council wants to be very clear and present all of the information they can. He said that by putting something in the Charter or ordinance form, the question is always whether they are trying to organize themselves more than is necessary. He stressed that if there is information that people want, then they simply have to ask.

Mr. Welsh asked what Council’s feelings are on holding another elected office or an appointment to another governmental board while they are a Council member of the City of Rocky River. Law Director Bemer said the information he forwarded the Commission contains information on a couple of state statues. Mr. Moran said that the Charter states that they cannot hold another position within the City. As far as being on another board, in a paid position, he would not be against that, but he would have to evaluate the reasons someone would do that. Council members are very busy with their day jobs and he does not think it would necessarily be good to become divested in other boards. Mr. Welsh used the example of a Council member running for Law Director in another City. He said there is nothing in the Charter that addresses that.

Mr. Klym said that there is state law and opinions that would probably preclude that specific situation. He has always read the Qualifications section of our Charter to mean that a Councilmember cannot hold compensated public office anywhere, because it could be a potential conflict of interest. Mr. Moran said that if a Council member is on a board for something else and being compensated for it, then he would not have a problem with it. However, if a Council member were to hold another public office, then it would be different.

Law Director Bemer said that he provided ethics laws in the State of Ohio, in Chapter 102.04 which addresses compensated positions and it is very clear. If you are a Council member, you cannot serve in any other public office that is compensated. However, if a Council member wanted to serve gratis, then the question would be whether there is a conflict of interest in serving two masters. He explained that there is also an Ethics Commission to address conflicts of interest that looks closely at situations on a case-by-case basis

Mr. Urban said that the qualifications of the Mayor and of the Council are on the Master List for Further Discussion and they can continue this conversation when they review them at a later date.

There being no further business, the meeting was adjourned at 7:50 p.m.

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JOHN URBAN, Chairman

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TOM ROBENALT, Vice Chairman

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Kate Straub, Secretary

Date: \_\_\_\_\_