

MINUTES OF MEETING
2014 CHARTER REVIEW COMMISSION
MAY 7, 2014

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

Council Members: Jim Moran, Council President
Brian Sindelar, At-Large Councilmember

Chairman Urban opened the May 7, 2014 meeting of the 2014 Charter Review Commission at 6:00 p.m. in Council Chambers at Rocky River City Hall. Mrs. Hower and Mr. Keenan are not able to attend tonight's meeting.

Mr. Urban asked the Commission if they have any corrections to the Minutes of the April 30, 2014 Charter Review Commission meeting.

MOTION: Moved by Mr. Hvizda, seconded by Mr. Welsh, to approve the Minutes of the April 30, 2014 Charter Review Commission meeting. Minutes were approved by unanimous acclamation.

Charter Articles for Review: ARTICLE VIII, IX and X
Discussion Leader: Mr. Michael Yezbak

Mr. Yezbak said that there is not much in these sections to comment on or consider for change. Aside from the couple of changes they made in 2008, most everything in these sections has been in the Charter for many years.

ARTICLE VIII – INITIATIVE, REFERENDUM AND RECALL

Section 1. Initiative and Referendum.

No comments from the Commission.

Section 2. Recall.

Mr. Welsh said that the Charter reads that if a person is recalled from a particular office, they cannot be reappointed by Council to that office. He asked what would happen if a Ward Councilman was recalled and an At-Large Council person just so happened to step down or pass away at the same time. The way this reads, Council can appoint the Ward Councilman who had just been recalled to the vacant At-Large Council seat. He thinks that if someone is recalled, they should not be appointed back to an office, at least for the remainder of that term.

Regarding Mr. Welsh's point, Chairman Urban said he cannot see where Council would even attempt to appoint a recalled Councilman. Mr. Sindelar said that he understands what Mr. Welsh is saying, and as a way to remedy that particular situation would be to amend the sentence to read that a recalled Councilman shall not be eligible for *any* appointment.

Mr. Urban said the intent is to remove the Councilperson from that position. The question is whether he can be reappointed. The answer to that is yes, but he does not think Council would attempt to do that. However, if the recalled person is on the ballot again, then he could be reelected. Mr. Welsh agreed, but added that he does not think that person should be able to be reappointed to another Council position. Mr. Robenalt said that this is a great point, but in reality, he does not think that Council will reappoint someone who was just recalled. They cannot write the Charter to accommodate every single scenario that might arise and he believes they should just leave it alone. Mr. Hvizda agreed with Mr. Robenalt. Mr. Urban added that it is his opinion that it would be political suicide for a Council to reappoint a person after he was recalled.

Mr. Yezbak asked if there are any more comments regarding Article VIII. Mrs. Campanella said that it mentions the notice of recall is to be published in a “newspaper” for 2 consecutive weeks. As discussed at earlier meetings, it might be too restrictive to require publishing the notice in a newspaper because they may be obsolete 6 years from now. Mr. Urban said that there is language in the Charter that allows Council to substitute language if something becomes obsolete. Mr. Robenalt said that he believes that a recall election should be published in a newspaper, but if newspapers happen to become obsolete, he also thinks it can be changed by Council.

ARTICLE IX – NOMINATIONS AND ELECTIONS.

Section 1. Municipal Elections. No Comments from the Commission.

Section 2. Primary Elections. No Comments from the Commission.

Section 3. Declaration of Candidacy. Mr. Hvizda said he is curious about if they were to go to a non-partisan election, he wondered if this whole section could be eliminated. Chairman Urban said that Council could do that because the section would become obsolete.

Chairman Urban said that the changes from 2008 were the result of the necessity of needing to comply with the County Board of Election’s changes.

Section 4. Nominations Of Party Candidates With And Without Primary Elections.

Mr. Yezbak said he noticed that this section was amended in 2009, which was not a change that was recommended by the 2008 Charter Review Commission. Mr. Urban said that it was probably done by Council because it was obsolete or because it was something required by the Board of Elections. Mr. Moran confirmed that and that he does not remember the specific language that they changed in 2009, but the change to that section was brought to them by someone. Mr. Yezbak added that it seems like this section is dictated by the Board of Elections and he does not see the need for changes.

Section 5. Independent Candidates.

Discussion was had regarding the requirement of 200 signatures on an independent candidate's petition for an At-Large Council position, versus the fact that a Ward Council person only needs 50 signatures on a petition. It was determined that the Board of Elections probably sets the signature requirements for each petition.

Section 6. General Provision. No comments from the Commission.

ARTICLE X – GENERAL.

Section 1. Conflict of Interest; Personal Financial Interest. Mr. Yezbak said that this has been part of the Charter since 1972 and he does not see anything that needs to be changed in this section. Mr. Moran said there is an ethics form that Council fills out every year to be sure they do not violate this section. If there is an issue that comes to Council for a vote and a Council member has a personal interest in it, then that member must recuse themselves and cannot take part in the vote. Mr. Sindelar said that this also mirrors State law.

Section 2. Effect of Partial Invalidity. No comments from the Commission.

Section 3. Amendments To Charter. Mr. Urban pointed out that this section allows Council to add a Charter Amendment to the ballot at any time.

Section 4. Charter Review. Mrs. Campanella said she would like to ask Council if they think that 6 years is an appropriate amount of time between reviews. Council President Moran said that this is the second Charter Review since he has been on Council, and he thinks that 6 years is a good amount of time. Council still has the opportunity to change things by adding a Charter Amendment to the ballot if something comes up between reviews. The requirement of 9 Charter Review Commission members is also an appropriate number.

Section 5. Use of Gender. No comments from the Commission.

Section 6. Open Meetings. Mr. Yezbak said that this provides for 6 types of considerations that are eligible for a closed meeting, or an Executive Session. Mr. Urban said that he has a note from the Law Director requesting that this Commission recommend that topics relating to "economic development" be eligible for Executive Session. Mr. Sindelar said that State law mandates what considerations can be discussed at closed meetings in O.R.C. 121.22(G). Mr. Moran explained that there are certain issues that come up where a public forum is not required and that discussion is limited to the specific issue the session was called for. The Clerk of Council's minutes reflect that an Executive Session was held, but no minutes are taken for closed portion of the meeting. The Law Director is also in attendance at Executive Session to be sure Council is following the rules of Executive Session. Since Law Director Bemer is not in attendance, the Commission agreed to move this discussion to the Master List.

MOTION: Moved by Mr. Robenalt, seconded by Hvizda to add discussion of adding Economic Development matters to the list of topics eligible for closed meetings (Executive Sessions) in **ARTICLE X – GENERAL, Section 6. Open Meetings** to the Master List of Items for Further Discussion. Motion passed by unanimous acclamation.

Section 8. Deletion of Obsolete Language, Rearrangement of Numbers and Titles, and correction of typographical errors

Mr. Urban said that this section was added as a result of the 2008 Charter Review. There were a number of things that were obsolete at that time, and some of the things we have discussed in this review can be done that way because they are obsolete.

Mr. Yezbak concluded his review.

Mr. Hanson suggested that since the Commission has finished their review early tonight, they should identify some of things on the Master List that they have determined are obsolete. The Commission agreed to discuss the items may be able to be removed from the Master List of Items for Further Discussion and which items are obsolete and can be referred to City Council.

DISCUSSION OF MASTER LIST ITEMS

*Item #7. Discussion of the phrase “...but without the necessity of competitive bidding” in **ARTICLE III – THE COUNCIL, Section 19. Independent Audit.** (Discussed at 4/16/14 meeting)*

Mr. Urban said that this section could be revised by City Council because it is governed by State statute.

MOTION: Moved by Mr. Hvizda, seconded by Mr. Robenalt, to remove item #7 from the Master List and recommend that City Council revise **ARTICLE III – THE COUNCIL, Section 19. Independent Audit.**, due to its obsolescence. Motion passed by unanimous acclamation.

*Item #8 Discussion of removing “personal property” from **ARTICLE VII – FINANCES, Section 1. Tax Limitation, (A) and (B).** as it is not consistent with State law. (Discussed at 4/16/14 meeting)*

Mr. Urban said that the words “personal property” in this Section are obsolete and they will ask Council to remove them from Article III, Section 19(A) and (B).

MOTION: Moved by Mr. Welsh, seconded by Mr. Hvizda, to remove item #8 from the Master List and recommend that City Council make the appropriate changes in **ARTICLE VII – FINANCES, Section 1. Tax Limitation, (A) and (B).** Motion passed by unanimous acclamation.

*Item #9. Discussion of additional types of public medium required for notices of public hearings in **ARTICLE VII. FINANCES, Section 6. Annual Appropriation Ordinance.** (See 4-16-14 Minutes for discussion.)*

Mr. Urban said that there was a discussion as to whether or not “newspaper” should remain in the Charter as a way to notify the public. Mrs. Campanella said that they discussed whether they should add other forms of media for notification because newspapers may become obsolete. Mr. Urban said that notices are currently being published in newspapers, which are not obsolete at this time. He believes that if newspapers become very limited, then that would fall under something Council could do. If newspapers become obsolete, then City Council will have to substitute another medium to publish notices.

MOTION: Moved by Mr. Hvizda, seconded by Mr. Hanson, to remove item #9 from the Master List of Items for Further Discussion. Motion passed by unanimous acclamation.

*Item #10. Discussion of increasing millage for solid waste removal and recycling in **ARTICLE VII - FINANCES, Section 1(A)(4).** (See 4-16-14 Minutes for discussion.)*

- AND -

*Item #11. Discussion of the entire **ARTICLE VII. Finances, Section 1. Tax Limitation,** for the purpose of increasing millage for other categories listed in this section. (See 4-16-14 Minutes for discussion.)*

Mr. Urban said that Council and the Administration have indicated that they are going to go a different route with regard to the solid waste and recycling programs. In addition, the section reads that Council has the authority to take millage to the ballot whenever they feel the need to do so and proposed that they leave that to City Council to decide. The same is true for Item #12, which controls millage for the other categories.

MOTION: Moved by Mr. Hvizda, seconded by Mr. Yezbak, to remove Item #10 from the Master List of Items for Further Discussion. Motion passed by unanimous acclamation

MOTION: Moved by Hvizda, seconded by Mrs. Campanella, to remove Item #11 from the Master List of Items for Further Discussion. Motion passed by unanimous acclamation.

*Item #13. Discussion of adding a residency requirement to **ARTICLE VI – BOARDS AND COMMISSIONS, Section 1. General Provisions**, to the Master List of Items for Further Discussion. (See 4-30-14 Minutes for discussion.)*

Mr. Urban said that the Mayor appoints people to the various Boards and Commissions. When he spoke with her about this, the Mayor said she would never even consider appointing someone who does not live in Rocky River and a residency requirement is a non-issue. Council feels the same way, in that they would never recommend someone who lives outside the City to serve on a Board or Commission. The only exception the Mayor could understand, would be if they really needed a specific type of Engineer or Architect and they could not find someone in the City. In that case, she could appoint someone to serve on a temporary basis, but she has never needed to do that and does not foresee that happening.

Mr. Urban said that if you put a residency requirement on the ballot now, people might question whether or not they currently have Boards and Commission members serving who live outside of Rocky River. Mr. Hvizda pointed out that the State just struck down the residency requirement and Mr. Urban clarified that it was for Police and Fire and certain City members. However, by adding a residency requirement, they may be going against the direction the State is heading.

MOTION: Moved by Mr. Robenalt, seconded by Mr. Hvizda, to remove Item #12 from the Master List of Items for Further Discussion. Motion passed by unanimous acclamation.

*Item #14. Discussion of changing the language in **ARTICLE VI. BOARDS AND COMMISSIONS, Section 5(a)** to make the requirement of two alternates optional for the Design and Construction Board of Review. (Discussed at 4-30-14 meeting.)*

Mr. Urban said that the Mayor has said that all of the alternate positions have been filled and pointed out that the General Provisions section states that there shall be no more than 2 alternates appointed to each Board or Commission. Mr. Robenalt said the question from previous discussion is whether they want to make the requirement for two alternates on the Design Board optional. Mr. Urban said that the point was brought up during discussion when the Residents' Reference Book only listed 1 alternate, when 2 alternates are mandatory. Mr. Yezbak said he recalls that Design Board representatives said everything was operating well with only 1 alternate, which is why they suggested they make 2 alternates optional. The Commission agreed that the requirement of 2 alternates for the Design and Construction Board of Review should remain in the Charter, as written.

MOTION: Moved by Mr. Hvizda, seconded by Mr. Robenalt to remove Item #14 from the Master List of Items for Further Discussion. Motion passed by unanimous acclamation.

*Item #17. Discussion regarding extending the time period for a BZA decision to become final when granting a variance or exception in **ARTICLE VI – BOARDS AND COMMISSIONS, Section 2b(1)(B)**. (Discussed at 4-30-14 meeting.)*

Mr. Urban said that extending the time for the minutes to be approved can be a problem because once the minutes are approved, there is an automatic 30-day clock that starts before a homeowner or builder can move to the next phase. If this is extended, then projects can be delayed because of the waiting periods that are required. It appears that extending that 7-day window may not be a good idea.

MOTION: Moved by Mr. Hvizda, seconded by Mr. Robenalt, to remove Item #17 from the Master List of Items for Further Discussion. The Motion was passed by unanimous acclamation.

*Item #18. Discussion of adding the requirement for 2 alternates for Planning Commission in **ARTICLE VI – BOARDS AND COMMISSIONS, Section 3(a)**. (Discussed at 4/30/14 meeting)*

Mr. Hanson said he does not understand why all Boards and Commissions are not uniform by requiring the same amount of alternates. Mr. Urban reminded them that at the beginning of SECTION VI, it says that there shall be no more than 2 alternates appointed to each Board or Commission. Mrs. Campanella said that there was quite a bit of discussion about the fact that Planning Commission frequently uses both alternates. Mr. Urban said again that the fact that it says there shall be no more than 2 alternates appointed, it is really up to the discretion of the Mayor. Mrs. Campanella said she thinks it may simplify things if it was required in the Charter that Planning Commission must have 2 alternate members.

Mr. Welsh asked if there is a way to put all of the alternates together in one statement, so that there are not so many items placed on the ballot regarding alternates for each Board and Commission. Mrs. Campanella said they could require it in the General Provisions section by saying that, “All Boards and Commissions shall have 2 alternates.” Mr. Hanson said it makes sense to put it in that section so that it is uniform for each Board or Commission. Mr. Urban suggested they leave this item on the Master List of Items for Further Discussion.

Item #18 will remain on the Master List.

*Item #19. Discussion of revising the date and changing the review of the subdivision regulations to the review of the Development Code in **ARTICLE VI – BOARDS AND COMMISSIONS, Section 3(b)**. (See 4-30-14 Minutes for discussion.)*

Mr. Urban said that a lot of the dates and things that are stated in the Charter are not happening anymore, which makes them obsolete. He believes that this is one that they could recommend to Council to change through their process.

MOTION: Moved by Mr. Hanson, seconded by Mr. Welsh, to remove Item #19 from the Master List and recommend to Council that they revise the date and change the review of the subdivision regulations to the review of the Development Code in **ARTICLE VI – BOARDS AND COMMISSIONS, Section 3(b)**, due to obsolescence. Motion passed by unanimous acclamation.

Mr. Urban said that the Clerk of Council will not be available next week, he received an email from her, which outlines her concerns. He will share her thoughts with the Commission next week.

There being no further business, the meeting was adjourned at 7:00 p.m.

Date

John Urban, Chairman

Thomas Robenalt, Vice Chairman

Kate Straub, Secretary