

MINUTES OF MEETING
2014 CHARTER REVIEW COMMISSION
MAY 21, 2014

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

Presence Noted: Pamela E. Bobst, Mayor
Mary Kay Costello, Director of Public Safety-Service
Andrew Bemer, Law Director
Sue Whitman, Civil Service Commission Secretary and Director of Human
Resources for City of Rocky River
Mark Bennett, Civil Service Commission Chairman
Michael Harvey, Civil Service Commission Member
Chief Christopher Flynn, Rocky River Fire Department
Lieutenant Stephen Golobic, Rocky River Fire Department
Captain Michael Abdelnour, Rocky River Fire Department
Captain Kevin Bednarski, Rocky River Fire Department
Lieutenant William Crates, Rocky River Police Department

Council Members: Brian Sindelar, At-Large Council Member

Chairman Urban opened the May 21, 2014 meeting of the 2014 Charter Review Commission at 6:00 p.m. in Council Chambers at Rocky River City Hall. All Charter Review Commission members are in attendance.

Mr. Urban asked the Commission if they have any corrections to the Minutes of the May 14, 2014 Charter Review Commission meeting.

MOTION: Moved by Mr. Welsh, seconded by Mrs. Hower, to approve the Minutes of the May 14, 2014 Charter Review Commission meeting. Minutes were approved by majority acclamation (Abstain: Robenalt, Yezbak).

Old Business: Mr. Urban said that the zoning regulation discussion regarding service of notices will held on May 28, 2014 when the Council Clerk will be able to attend.

Mr. Urban said that the Master List will be reviewed in its entirety next week before the Commission finalizes what items will be placed on the ballot and what changes can be made by City Council.

Charter Articles for Review: ARTICLE V – CIVIL SERVICE COMMISSION
Discussion Leaders: Bill Welsh, Michael Yezbak

ARTICLE V – CIVIL SERVICE COMMISSION.

Mr. Welsh said that in ARTICLE V, Section 2A, states that the 3 highest candidates in a promotional examination shall be presented to the Mayor for the position of either Police Chief or Fire Chief. He asked what the protocol is for the promotion of other officers. Fire

Chief Flynn said that the Civil Service Commission will certify the list of scores of those competing for the position of Lieutenant or Captain in the Fire Department and Sergeant or Lieutenant in the Police Department, and the top scorer on the promotional exam is the name that goes to the Mayor for promotion. Law Director Bemer said that the process is pursuant to Chapter 124 of the Ohio Revised Code, which covers all Civil Service appointments. However, our Charter provision specifically regarding Chief of Police and Chief of Fire, deviates from the Ohio Revised Code.

Mr. Welsh said that in ORC 705.23, it reads that the terms for members of the Civil Service Commission shall be staggered, and asked if that is how it works for Rocky River's Civil Service Commission. Mr. Mark Bennett, Chairman of the Civil Service Commission, came forward and said that their terms are staggered, and they have been fortunate in that the members have been willing to continue to serve.

Mr. Welsh said that the Ohio Revised Code addresses the fact that no more than 2 Commission members shall be from the same political party. He said that he looked at 14 other suburbs in Cuyahoga and Lake Counties, and of those 14 suburbs, 3 of them still abide by that. Mr. Bennett said that they do abide by that and they have always been able to find competent, capable and qualified people from both parties. They currently have two Republicans and one Democrat serving on the Civil Service Commission.

Mrs. Hower said that she would like to have an understanding from those in attendance, as to whether they think the way they are doing things is working. Mr. Urban invited the representatives from the Police and Fire Departments to come forward.

Lieutenant William Crates, acting Chief of the Police Department, came forward and said that he believes things are working well and there are no objections from the Police Department in terms of choosing from the top 3 candidates for Police Chief. Fire Chief Christopher Flynn, came forward and said that they have no problems with the way the Charter is structured and things are working well.

Mr. Urban asked how it would work if there were not at least 3 people applying for the Chief's position. Chief Flynn said that the position is open to the next rank down, so when he retires at the end of the year, then the Captains are offered to take the exam. There are 3 Captains in the Fire Department and they each decide if they would like to compete for the position of Chief. There must be a competitive exam, defined as at least 2 candidates for the position. If there are only 2 Captains that are interested in competing, then they can take the exam. In the event that there are less than 2 Captains interested in taking the exam, then the exam would be offered to the next grade down, which is Lieutenant, and any Lieutenant who meets time and grade requirements, may compete. If for some reason only 1 Lieutenant and no Captains want to take the exam, then it is offered to the next rank lower, which would be a fire fighter who had been in his position for at least 4 years. This process is in accordance with the Ohio Revised Code.

Mr. Urban said that his concern was what the Civil Service Commission would do if there are not 3 candidates to certify to the Mayor. Chief Flynn said that if there were only 2 candidates to certify to the Mayor, then those would be the 2 candidates the Mayor would choose from. Law Director Bemer said that he disagrees with Chief Flynn regarding how many candidates must be certified to the Mayor. Our Charter says that if there are only 2 captains who are deemed qualified to take the exam, then it must be opened to the next rank down. It is mandatory in our Charter that the Civil Service Commission must certify 3 candidates to the Mayor to choose from. Mr. Urban asked if they could open it up to outside candidates if there were not enough qualified candidates in Rocky River. Law Director Bemer said that they cannot open it up to candidates outside the City of Rocky River.

Mr. Welsh asked if there are guidelines on how long a ranking officer must hold that position before he is eligible for a promotion. Chief Flynn said he believes they must hold their position for at least 1 year before they are eligible for a promotion.

Law Director Bemer said that at the Charter Review in 2008 there was a very good discussion about changing the position of Chief to a non-civil service competitive choice. The Chief would be a director, totally under the discretionary authority of the Mayor and not based necessarily on merit. He said that the system works as it is and there is no encouragement to modify it.

Captain Kevin Bednarski of the Rocky River Fire Department, came forward and said that he is the President of the labor union and he would like to give an opposing viewpoint to what was just discussed. He said that the firefighters would like this Commission to consider making two changes to the Charter. First, they would like to see the appointment of Chief be solely based on the highest scorer and that the Mayor not be given a choice in that appointment. The reason they ask for that change is because, prior to 1990 when the change was made to the Charter, the testing process for Chief was based on candidates reading books and taking an exam on what they read and the highest scorer was appointed. Captain Bednarski said that the change was made in 1990 to give the power to the Mayor to choose from the top 3 candidates. He assumes it was done in order to give the Mayor the judgment to decide who would be the better manager and the best leader for the Department.

Captain Bednarski explained that the process presently involves an assessment center, which is run by a group of Fire Chiefs from all across Ohio, who share many years of experience in leading various sized departments. The testing process is an all-day event and candidates are put through a variety of situations ranging from paperwork, administrative problems, disciplinary and budget hearings, etc. The candidates are filmed and the Chiefs get together to score/grade each one of them in order to determine who is the best candidate. Captain Bednarski said they believe that determination of who the best candidate is, should be determined by these 6 to 8 very qualified Chiefs from all over Ohio through this very thorough assessment process, without input from the Mayor. The process now is more of a political appointment rather than a safety appointment and he would like the Commission to recommend they return to the highest scorer.

Mrs. Hower asked Captain Bednarski to clarify why he would like to remove the Mayor's judgment from the process, since they work so closely together. Captain Bednarski replied that the Chiefs who do the assessments have a wealth of experience from all over the State of Ohio. They objectively grade each candidate to come up with who they think is the best for the job, and he believes that their assessment should be used without input from the Mayor. He said that it is not his intention to demean this or any Mayor, but their background is not in Public Safety. Mrs. Hower said that in order for her to form an opinion on this matter, she needs to understand the Fire Chief's role in interacting with the Mayor and what their duties are outside of the safety issues that the testing covers.

Mr. Welsh asked if the same evaluation process is used for the Chiefs. Captain Bednarski said that it is currently for the Lieutenants and Captains but they would like to see it for the Chiefs also. Mr. Welsh asked if the police have the same evaluation process. Mayor Bobst said that the police do go through the same assessment process and that it is an excellent process. Captain Bednarski added that the Chiefs who conduct the assessment are not supplied with the names of the candidates they are assessing and, as far as he knows, they do not have any ties to the City of Rocky River.

Mr. Hvizda asked Captain Bednarski if he believes that the positions of Police and Fire Chief are key positions within the City Administration. Captain Bednarski said he believes those positions are key. Mr. Hvizda said that the Mayor is an elected official, who ran and was elected based on an agenda. He asked why the Mayor should not have the option to choose the best candidate to help execute that agenda. Captain Bednarski said that the best candidate for Chief will be presented to the Mayor as a result of the assessment procedure. Allowing the Mayor to choose from the top 3 candidates, could result in the Mayor choosing the candidate who had the lowest score. Mr. Hvizda said that as an entrepreneur, he surrounds himself with the best people possible and that his judgment of who is the best is based on a number of criteria.

Mr. Hanson asked Captain Bednarski if he believes that the examination process tests all qualities necessary for an effective leader, because there are intangible factors that may not be able to be tested. These are qualities that the Mayor looks at when she is determining who to appoint. Captain Bednarski said they cover quite a lot of things in their assessment and they are very thorough. At this point in time, he said it is the best method they have to test candidates.

Mr. Bednarski said that there is one more item that he would like the Commission to consider. The Ohio Revised Code requires that a person be in a firefighter position for 4 years after the 2 year probationary period, before he or she can test for a promotion to Lieutenant. They would like to ask the Charter Review Commission to add a section to the Charter which specifies that time period be only 3 years. The rationale for that is because their hiring standards are much higher today, and the candidates they have now are much more experienced than they were when he was hired. Candidates get extra credit points from fire school and paramedic school, so they are attracting applicants who already have experience in the field when they are hired. The only experience they are lacking at the time

they are hired is Rocky River experience. New hires get meticulous training to meet certain standards along the way, so that at the end of their two year probation, they are ready and well qualified. An additional challenge is that some of their older and more experienced firefighters are not necessarily interested in testing for promotion, so lowering the requirement to 3 years, as opposed to 4 years, would bring a larger pool of applicants to test for the promotions. There are very excellent candidates who would be eligible to take the promotional test after having 3 years of experience beyond the 2 year probationary period. However, those well qualified candidates are excluded by the Ohio Revised Code.

Captain Bednarski continued by saying that Rocky River has a small Fire Department and promotions are hard to come by. There may be some promotions coming up with the Chief's retirement, but there are some very good candidates in the younger firefighters who will be excluded from taking the examination and gaining the chance for promotion. The assessment center will weed out all who are not capable of doing the job.

Mr. Hanson asked if anyone in attendance has any questions or comments about what Captain Bednarski has said. Lieutenant Stephen Golobic said he agrees with Captain Bednarski on a lot of the points he brought up but he would like to make it clear that when he refers to "we", Captain Bednarski does not speak for the union because they have not voted for this as something that they want to pursue. He confirmed that it is a concern that a lot of the members of the Department have, but he thinks that as far as opportunities that come along, they must wait for positions to open up. He cautioned them about making special recommendations for people because they are younger. He thinks that the current system is working well but that there are other people who don't feel that way. Mr. Urban said that there are many professions that have requirements before a person can move up.

Mr. Yezbak asked if this topic is something that can be part of a contract negotiation. Law Director Bemer said that it is not a negotiable item. Mr. Keenen asked how it affects morale and the dynamics within the department when a firefighter takes the assessment and does not do well. Captain Bednarski said he does not believe that there is any effect on morale and they all understand that the best candidate is chosen, based on the assessment. He feels that the assessment center process leads to better morale because in the past, if you could read and understand a book and score well on a test, you could be promoted. Although there is still a book segment to the test, the weight of the book segment is only a factor in the overall score.

Chief Flynn said that in actuality, everybody knows what each other scored on the test because they consult one another after they receive their results. The important thing about the assessment center is that you get a report back from those who assessed you, that not only gives scores, but they provide links to resources so the firefighter can improve in whatever area he or she is lacking. He is very much in favor of going to the assessment center type test for the Fire Chief position that will open up after he leaves. He added that he disagrees with Law Director Bemer as to whether there has to be 3 qualified candidates certified to the Mayor for the position of Chief.

Mr. Hanson asked Chief Flynn for his opinion about the length of the probationary period and the amount of time they have to wait to be qualified to test for a promotion. Chief Flynn said that the 2 year probationary period is a good idea because during that time, they are able to assess each firefighter's competency at all facets of the position. Regarding the 4 year waiting period following the 2 year probationary period that is in the Ohio Revised Code, he said that he does not think that there would be a whole lot of difference between 3 and 4 years, because they are really talking about a total of 5 years and 6 years if you include the probation period. He does not see the harm in going to 3 years instead of 4 years.

Mr. Robenalt asked if there is a limit on how many Captains and Lieutenants there can be and whether having an expedited process for those positions would put an additional financial strain on the Departments. Chief Flynn said that the Codified Ordinances specify 3 Captains, 6 Lieutenants and 18 firefighters, a Fire Prevention Officer and a Fire Chief. Mayor Bobst added that there is only testing when there is an opening.

Law Director Bemer explained that the scores for all 3 of the candidates that were certified to the Mayor for Police Chief were very close, which was somewhere in the 90th percentile. The point is that once they go through the basics of being either a patrolman or a firefighter then move up in rank, and by the time they test for Chief, they are very sharp, well trained candidates.

Mayor Bobst came forward and said that she and Captain Bednarski agree on most things, and the assessment center is clearly one of those things. They saw it work beautifully with the Police appointment to Chief. The scores were extremely close and she interviewed all 3 candidates. The assessment center is a group of Chiefs from around the State who are very skilled and have worked in a variety of settings and enjoyed success themselves. She also very much appreciates another part of the process, which is where they come in prior to the assessment and ask the Administration what is important to Rocky River as a community. There are very specific questions and exercises that they take the candidates through in order to glean information about the candidates that is important to the City. There is a phase in the process that begins with conversations with the leadership in the City and they will have meetings with firefighters, the Chief, the Mayor and others to find out what is important to the City and to the Department. However, at the end of the day, those performing the assessments do not know our community aside from what is shared with them in conversation. She said they very much support the assessment center process and will ask the Civil Service Commission to move ahead with an assessment center process for Fire Chief because the system has worked.

Mayor Bobst continued by saying that the assessment center scoring is somewhat subjective and, as it has turned out in the past, scores are very, very close. To those who fear that the system could be manipulated, Mayor Bobst said that if they just took the highest scorer, who is to say that a person wouldn't be taking that test to be a placeholder because they want one specific person to be Chief. She doubts that it would ever happen that way because they have a great department and they have a great relationship. When she interviewed the 3 candidates, they all had different skillsets beyond what the assessment center and tests

evaluated. For instance, Lieutenant Crates has skills in IT that were beyond the other two individuals, who had other skills of their own. There are attributes of candidates that are beyond the assessment center and a didactic test that you would want the opportunity to interview those candidates and select the best choice for the City. Mayor Bobst said she was elected to make sure the department is well served and she wants the best person running the Fire Department because they and the Police Department are both a source of pride for this community. She added that if one candidate scored in the 90th percentile and two scored in the 70 percentile, but they all passed, it would be very, very unusual that she wouldn't select the individual who is head and shoulders above. However, if for any reason, a Mayor does not believe that candidate would be well suited for the position, then there is that final layer. Mayor Bobst said that she would never want any language that says that they can go outside if they don't have a certain number of candidates because their job is to make sure there is leadership in the firehouse that can move up the ranks. She believes that any Mayor would want to promote from within and it is their job to make sure they have all of the coursework skills and opportunities to ascend to the position of chief.

Mr. Welsh asked what the purpose of the assessment is if they determine the top scorer and the Mayor would not choose that person. Mayor Bobst said that they test in many areas, and it is important that they do that. The assessment is a wonderful tool for those who want to take it because they learn a great deal from it and it is a good tool for the Administration to evaluate them, as well. It is important to know how that individual will interact with their entire leadership team in the City, which is critical.

Mr. Yezbak asked if they could incorporate both ideas by saying that the 3 candidates must score above 90 percentile. Mayor Bobst said that the Civil Service Commission sets the minimum qualification for an eligible applicant and they could set the passing score to be higher if they so desire. She believes that the higher the passing bar can be set, the better.

Mr. Urban thanked Mayor Bobst for her comments and invited the Civil Service Commission to the podium. Mr. Mark Bennett, Chairman of the Civil Service Commission, Mr. Michael Harvey, Civil Service Commission Member, and Sue Whitman, Secretary to the Civil Service Commission, came forward. Mr. Bennett said that Michelle Sheehan regrets that she is unable to make this meeting due to a matter at work that requires her to be downtown.

Mr. Bennett said that they follow the Ohio Revised Code Section 124.45 and feel they should continue to do that. The firefighters are wonderfully qualified and eager to move up to the positions of Lieutenant and Captain, and he is hopeful that they will have as much excitement for the position of Chief. They have not yet decided as a group what the passing grade percentage will be for the Fire Chief yet, but he feels they will make it as high as they possible can while still being true to Ohio Revised Code. They think it is a great tool to be used by the Mayor to get her 3 candidates so she can decide which one she believes is the best fit. They believe that there is a community service aspect to the positions of Police Chief and Fire Chief and there is a lot more to the job than simply who had the best score. There is a lot of interacting with the Mayor, the community, and other members of the Administration. It is their hope that this Charter Review Commission will not consider

making a change to this section. Councilman Sindelar said he agrees that it behooves the City to have the Mayor be the final layer.

Civil Service Commission Member, Michael Harvey, said that he firmly believes a Charter should be dealt with in a very conservative manner and not changed unless there is truly an egregious reason to do so and something is really not working. In his experience as part of search committees, they always give 3 candidates to the Chief Executive, who are usually all pretty closely aligned and qualified. He thinks that the way things are done works just fine.

Sue Whitman, Civil Service Commission Secretary and Human Resources Director for the City of Rocky River, came forward and said that she would like to make a comment from her perspective as Human Resources Director for the City. Based on many years of experience, a test score is only part of the picture in any selection process. The one-on-one interaction with the candidate in the actual interview setting is necessary in order to know which candidate is the best qualified.

Mr. Hanson asked Mr. Bennett for his comments on the waiting period for candidates following their probationary period. Mr. Bennett said that he believes that if it isn't broken, then don't fix it. They are following the Ohio Revised Code and since they have home rule, it can be changed if they want to. It seems to be working extremely well and we might as well keep it that way. Going to the citizens for a vote seems to be reserved for issues that aren't working and for situations when we have a problem that is causing the need for that extreme step to change it.

Mr. Urban said that will conclude the discussion on Article V – Civil Service Commission and asked if anyone would like to add anything to the Master List of Items for Further Discussion. None of the Commission members suggested additions to the Master List.

Mr. Urban said that they have 3 remaining Master List items to discuss and there will be a final review at the end to be sure they all understand how each issue will be handled. Item No. 1 on the Revised Master List will be held for when the Clerk of Council is in attendance next week.

MASTER LIST DISCUSSION

Master List Item #2: *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.** (See 4-9-14 Minutes for discussion.)*

Mr. Urban said that the Charter requires that 10 copies be available in the Council Clerk's office and that nobody ever comes in to pick them up. Law Director Bemer said that they discussed this previously and that is something that can be referred to Council to change by Ordinance because it is archaic or obsolete and it is not Statutory.

MOTION: Moved by Mr. Robenalt, seconded by Mr. Welsh, to remove Item #2 of the Master List and recommend that Council make that revision by Ordinance. Motion passed by unanimous acclamation.

Master List Item #3. *Discussion of adding Economic Development matters to the list of matters that are eligible for closed meetings (Executive Session) in ARTICLE X – GENERAL, Section 6. Open Meetings. (See 5-7-14 Minutes for discussion)*

Law Director Bemer said that he would like to discuss whether they should add this to the Charter. He brought this to their attention simply because it is a consistency issue in our Charter versus the Ohio Revised Code.

The City's process for how they conduct Executive Sessions and when they use that process was discussed. The Commission decided that it is not necessary to change the Charter to include Economic Development issues because matters eligible for Executive Session are governed by the Ohio Revised Code.

Mr. Urban said that they will review the only remaining Master List Item at next week's meeting.

There being no further business, the meeting was adjourned at 7:30 p.m.

Date

John Urban, Chairman

Thomas Robenalt, Vice Chairman

Kate Straub, Secretary