

MINUTES OF MEETING
2014 CHARTER REVIEW COMMISSION
MAY 28, 2014

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

Presence Noted: Pamela E. Bobst, Mayor
Andrew Bemer, Law Director

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

Chairman Urban opened the May 28, 2014 meeting of the 2014 Charter Review Commission at 6:00 p.m. in Council Chambers at Rocky River City Hall. Mr. Hvizda is not in attendance.

Mr. Urban asked the Commission if they have any corrections to the Minutes of the May 21, 2014 Charter Review Commission meeting.

MOTION: Moved by Mr. Welsh, seconded by Mr. Robenalt, to approve the Minutes of the May 21, 2014 Charter Review Commission meeting. Minutes were approved by unanimous acclamation.

Mr. Urban said that this should be their last meeting. The Clerk of Council will speak tonight about her duties under Section 12 and 13 of Article III – THE COUNCIL. They will then review what they have decided will go to the ballot and what will go to City Council. The minutes for this meeting will be approved when they attend the Council Meeting to present their recommendations to them.

ARTICLE III – THE COUNCIL. Section 12 and 13.

Clerk of Council, Misao Kurokawa, came forward and introduced herself, saying that she has been Clerk of Council for 14 years. Regarding the Certified Mail issues under Section 13, Enactment of Zoning Ordinances, Ms. Kurakawa said that they have had 20 rezoning Ordinances in the last 15 years. She feels that Certified Mail service will eventually go by the wayside because people are not at home during the day like they used to be. If nobody is home to receive the Certified Mail letter, then a notice is left at their door that says the letter will be available for pick-up at the Post Office. She has found that most of the time these notices are not picked up by the residents and the letter is eventually returned to her office, unclaimed. Ms. Kurakawa said that this is not such a large issue to her, and it would be fine if this Commission does not want to put it to a vote. When she discussed this with Mayor Bobst, she suggested that it could be changed to be consistent with State Statute, which simply requires notices be sent via First Class Mail. Ms. Kurakawa added that such a change would also satisfy any future needs, as mailing options may change.

Mr. Urban said that State Statute requires that notices of requests for rezonings be sent via regular U.S. Mail, which could be better than the Certified Mail option because of the fact that sometimes the Post Office takes weeks to return notices that were never claimed. Ms.

Kurokawa agreed and said that they are very careful because they want to do the right thing and be sure everyone is notified. In her time as Clerk of Council, she has never had a person come to her saying that they were not aware of a particular rezoning. She said that one option would be for a Clerk to certify that notices were sent to a particular list of names and addresses. She added that the City does not encourage spot rezonings and they really want people to know what is happening.

Mrs. Hower asked Ms. Kurokawa if she knows what the original intent was when they mandated Certified Mail. Ms. Kurokawa said that she thinks it was made mandatory because they wanted people to know about rezonings, and they also wanted to be able to show that it had been done properly. Ms. Kurakowa said that she usually sends 50 to 75 mailings per zoning ordinance, and she guesses that 25% come back to her without having been delivered. The cost per certified letter is \$4.68 and the cost will continue to increase.

Ms. Hower said she is not sure that this is a big enough issue to put on the ballot. Law Director Bemer said that it is important to understand that rezoning ordinances are always referred to the Planning Commission. The Planning Commission holds their own public hearing for the preliminary review of the rezoning ordinance, for which notices are sent to residents within 150' of the subject property. Planning Commission will or will not recommend the zoning ordinance and it then goes back to City Council for another public hearing. There is a multi-layer process and more than one public hearing for each proposed zoning change.

Mr. Welsh asked if this could be changed by Ordinance and not go to the ballot. Mayor Bobst said that this requirement exceeds what is presently required by State Code and to change it, she believes that it would be necessary to go to the ballot. Mr. Urban pointed out that the State statute added the regular mail requirement in 1970 and the City of Rocky River added the Certified Mail requirement to this section after that. He agrees that this exceeds the State statute and should be a ballot change.

Mrs. Hower said that it seems like it is more of an inconvenience than a detriment to the Clerk of Council's job. In her opinion, Certified Mail comes with a sense of priority/urgency, which is the reason she hesitates to put it on the ballot. Mr. Urban said that if 25% of them are being returned unclaimed, then those people have not received notice. He thinks a good lawyer could make the argument that the City of Rocky River is overriding the State statutes by requiring Certified Mail. Mrs. Hower said that she still sees it as a convenience issue for the City. Mayor Bobst said that there is a timing issue involved in that the Clerk of Council is required to send the notices out a certain amount of days in advance. If the notices come back unclaimed, then the Clerk sends them via First Class Mail in time to meet that requirement.

Ms. Kurakawa said that it takes about 3 weeks for notices to come back to the City because the Post Office allows a certain amount of time for the recipient to claim the Certified Mail. When she receives the unclaimed notices back from the Post Office, she then sends them out via regular mail and, by that time, the residents only have about 1 week notice prior to the

public hearing. It was mentioned that they could send a notice out via regular U.S. Mail at the same time they send the Certified Mail notices. It was also mentioned that they could get a Certificate of Mailing from the post office for each Notice. Law Director Bemer said that the notices for the other land use commission go out via regular mail, and this is a matter of redundancy. The chances of someone not receiving the notice are nill and slight.

Moved by Mr. Robenalt, seconded by Mr. Welsh, to add removal of the requirement that notices of public hearing be sent by the Clerk of Council via *Certified Mail* and substitute the language "...by *First Class Mail or in accordance with the Ohio Revised Code.*" in **ARTICLE III – THE COUNCIL, Section 13, Enactment of Zoning Ordinances**, to the Master List of Items for Further Discussion. Motion passed by majority acclamation (7 Ayes – 1 Nay (Hower)).

REVIEW OF ITEMS FOR BALLOT

Mr. Urban said that they will now go over the items the Commission has decided to put on the ballot. He said they will start with this same discussion, since it is still fresh.

1. Remove of the requirement that notices of public hearing be sent by the Clerk of Council via *Certified Mail* and substitute the language "...by *First Class Mail or in accordance with the Ohio Revised Code.*" in **ARTICLE III – THE COUNCIL, Section 13, Enactment of Zoning Ordinances**.

Discussion was had as to whether there is an explanation included on the ballot to help voters understand exactly what is being changed and why. Law Director Bemer read an example of ballot language from 6 years ago, which did not provide any explanation, and said that the Board of Elections writes the language that ultimately goes on the ballot. Mayor Bobst said that prior to the election, the League of Women Voters sends out information to the residents and that the changes, as well as the reasons for them, are also reported in the newspapers. The City also has the ability to send out educational materials to the residents, as well. If the City chooses to send out educational materials, Mayor Bobst said that they are very careful that the materials are strictly for informational purposes and it is clear that the City does not take sides.

Moved by Mrs. Campanella, seconded by Mr. Hansen, to remove of the requirement that notices of public hearing be sent by the Clerk of Council via *Certified Mail* and substitute the language "...by *First Class Mail or in accordance with the Ohio Revised Code.*" in **ARTICLE III – THE COUNCIL, Section 13, Enactment of Zoning Ordinances**. Motion passed by majority acclamation (7 Ayes – 1 Nay (Hower)).

2. **4 Year Terms for Mayor, Council Members and Law Director.**

Mr. Urban said that at an earlier meeting, this Commission moved to add 4 year terms to the ballot. He asked if there is any further discussion about the terms of office for the Mayor, Council Members and the Law Director being changed to 4 years.

Law Director Bemer said that he reviewed the minutes of these discussions and there is an overriding philosophy that he believes should be applied to this process, which is that items that are working need not be changed. In other words, if it is not broken, then there is nothing to fix. The point of the Charter Review Commission is to identify items that are not working, rather than looking for a survey of the public. What this Commission has heard from all of the elected officials is that there are ethical responsibilities with the charge of their office, which include being accountable to the electorate. Being up for election every 2 years ensures that officials are accountable. This Commission has not heard from any public officials that have said that they don't believe they need to be that accountable to the electorate. In fact, they have heard quite the contrary from them. Mr. Robenalt said that when this was on the ballot 12 years ago, approximately 73% of the electorate voted to keep the terms at 2 years. He shares similar concerns as Law Director Bemer, because every elected official who came to the podium to discuss this issue recommended that they not change the terms to 4 years. Mr. Yezbak said that he also agrees with the Law Director and he is not sure why they are proposing a change since nobody has come forward and recommended that the terms be lengthened.

Mrs. Hower said that some of the benefits that they have to look at regarding changing the terms to 4 years, is that you can get a larger pool of candidates because they would be more interested in running for a position with a 4 year term. She recalled that a citizen came forward and suggested it be changed but none of the elected officials did. Mr. Welsh added that all of the other West Shore communities have 4 year terms.

Mrs. Hower asked if anyone knows of any other benefits of 4 year terms that would justify putting it on the ballot. Mr. Welsh said he thinks it makes it easier for the candidates because they do not have to go to the people every year for campaign donations. In addition, he recalls that Mr. Hvizda suggested that it is a matter of job security. With elections every 2 years, he said that a person will be hesitant to run for office. He said he thinks the voters should have the choice of whether they want their officials in office for 4 years or for 2 years. He added that 4 year terms also provides a cost savings for the City.

Council President Moran said that comments have been made about how someone might change the way they do things, depending on the length of their term. He said he sure hopes that a person who is running for an elected position is doing it because they want to do it, regardless of the length of the term. He believes that the emphasis should be on the quality of the job that the person does. He does not believe that the length of term of office would pull a lot more people toward running and it would not push them away either. Council members are somewhat split on this issue and some believe it would be nice, but there is no real need to change it. He added that it would be a difficult issue to present to the electorate because they will wonder why it is even coming up.

Mr. Robenalt asked Mayor Bobst what her thoughts are on this issue. Mayor Bobst said that she believes that this is about momentum. With 2 year terms, they are completely focused on the promises that they made and the goals that they set for themselves, as well as their service

to the community. The level of civic engagement has been called the best predictor of a community's success, and with voting every 2 years, there are residents who are continually paying attention to the work that the elected officials are doing. By proposing 4 year terms, they are telling the electorate that they only want them to be engaged half of the amount of time.

Mayor Bobst said that the comments that have been made about the fact that someone would not want a 2 year term because it is not long enough for them, concerns her. She said that Mr. Hvizda mentioned at an earlier meeting that there could be an issue with people even wanting to work for the City of Rocky River because of only 2 year terms. Mayor Bobst said that they have stacks of resumes from interested applicants and one of the finest staffs that any community would ever want. She said that other communities call our Directors for input and many of our Directors have served for four Mayors. She believes that this is about good governance and momentum, as well as the engagement of our residents and allowing them to have a voice in local government. She cannot justify the point that Mr. Welsh makes that it is a matter of convenience for the benefit of only 9 elected officials when there are 20,000 residents in the City. Mayor Bobst said that she thinks people still need to be engaged and she supports 2 year terms for the Mayor, for Council members, and for the Law Director. She also thinks that they should all continue to run at the same time, because she believes it creates teamwork and it is smart government. She added that they all don't always agree, but they are all absolutely committed to the process of serving our residents.

Mrs. Hower said that the Mayor's argument is hard to disagree with. Mr. Robenalt agreed and said that the Mayor's message was very well said. Mr. Urban said that if the electorate believes that an elected official is not doing a good job, with 2 year term they can remove them from office sooner than they would be able to with 4 year terms. He suggested that the 2 year terms and the resulting higher level of engagement could also be a reason why they have not had a lot of the electorate in attendance at these meetings.

Moved by Mr. Robenalt, seconded by Mrs. Hower, to remove 4 year terms for the Mayor, City Council Members and the Law Director from the items previously recommended to go to the ballot. Motion passed by unanimous acclamation (7 Ayes – 1 Nay (Welsh)).

Mr. Urban said that he wanted to get that topic out of the way because Mr. Welsh needs to leave the meeting early. Mr. Welsh excused himself from the meeting.

2. Revise the second sentence of **ARTICLE II – THE MAYOR, Section. 2. Qualifications** to read: *“He shall not hold any other **compensated elected public office, [add comma] or public employment** of either the City of Rocky River or the Board of Education of a school district including within such district a portion of the territory of the City of Rocky River, nor shall he serve as Director of Finance.”* Mrs. Hower said that this would allow the Mayor to hold a compensated public office, but not an additional elected public office. They agreed that it would be a good thing for the City if the Mayor sat on other boards, regardless of whether they are compensated or not. However, this change does not allow the Mayor to hold any other compensated **elected** public office. Mrs. Campanella

reminded the Commission that they voted to add a comma to that sentence to better clarify the intent. There was no further discussion on this item and the Commission decided that it would remain on the list of items to go to the ballot.

3. Revise the last sentence of **ARTICLE III – THE COUNCIL, Section 3. Qualifications**, to read: “*No member of Council shall hold any other compensated elected public office, [add comma] or public employment of the City of Rocky River.*” Mr. Hansen asked Council President Moran if he has any comments about that proposed ballot issue. Mr. Moran said that he has no comments and the concept of wanting to make sure that the community is getting 100% of the elected officials’ time is understandable. There was no further discussion on this item and the Commission decided that it would remain on the list of items to go to the ballot.

4. Change the language regarding the organization in **ARTICLE VI – BOARDS AND COMMISSIONS, Section 2(a)**, to read “*...at least three (3) of whom shall be architects or professional engineers duly licensed or registered by the State of Ohio to practice their profession.*” There was no further discussion on this item and the Commission decided that it would remain on the list of items to go to the ballot.

5. Change the language in **ARTICLE VI – BOARDS AND COMMISSIONS, Section 5(a)**, to read, “*Each member of the Design and Construction Board of Review shall be an architect or engineer duly licensed or registered by the State of Ohio to practice their profession.*” There was no further discussion on this item and the Commission decided that it would remain on the list of items to go to the ballot.

REVIEW OF ITEMS NOT FOR THE BALLOT

CHANGES RECOMMENDED TO BE MADE BY COUNCIL ORDINANCE

1. Removal of the phrase “...but without the necessity of competitive bidding” in **ARTICLE III – THE COUNCIL, Section 19. Independent Audit**. Mr. Urban said that the Finance Director indicated that the City is required to hire auditors from a list that the State provides, and the City cannot put this out for any type of bidding. This is considered obsolete language and can be changed by City Council Ordinance. There was no further discussion on this item and all Commission members confirmed their previous votes to recommend that City Council make this change by Ordinance.

2. Removal of “personal property” from **ARTICLE VII – FINANCES, Section 1. Tax Limitation, (A) and (B)**, as it is not consistent with state law. Mr. Urban said that this is not consistent with State law anymore, and personal property is no longer taxed. There was no further discussion on this item and all Commission members confirmed their previous votes to recommend that City Council make this change by Ordinance.

3. 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)**. Mr. Urban said that this is also governed by State law and the dates, as well as some of the language in this section are obsolete. There was no further discussion on this item and all Commission members confirmed their previous votes to recommend that City Council make this change by Ordinance.

4. Revise the last sentence of **ARTICLE III – THE COUNCIL, Section 18. Adoption of Ordinances by Reference**, to be in accordance with the Ohio Records Act or Freedom of Information Act. Mr. Urban said that there was discussion about the Ohio Records Act or Freedom Act and there is language in this section that is obsolete. This Commission previously decided to change this section to make it in accordance with the Ohio Records Act or Freedom of Information Act.

5. Eliminate the reference to *“at least 10”* copies of Ordinances and codes and revise the sentence to read *“In any such instance copies of such code shall be available for sale in the office of the Clerk of Council for reference by interested parties.”* in **ARTICLE III – THE COUNCIL, Section 18. Adoption of Ordinances by Reference**. Mr. Urban said that this Commission agreed to remove the reference to the number of copies that are required to be available in the Clerk’s office. This section was written when there was no other type of media available to the public. Today’s technology offers electronic transmission, etc. In addition, nobody has requested a hard copy of these Ordinances from the Clerk of Courts for a long time, and if someone does make that request, a hard copy can be provided and/or a copy can be e-mailed. There was no further discussion on this item and all Commission members confirmed their previous votes to recommend that City Council make this change by Ordinance.

Moved by Mrs. Hower, seconded by Mrs. Campanella, to forward these items to City Council with a recommendation to make these changes to the Charter by Council Ordinance.

Council President Moran thanked the Charter Review Commission and commended them for their very thorough and detailed review of our Charter. The suggestions that they have made are excellent and City Council will consider each recommendation very seriously.

Mr. Urban acknowledged that there are no members from the public present at this meeting but said that Captain Bednarski submitted a letter to them. He has not had the opportunity to read the letter because it was submitted just prior to this meeting. He thinks it is just a clarification of what Captain Bednarski said at last week’s meeting and his recommendations regarding how the Chief of Fire and Chief of Police should be chosen. They had a very lengthy discussion last week and it was the opinion of this Commission that they would not make any changes to how the City of Rocky River appoints their Fire and Police Chiefs. Mrs. Hower said that she is in total agreement that she would not want to make any change to the process, but she appreciates Captain Bednarski’s input.

Mr. Urban asked if there are any other items this Commission would like to discuss. Mr. Robenalt said that he would just like to bring up the fact that he received a recommendation from Dave Strang, a resident of Rocky River, to consider making a change to the Charter to require the City auditors to use Generally Accepted Accounting Principles (GAAP). The City of New York did this beginning back in the late 1970s, which Mr. Strang relayed to him is the reason why they are not in any type of situation similar to Detroit. Mayor Bobst said that it is a better question for the Finance Director and said this Commission may want to discuss this with him. She said that they are governed by the State Auditor, so she is not sure she understands Mr. Strang's recommendation. Mr. Robenalt said he would forward Mr. Strang's recommendation to the Mayor for further review. Council President Moran said that they are mandated by the State to follow certain principles and the City has additional review procedures in place.

Mayor Bobst thanked the Commission for their service and said that she would love to hear from all of them, now that their service in this capacity has ended. If any of the Commission members are interested in continuing their service, she said that there are openings on the Boards and Commissions and other positions from time to time. She encouraged them to send her a letter of interest along with their resume if they are interested. Mayor Bobst thanked the Commission for their diligent and meaningful work.

Mr. Urban thanked Mayor Bobst and the Council members for their assistance and said that their input really helped this Commission to understand how things work in Rocky River. He thanked the members for their attendance at the meetings and the preparation they did for each session.

Mrs. Hower said she would like to say that she is honored to serve on the Charter Review Commission and she is grateful that she was asked to be part of this group. When she began this process, she was not aware of how the City Government actually works, and she is so glad to have learned how great it actually runs. She has so much more faith in our elected leaders than she ever thought she would have prior to joining this Commission.

Mr. Hansen said that he is amazed to have learned how dedicated all of the elected officials are and how involved so many people have been in this process. He was impressed by the involvement of the members of our Boards and Commissions and the fact that so many of them showed up when they reviewed those sections. This has been a great learning experience for him and he is grateful for everyone's dedication.

Mr. Keenan said he has learned a lot during his time on this Commission, and he is impressed with the number of involved and informed people who contributed. The discussions were very thorough and he thinks that the dedication of his fellow Commission members is very uplifting. He added that he knows of an attorney who just moved from Cleveland to Rocky River this past year. This person told him that, up until he moved to Rocky River, he was a proponent of regionalism, but he no longer feels that way. He said he is impressed by how smoothly things in the City operate. Mr. Keenan said that the things

this community offers are second to none and he thanked everyone present for this great opportunity.

There being no further business, the meeting was adjourned at 7:40 p.m.

Date

John Urban, Chairman

Thomas Robenalt, Vice Chairman

Kate Straub, Secretary