



Charter Review Commission

January 22, 2019 Regular Meeting Minutes

Village Hall

Call to Order:

The meeting was called to order by Chair Cooke at 4:00 p.m.

Roll Call:

Andy Cooke, Chairperson	P
Patrick Weyers, Vice Chair	P
Debra Lowery	P
Bill Carleton	P
Johnna Evans	A
Mary Fee	P
Glenn Redick	P

Clerk Mason reported that she received an email from Member Evans who could not attend due to illness.

Council/Staff members present: Council Member Matt Shull, Council Member Chip Fellows, Police Chief Greg Jones, City Manager Joseph Stefanov (arrived later), Finance Director Bethany Staats, Mitch Banchefsky, Law Director, and Jennifer Mason, Clerk of Council.

Approval of the December 18, 2018 meeting minutes:

Chair Cooke asked if members had reviewed the proposed December 18, 2018 meeting minutes. Hearing no changes, Member Carleton moved to adopt the December 18, 2018 meeting minutes. Member Redick seconded and all members voted to adopt the minutes.

Approval of the Agenda:

Member Carleton moved to approve the agenda. Vice Chair Weyers seconded and all members voted to approve the agenda.

Hearing of Visitors:

Clerk's note: Members chose to wait until City Manager Joseph Stefanov arrived to have he and Chief Jones address the CRC.

Law Director Mitch Banchefsky reminded the CRC that the next meeting would cover the remaining articles in the Charter. Law Director Banchefsky also stated that he would

be seeking out the Franklin and Licking County Board of Elections to determine what would be the best way to present the many likely changes to the city's Charter on the ballot. Law Director Banchefsky proposed that council passing an ordinance which would then would get placed on the ballot could be the preferred method.

The below discussion happened upon the arrival of City Manager Joseph Stefanov.

Discussion of lieutenant/deputy chief position - classified versus unclassified

Law Director Banchefsky told the CRC that, under the current charter language, any police position under the level of chief was classified, received the protections of the city code, and could only be terminated with cause. Unclassified employees served at the pleasure of the city manager. If there were philosophical or management-style differences, an unclassified employee could be let go without cause.

Police Chief Greg Jones and City Manager Joseph Stefanov were proposing a change to the charter language so that any employee at or below the level of sergeant would be classified. A lieutenant or deputy chief of police would be unclassified.

City Manager Stefanov distributed copies of New Albany Codified Ordinances section 155 Personnel Policies and the city's pay and classification sheet from the city's 2019 budget. The purpose of the handout was to show city positions that were unclassified. Generally, anyone who was in a managerial role was unclassified. A lieutenant or deputy chief would function as a direct assistant to the chief. That person would serve at an executive level, be involved in hiring and termination decisions, perform employee evaluations, and serve as acting chief in the chief's absence. As all of the city's departments grew, City Manager Stefanov envisioned more deputy department heads. City Manager Stefanov described the associated paygrades for those in the managerial positions.

Police Chief Greg Jones explained the current structure of the police department. A new lieutenant position in New Albany could look different than other city's versions. He expected a lieutenant to be involved in the leadership of the department and act as deputy chief. The lieutenant would make larger decisions and independent decisions in some cases.

City Manager Stefanov told the CRC that the city's overall employment track record had been steady, with the most turnover in the Finance Director position. The city promoted creative problem solving and having room for differences of opinion. City Manager Stefanov did not see that changing in the future. Council Member Shull noted that, even though department heads were unclassified, there were still checks and balances built in. The city's employment stability and longevity were testament to good management.

Law Director Banchefsky asked and City Manager Stefanov confirmed that any deputy director would served at the pleasure of the city manager. City Manager Stefanov talked

about past deputy directors and why those city positions had changed. He expected more deputy directors on city staff a few years out.

Law Director Banchefsky reviewed the proposed language for charter section 8.07(B). Positions at or below the level of sergeant would be classified. A position of deputy chief or lieutenant would be unclassified.

Member Redick stated he had not changed his stance. He expressed that anyone below the chief ought to be entitled to civil service protection. The police department was a quasi-military operation and the chief was the ultimate decision maker. Chair Cooke pointed out that the deputy chief would serve as chief if the chief were absent or incapacitated. Member Redick stated that situation would be time-limited. City Manager Stefanov asked and Member Redick opined that police operations were much different than other city departments. Member Weyers asked and Member Redick answered that it wasn't realistic to run police departments by committee. Member Weyers noted the tight relationship between a chief and a deputy chief as being a reason he would support making the new position unclassified.

Member Lowery asked and Police Chief Jones replied that it would be helpful, when going into negotiations, to have someone who was a subject matter expert, like a lieutenant, who could also offer support on the management side. Attorneys and human resource officers are helpful, but they don't do police work. At one point, the city had a sergeant who was well versed with negotiations, he was also an attorney. Police Chief Jones agreed that the chief was the ultimate decision maker and also understood that a lieutenant or deputy chief would have significant influence on management decisions. Member Redick stated that he worked in the Columbus City Attorney's office for 27 years and represented the Columbus Division of Police, so he had some familiarity with the process. His only consideration was whether the new position would have civil service protection.

Council Member Fellows asked and City Manager Stefanov answered that he recommended the lieutenant be unclassified so as to be consistent with other deputy directors in other city departments. He believed that when a person rose to a deputy director level position, it was uncommon to be treated as a "rank and file" civil service employee.

City Manager Stefanov asked and Member Redick did not recall where the classified/unclassified line was drawn at the City of Columbus while he was there. Member Redick did not think the agencies could be compared. The CRC and staff discussed the status of the current sergeants who did not opt into the collective bargaining agreement, however, they were still classified employees.

Member Weyers asked and Police Chief Jones replied that the biggest difference between classified and unclassified employees was the removal process which was

different under Codified Ordinance section 155 than under the collective bargaining agreement.

The CRC and staff discussed when leadership style differences could be considered cause for termination. Police Chief Jones noted that the police department had a set of directives. Typically, removal of an officer was tied to a violation of a directive, ethics, or law, not a difference of opinion. City Manager Stefanov gave the example of a manager who acted strictly within the guidelines and policies of the organization, but who was toxic as a leader and created a toxic environment for employees. Under the civil service contract, it would be impossible to let go of that person. Police Chief Jones did not want a problematic leader as second in command at a small police agency as the impact would be big.

The CRC discussed options for moving forward on this issue. Chair Cooke noted that the CRC was making recommendations to council. The CRC discussed potential language. Chair Cooke understood that the current recommended change to Section 8.07 Personnel Systems, Subsection (B) Classified and Unclassified Service was, "All original appointments and promotions to full-time positions at or below the level of sergeant within the Division of Police and fire shall be within the classified service." Law Director Banchefsky confirmed.

Member Lowery moved to approve the change as stated by Chair Cooke. Member Carleton seconded, and five members voted in favor of the motion, one member opposed (Redick). Motion passed.

Approval of Revisions:
Articles VII & VIII

Law Director Banchefsky reviewed the changes in the memorandum for Meeting #6 (attached), including section 8.07 which was just discussed and voted on by the CRC.

Member Fee moved to approve of the changes to Articles VII and VIII per Law Director Banchefsky's Memorandum (attached). Chair Cooke seconded and five members voted to approve the changes, one member was opposed (Weyers).

Member Weyers stated he wasn't present at the prior CRC meeting. For the record, his objection was with a change in section 7.01. His preference was for the manager to be a resident of the city.

Review of New Albany Charter:

Clerk's note: Discussion of this item started during the Hearing of Visitors while the CRC waited for City Manager Stefanov to join the meeting. After City Manager Stefanov arrived and both he

and Police Chief Greg Jones addressed section 8.07 (above). Afterwards, the CRC returned to this discussion. See Clerk's note below for resumption of discussion.

Article IX - Taxation, Borrowing, Budgeting and Contracting Procedures

Law Director Banchefsky introduced Article IX: Taxation, Borrowing, Budgeting, and Contracting Procedures. His suggested changes to this Article included the usual "village" to "city" and "administrator" to "manager." He introduced Finance Director Bethany Staats.

For Section 9.03 Operating Budget and Appropriation Ordinance, first paragraph, Finance Director Bethany Staats asked if there should be additional language that stated that the tax budget was also required by the counties. Law Director Banchefsky asked and Director Staats answered that the counties have the ability to waive the requirement for a municipality to submit a tax budget. Director Staats told the CRC that Franklin County currently required a tax budget and Licking County waived it. She explained that tax budgets weren't particularly valid because they were prepared six months prior to the beginning of the year being budgeted. Director Staats clarified that the Ohio Revised Code, which was specified in this section of the Charter, already contained language regarding the counties.

For Section 9.03, second paragraph, Director Staats told the CRC that the city's proposed operating budget did not contain a recommended appropriation ordinance. For 2018 and 2019, the ordinance accompanied the proposed budget instead of being within the budget document. She recommended changing the charter language to read, "The proposed operating budget shall be accompanied by a recommended appropriation ordinance." This language would allow more flexibility with council's preferred appropriation levels and individual budget lines would not be restricted. When there were individual line item restrictions, finance staff would have to come back to council frequently to move small amounts of money which wouldn't be efficient. Law Director Banchefsky asked what "accompanied" would look like. Director Staats replied that the ordinance would be presented at the same time as the operating budget. City Manager Stefanov told the CRC that the budget book had multiple levels of detail from summaries down to minute line items. Law Director Banchefsky asked if the language should read "shall contain or be accompanied by" to keep both options open. Director Staats stated she would be okay with that language.

Director Staats and Law Director Banchefsky talked about several counties waived tax budgets. Director Staats was okay with leaving the first paragraph as written.

Law Director Banchefsky asked if the CRC had any issues with the proposed change to the second paragraph of 9.03 which was proposed to read as follows, "The proposed operating budget shall contain or be accompanied by a recommended appropriation ordinance."

Member Fee moved to approve the language in Section 9.03, second paragraph, first sentence as proposed by Law Director Banchefsky. Member Carleton seconded and all members voted to approve the change.

Break to return to Hearing of Visitors.

Resumption of Article IX discussion.

The CRC returned to 9.04 Contracting Procedures. Vice Chair Weyers asked to see a copy of the city's procurement policy and asked whether there was a floor on procurement. Director Staats and Law Director Banchefsky confirmed there was threshold and that contracting provisions were on the city code website. City Manager Stefanov added that the floor had changed from \$20,000 to \$50,000 while he had been manager. The CRC and Law Director Banchefsky reviewed the "lowest and best" language regarding competitive bidding.

Vice Chair Weyers asked about professional services contracts and staffing companies. Director Staats stated that, generally, each city department did its own analysis of the professional services available, solicited quotes every few years, compared the results in-house, and brought most contracts to council for approval. Law Director Banchefsky noted that sufficient funding had to be available in the Operating Budget. If a professional service provider was budgeted for then council did not have to approve the contract, although, often staff presented the contract anyway.

Vice Chair Weyers asked if there were any statistics on how often council waived competitive bidding. City Manager Stefanov answered it didn't happen very often, perhaps five to six times in the last five years. Most recently, council waived bidding on a microtunneling project because there were so few microtunneling vendors out there. In the end, the city chose a lower cost vendor through informal bidding. Additionally, if a project was small, producing bidding documents for formal bidding could cost more or exceed a reasonable percentage. Law Director Banchefsky noted that, when the city committed to an aggressive time frame to provide services, sometimes that meant not having time to do the full bidding process, however, those instances were rare.

City Manager Stefanov asked and Law Director Banchefsky answered that state purchasing was covered under the Cooperative Authority section earlier in the charter.

Vice Chair Weyers suggested a change from supermajority to a majority or unanimous vote of those present to waive competitive bidding, so as not to delay council's business. Council Member Shull was okay with both options, but appreciated the check and balance of requiring more council members to approve the waiver. Law Director Banchefsky liked the idea of reducing the number to majority as there had been occasions where only four council members could attend a meeting, however, he thought it looked stronger to have the supermajority vote in favor. City Manager Stefanov was

concerned that, in a required unanimous vote of the majority situation, one council member out of seven could stop a waiver just to make a point, whereas, currently, the supermajority of five votes was required. It was known in some municipalities that council rarely voted together and unanimously. With a supermajority, an opposed council member could still go on the record and vote with their concerns without stopping the process. Secretary Lowery asked and Council Member Shull replied that the supermajority requirement was working at this time.

Article X - Boards and Commissions

Law Director Banchefsky told the CRC that the city was required to have a Planning Commission (PC), a Board of Zoning Appeals (BZA), and a Personnel Appeals Board (PAB). Council had discretion to establish any additional boards.

Council Member Shull asked and Law Director Banchefsky answered that an Architectural Review Board (ARB) was not legally required. An ARB could be merged into the PC or BZA, as happened in some other communities. Law Director Banchefsky's preference was to have fewer mandates and more flexibility. Council could always establish a needed board. Vice Chair Weyers observed that ARB standards could be added to city zoning requirements, moving that work to the BZA. Vice Chair Weyers and Law Director Banchefsky replied that if ARB decisions weren't followed, it became a zoning code enforcement issue. City Manager Stefanov stated that New Albany Company deed restrictions were enforced by their Architectural Review Committee. Law Director Banchefsky stated a property owner could be subject to both boards.

Law Director Banchefsky reviewed section 10.01 Creation and General Rules with the CRC. Regarding 10.01(B)(6), Secretary Lowery asked and Clerk Mason answered that she held copies of the Standard Rules of Procedure for New Albany Boards and Commissions. They were last updated in 2004 and staff was going through them again to bring them current. The proposed charter language making the Standard Rules default would provide some structure to less formal boards, like the Cemetery Restoration Advisory Board.

Law Director Banchefsky further recommended adding a reference to the charter in section 10.01(B)(8) as New Albany had its own exception for executive sessions which could also be applied to city boards.

Backing up, Law Director Banchefsky suggested removing the word "compensation" from 10.01(B)(2) as that was addressed in 10.01(B)(7) which stated that "Members of boards and commissions shall serve without compensation unless otherwise proved by council..." CRC members had also spotted the duplication and agreed with the removal.

Law Director Banchefsky reviewed section 10.02 Planning Commission, 10.03 Board of Zoning Appeals, and 10.04 Personnel Appeals Board. Member Carleton asked and Law

Director Banchefsky and Council Member Shull answered that the Board of Zoning Appeals had a non-voting Planning Commission liaison for reasons of communication and continuity. Council Member Shull described general differences between the PC and BZA. Law Director Banchefsky did not have any recommended changes for these sections other than "Village" to "City." The CRC did not have any further modifications.

Other Business:

None.

Poll public for comment:

None.

Poll members for comment:

None.

Adjournment:

Member Fee moved to adjourn. Vice Chair Weyers seconded. The meeting was adjourned at 5:31 p.m.

Signed:



Andrew Cooke, Chair



Debra Lowery, Secretary

2/26/19
Date



Updated Memorandum

TO: The New Albany Charter Review Commission

FROM: Mitch Banchefsky, Law Director
Jennifer Mason, Council Clerk

DATE: February 11, 2019

MEETING: January 22, 2019

RE: Meeting #6 – Proposed Revisions to Revised Charter Articles VII & VIII
Reflecting Confirmation of Revision to Section 8.07(B)

Article VII: The Manager

Section 7.01 Appointment, Qualifications, and Compensation:

- (A) **Appointment.** Council shall appoint a Manager.
- (B) **Qualifications.** The Manager shall be appointed on the basis of executive and administrative qualifications. The Manager need not be a resident of ~~Franklin or Licking County~~the City at the time of appointment, but shall become a resident of ~~said Counties~~the City within six months after appointment, unless Council approves a longer period of time or residence outside ~~of said Counties~~the City.

- (C) **Compensation.** Council shall determine the compensation of the Manager.

Section 7.02 Powers and Duties: (No Change)

- (A) **General Powers and Duties.** The Manager shall be the chief administrative and law enforcement officer of the City. The Manager shall be responsible to Council for the administration of all City affairs placed in the Manager's charge by or under this Charter, the legislation of the City, and the laws of the State of Ohio.

(B) **Specific Powers and Duties.** Without limitation of the powers and duties stated in Section 7.02(A), the Manager or designee shall:

- (1) appoint, promote, suspend, remove, or otherwise discipline any City employee, except as otherwise provided by or under this Charter, subject to the provisions of Section 8.07 pertaining to Personnel Systems;
- (2) direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this Charter;
- (3) attend all regular and special Council meetings with the right to participate in discussions but not to vote;
- (4) enforce within the City all laws, provisions of this Charter, and legislation of the City;
- (5) prepare and submit budgets and capital programs to Council;
- (6) keep Council fully advised as to the financial condition and future needs of the City;
- (7) submit to Council and make available to the public complete records of the financial and administrative activities of the City;
- (8) make such other reports as Council may require concerning the operation of City departments, divisions, offices, boards, commissions, bureaus, and agencies;
- (9) provide staff support services for Council and the City's boards, commissions, and committees;
- (10) execute on behalf of the City all contracts, leases, deeds, easements, conveyances, and agreements; and
- (11) perform such other powers, duties, and functions as are conferred or required by this Charter or by Council.

Section 7.03 Acting Manager:

The Manager shall designate ~~in written correspondence to Council, by letter, filed with the Clerk of Council,~~ a City employee to exercise the powers and perform the duties of the Manager during a temporary absence or disability. If such designation has not been made and the Manager is unable to perform his or her duties or to make such designation, Council may appoint a City employee to serve as Acting Manager until the Manager resumes his or her duties.

Council may revoke any designation at any time and appoint another City employee to serve as Acting Manager.

Section 7.04 Procedure for Removal of the Manager: (No Change)

The Manager may be suspended by resolution of Council, which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the Manager. The Manager shall have five days from the date of receipt of service in which to reply in writing and request a public hearing. Upon request, the Manager shall be afforded a public hearing, which shall occur not earlier than ten days nor later than fifteen days after the public hearing is requested. After the public hearing, if requested, and after full consideration, Council may adopt a final resolution of removal. The decision of Council to suspend or remove the Manager shall be in the sole discretion of Council. If the Manager is suspended from duty as provided under this Section, Council shall appoint an Acting Manager.

Article VIII: Administrative Departments and Personnel Systems

Section 8.01 Creation and Alteration:

(A) **Creation.** The City shall have a Department of Law, a Department of Finance, and such other departments as Council may create.

(B) **Alteration.** Except for the Department of Law and the Department of Finance, Council may abolish, combine, merge, change, or alter any department of the City. ~~The Village shall have a Department of Law, a Department of Finance, and such other departments as Council may create.~~

8.02 Duties and Functions: (No Change)

Departments shall have those powers, duties, and functions as provided in this Charter or by Council.

8.03 Department Directors: (No Change)

(A) **Directors.** Departments shall be under the supervision of directors.

(B) **Appointment of Directors.** The Director of Law and the Director of Finance shall be appointed and removed by the Manager, subject to the consent and approval of Council. The Director of Law and the Director of Finance shall serve at the pleasure of the Manager and Council. All other Directors shall be appointed by the Manager and shall serve at the pleasure of the Manager. With the consent of Council, the Manager may serve as the director of one or more departments or may appoint one person as the director of two or more departments.

8.04 Director of Law: (No Change)

(A) **Qualifications.** The Director of Law shall be an attorney-at-law duly authorized and licensed to practice law in the State of Ohio.

(B) **Duties.** The Director of Law shall be the prosecuting attorney and legal counsel for the City, and subject to the direction of Council, shall represent the City in all proceedings in Court or before any administrative board or body. The Director of Law shall perform other duties as required by this Charter, by legislation of the City, by Council, or by the Manager. The Director of Law shall not be required to represent any school district or any other unit of government, other than the City.

8.05 Director of Finance: (No Change)

The Director of Finance shall be the chief financial officer of the City; shall exercise the powers, duties, and functions as required by the laws of the State of Ohio, this Charter, legislation of the City, Council, and the Manager; and shall provide full and complete information concerning the financial affairs and financial status of the City as required by the Manager or Council.

8.06 Administrative Code: (No Change)

Subject to the provisions of this Charter, Council shall adopt and may amend an administrative code which shall provide, in detail, the organization of the Municipal Government; define the powers and duties of each organizational unit; and set forth administrative procedures. Amendments to and revisions of the Administrative Code shall be made by Council. Where the Administrative Code is silent as to a matter, or function, the officers

and employees of the City shall have and may exercise all the powers and duties provided for similar officers and employees under the laws of the State of Ohio. However, provisions of the Administrative Code shall supersede those of the general laws of the State of Ohio in case of conflict to the fullest extent permitted by law.

8.07 Personnel Systems:

(A) **Merit Principle.** All appointments and promotions of municipal employees shall be made on the basis of merit and fitness demonstrated through a competitive selection process to the extent practicable and except as otherwise provided by Council.

(B) **Classified and Unclassified Service.** Council shall establish a classified and unclassified service for employees of the City. Council shall include as part of the Administrative Code, adopted pursuant to Section 8.06, a Section or Sections to define and govern the classified and unclassified service of the City. All original appointments and promotions to full time positions at or below the level of Chief sergeant within the Division of Police and fire shall be within the classified service.

(C) **Elected and Appointed Offices.** Appointments to and removal from all elected and appointed offices, including the municipal boards, commissions, and committees, shall be made in accordance with the specific applicable provisions of this Charter or the specific applicable legislation of the City, and shall not be subject to Sections 8.07(A) and 8.07(B).

(D) **Retirement System.** The laws of the State of Ohio governing the retirement of employees of municipalities shall be applicable to City employees under this Charter.