



Charter Review Commission  
October 23, 2018 Regular Meeting Minutes  
Village Hall

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**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               | P |
| Mary Fee                   | P |
| Glenn Redick               | P |

Council/Staff members present: Council Member Matt Shull, Mitch Banchefsky, Law Director, and Jennifer Mason, Clerk of Council. Council Member Chip Fellows arrived around 4:30 p.m.

**Approval of the September 25, 2018 meeting minutes:**

Chair Cooke asked if members had reviewed the proposed September 25, 2018 meeting minutes and asked if they had any additions or corrections. Clerk Mason told the members that she received two non-substantive corrections on page 5 from Secretary Lowery and she had made those changes to the original. Member Carleton moved to adopt the September 25, 2018 meeting minutes as corrected. Member Redick seconded and all members voted to adopt the minutes.

**Approval of the Agenda:**

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

**Hearing of Visitors:**

None.

**Approval of Revisions:**

Articles I & II

Chair Cooke reminded the CRC that the redlined version of the revisions made at the September 25<sup>th</sup> meeting had been distributed. Chair Cooke asked and Law Director

Mitch Banchefsky answered that this vote constituted a “semi-final” approval of the recommendations to council. The CRC would see and vote on the full, final version at the end of the review process.

Law Director Banchefsky stated that he added some additional changes to Articles I & II based on some input he received. He briefly ran through the changes made by the CRC. He directed the CRC’s attention to Section 1.03. The city manager pointed out to him that New Albany had been known as a “Mayor-Council-Manager” form of government, however, that wasn’t an accurate label. That description may have been a throwback to the original charter. City Manager Stefanov suggested to Law Director Banchefsky that, since New Albany had a “weak mayor” form of government, the more accurate label would be “Council-Manager.” Secretary Lowery asked and Law Director Banchefsky replied that changing the label would not change the current form of government, it only changed the description.

Member Fee pointed out a typo in Section 1.01, third line, “City of New *Albany*.”

Secretary Lowery asked for further clarification of the ramifications of removing “Mayor” from the “Mayor-Council-Manager” form of government. Law Director Banchefsky described examples of municipal governments where the mayor was invested with more power and operated alongside a powerful city manager. The CRC and staff discussed the atypical situation of New Albany where the weak mayor was directly elected instead of selected out of council. Secretary Lowery expressed discomfort at not having more time to research this issue. Law Director Banchefsky noted that the CRC could bring the matter back at the next meeting. Secretary Lowery asked and Law Director Banchefsky answered that council had not given input on this suggestion. Council Member Shull told the CRC that he would report to council that evening and bring it up. Chair Cooke asked if Secretary Lowery wanted to change the motion. Secretary Lowery stated that she was okay with removing “Mayor.”

Member Fee moved approve the revisions as set forth on Memorandum #3 (attached). Chair Cooke seconded. All members voted in favor. Motion passed.

The CRC members and staff further discussed the authority of the mayor and council. Vice Chair Weyers asked and Law Director Banchefsky recalled that the city manager position was in the original charter in 1992. For a time, New Albany had a strong mayor. Member Weyers said that more history would be helpful. Law Director Banchefsky told the CRC that the reason for having a weak mayor and strong manager was that the city manager was a professional, not purely political individual. The CRC observed that a city manager was specifically educated and experienced in running a municipality. Secretary Lowery stated that leaving in the word “Mayor” matched up with the current structure. The CRC further discussed the mayor of New Albany’s powers and responsibilities, most of which were shared with the rest of council. Law Director

Banchefsky offered that the CRC could revisit this issue, get council's input that evening, and solicit council's input again at the time of the final recommendation.

**Review of New Albany Charter:**

Articles III & IV, V

Law Director Banchefsky told the CRC that he sent out a memo to council about the sections the CRC would be reviewing. He reported that he received an email from Council Member Durik and a list of items from the city manager which he would bring up. He also received an email from Mayor Spalding.

Article III: Mayor

Law Director Banchefsky read Sections 3.01 Term and 3.02 Powers and Duties, delineating extra powers of the mayor. He explained that Mayor Spalding did not preside over Mayor's Court because he felt he had a work-related conflict. Council Member Briscoe was an attorney, had prior experience, and had the training to preside. The city hired an outside magistrate to conduct contested trials and fill in when Council Member Briscoe was not available. Law Director Banchefsky further explained that "military powers," as listed under mayoral powers in the charter, referred to times when the State of Ohio governor would declare martial law. Law Director Banchefsky noted that the Council Rules of Procedure could spell out additional powers for the mayor, however, in the event of a conflict, the charter would trump the council rules.

Law Director Banchefsky said he recommended changes to subsection 3.02(B)(5) regarding appointing someone to preside over Mayor's Court. He walked the CRC through how Council Member Briscoe had been appointed to Mayor's Court first as President *Pro Tem*. When she was no longer President *Pro Tem*, she had to be appointed by legislation. Mayor Spalding wanted an easier way to appoint a council member as a magistrate in a manner that didn't conflict with any Supreme Court regulations. Mr. Carleton asked if anyone could be appointed to preside or if only council members could be appointed. Law Director Banchefsky replied that theoretically anyone could be appointed, but appointing city staff would constitute a conflict and the only viable options were council members. The CRC and staff discussed what would qualify a person to be appointed and whether "eligible" was a better descriptor. The CRC agreed that an "eligible council member" was appropriate until they received more input from council.

Law Director Banchefsky reviewed section 3.03 President *Pro Tempore* and Acting Mayor with the CRC. He originally recommended changing President *Pro Tem* to "Vice Mayor" as *Pro Tempore* was older terminology. He spoke with Mayor Spalding who was not in favor of that change because the mayor was directly elected in New Albany. Labeling someone a Vice Mayor could cause some to think that that person was also directly elected. When Law Director Banchefsky researched other municipal codes, he observed that most municipalities still used "President *Pro Tem*." Therefore he was revising his recommendation to keep the existing language.

Council Member Shull asked and Law Director Banchevsky answered that the President *Pro Tem* and Acting Mayor were chosen every two years in the charter, possibly to coincide with the municipal election cycle. However, in the past, council had sometimes chosen yearly. It could be written either way. Council Member Shull said he would poll council to get their preferences.

#### Article IV: Council

Law Director Banchevsky read through Article IV Sections 4.01 Composition, Term and Quorum, and 4.02 Powers and Duties with the CRC. The language in 4.02(B)(1) took the city out of the civil service process and established the city's manner of employment. This section also authorized council to create, change, or dissolve some boards and commissions. A CRC member asked and Law Director Banchevsky answered that council had never requested an audit. His only recommendation was to change update the "Village" references to "City" and "Administrator" to "Manager."

Law Director Banchevsky reviewed Section 4.03 Meetings with the CRC. He stated that, historically, council decided when its first meeting took place. Other charters defined the first meeting. Council had not requested any changes to this language.

The CRC and staff discussed the language stating that council would hold at least one regular meeting each month. As an example, the City of Columbus took off the month of August. It could happen that there were no agenda items for a given month. The CRC could grant council more discretion about the number of meetings. Secretary Lowery posited that skipping a month could make for a long stretch of time for a community member to address council. Law Director Banchevsky offered that, if council discovered that they needed to address a situation, they could call for a special meeting. Secretary Lowery replied that requesting a meeting might be too big an ask for a regular citizen. Law Director Banchevsky stated that canceling all meetings in a given month would likely require a super-majority vote. Member Fee favored allowing council flexibility in case of unfortunate circumstances or emergencies. Chair Cooke opined that it should be limited to one month per calendar year and no contiguous months. The CRC, council members, and staff observed that council agendas were busy and having a month off was unlikely. Council Member Shull offered to go to council for their input. Secretary Lowery asked and Law Director Banchevsky answered that any vote to skip a month would have to take place in council meeting.

Law Director Banchevsky read through Section 4.04 Compensation. Council set its own salary, but could also vote itself benefits as well. Without this language, council members could not change their salary during their term of office. Law Director Banchevsky told the CRC, and Clerk Mason confirmed, that council didn't take up the issue of salary every year. It was a politically sensitive topic and salaries did not represent a lot of money. A previous mayor suggested automatic increases, but that would violate the current charter language. Council Member Fellows noted that council did approve resolutions that allowed for a raise, and Law Director Banchevsky added that legislation

was also subject to referendum by residents. Clerk Mason observed that council tended to vote on its salary about every other year, meaning it was getting fewer raises than non-union city staff. The CRC and staff discussed other mechanisms for calculating raises, Cost of Living Adjustments (COLA), an annual place on a council agenda, and how union negotiations often referenced raises given to others. Council Member Shull did not think council would support a COLA and Council Member Fellows agreed. The CRC decided not to change the language, giving council flexibility of when and how to address its pay.

Law Director Mitch Banchefsky read through Section 4.05 Council Rules of Procedure and Clerk of Council with the CRC. Particularly, he explained how the Clerk of Council was the direct employee of council and under the general supervision of the Village Administrator. Clerk Mason stated that the flow of responsibility was working well. Law Director Banchefsky did not recommend any changes other than “Village Administrator” to “City Manager” and the CRC did not request any further changes.

#### Article V: Elected Officials

Law Director Banchefsky reviewed Sections 5.01: Eligibility and Nominations with the CRC. Law Director Banchefsky told the CRC that New Albany’s elections were not political party-based and the existing charter language did away with primaries. The CRC discussed the number of signatures that should be gathered by a candidate. If New Albany adopted the same standards as in the Ohio Revised Code, candidates would need 50 valid signatures to get on the ballot. Law Director Banchefsky gave examples of minimums used by other municipalities. Council Member Shull preferred, if the minimum were raised to 50 signatures, that the maximum be raised to 100 to allow for errors. He did not have any difficulty gathering 75 signatures when he ran. Many CRC Members did not see a reason to raise the existing requirements and preferred to leave the language unchanged.

Law Director Banchefsky reviewed Section 5.02: Prohibitions with the CRC. Law Director Banchefsky suggested adding language exempting the person who presided over Mayor’s Court so they could serve both on council and on Mayor’s Court. Law Director Banchefsky described how council could approach the city manager regarding employment of city employees, but could not demand the hiring or termination of those employees. The CRC did not have any objections to the existing language.

Law Director Banchefsky reviewed Section 5.03: Forfeiture of Office with the CRC. Law Director Banchefsky stated that Council Member Durik had written him asking whether a specific number of non-consecutive unexcused absences should be included as a reason for forfeiture. Currently, three consecutive absences were grounds for forfeiture. Council Member Durik also asked about criteria for what was an excused or unexcused absence. The CRC discussed different options for the number of absences per year, and whether excused absences should be treated differently. Secretary Lowery noted that situations where a council member couldn’t attend would need to be considered on an

individual basis. Vice Chair Weyers talked about overall limits to the number of missed meetings citing council's duty to the taxpayers. Secretary Lowery asked and Council Member Shull answered that he was aware of a past situation where a council member asked to be excused multiple times and eventually council opted not to excuse the absences. Law Director Banchefsky's research of other municipalities found similar language regarding three unexcused absences in other charters.

Council Member Shull offered that most excused absences were work-related, vacation-related, illness-related, or other activities. He had not seen the attendance responsibility abused. Member Fee pointed out that the consecutive piece could be abused by someone who showed up for one meeting then missed two repeatedly, and it was worth looking at unexcused absences through the year. Member Carleton was concerned that a health issue could cause multiple absences.

Several CRC members suggested taking out the word "consecutive," so that three unexcused absences in year would be grounds for forfeiture. Council Member Fellows expressed concern about having a divided council where one side wanted a particular member removed and refused to excuse absences. Vice Chair Weyers suggested raising the number of unexcused absences to five. Member Fee stated that if there were a precedent set or a definition for excused absence that would make it difficult for absences to be exploited politically.

The CRC, staff, and present council members discussed the benefits and drawbacks of defining excused absences in Council Rules of Procedure. Some member supported simply setting an upper limit of the number of meetings missed whether excused or unexcused. Council Member Fellows explained about how his work sometimes caused him to miss multiple meetings in a row after not missing for months. The CRC agreed that many excuses were valid.

Member Redick suggested leaving the language as is. Vice Chair Weyers suggested removing "consecutive" and setting a top limit to unexcused absences in a calendar year. Chair Cooke noted that missing consecutive meetings that rolled into the following calendar year wouldn't trigger the forfeiture. The CRC, staff, and council members agreed that defining excused and unexcused absences was difficult, and there wasn't a current problem of council members having consecutive unexcused absences. Law Director Banchefsky summarized the CRC's current position as leaving the existing language and recommending to council that they consider defining valid excuses in the Council Rules of Procedure.

The CRC reviewed and did not request further changes in Section 5.03.

Law Director Banchefsky read through Section 5.04: Vacancies and Filling of Vacancies with the CRC. The CRC, staff, and Council Member Shull discussed ballot options when running for office. The CRC did not request any changes.

**Other Business:**

Law Director Banchevsky told CRC members that the next memo would discuss Section VI of the Charter.

**Poll public for comment:**

None.

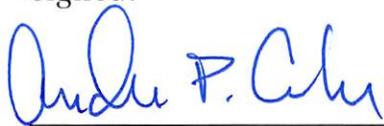
**Poll members for comment:**

Secretary Lowery thanked Law Director Banchevsky and Clerk Mason for their preparation and organization.

**Adjournment:**

Secretary Lowery moved to adjourn. Member Fee seconded. The meeting was adjourned at 5:57 p.m.

Signed:

  
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Andrew Cooke, Chair

  
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Debra Lowery, Secretary

12/18/18  
Date



## Memorandum

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TO: The New Albany Charter Review Commission

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

DATE: October 8, 2018

MEETING: October 23, 2018

RE: Meeting #3 – Proposed Revisions to Charter Sections I & II

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As discussed at the September 25, 2018 meeting, detailed below are the proposed revisions to Sections I and II of the current Charter. The changes are indicated in 'redline'.

I look forward to discussing this with you on the 23rd.

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### Preamble

We, the people of the City~~Village~~ of New Albany, Ohio, for the purpose of continuing the established plan for fair, efficient, and effective municipal government, ~~preparing for city status~~, securing the benefits of home rule, and exercising the powers of local self-government conferred by the Constitution and laws of the State of Ohio, adopted this Revised Charter, which became effective January 1, 20~~12~~<sup>20</sup>, hereinafter referred to as "Charter" or "Revised Charter" ~~as a complete replacement to the original Charter approved by the electorate on November 3, 1992, and which was become effective on January 1, 1993.~~

### Article I: Name, Boundaries and Form of Government

#### Section 1.01 Name:

The municipal corporation formerly known as the Village of New Albany, which advanced to city status on April 29, 2011, Village of New Albany shall continue to be a municipal corporation known as the City of New Albany known as the "Village of New Albany" under this Revised Charter. ~~until such time as it becomes a City in the manner provided by the Constitution and laws of the State of Ohio. At such time it shall then be known as the "City of New Albany", unless otherwise provided by Council.~~

### **Section 1.02 Boundaries:**

The CityVillage shall have the same boundaries that exist on the adoption date of the current Charter, with power and authority to change its boundaries and annex territory. Territory annexed to the CityVillage shall immediately be subject to the provisions of this Charter.

### **Section 1.03 Form of Government**

The form of government provided for by this Charter shall be known as the "Mayor-Council-Manager" plan.

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## **Article II: Powers of the Village City**

### **Section 2.01 General Powers Granted**

The CityVillage shall have all powers possible for a municipality to have under the Constitution and laws of the State of Ohio as fully and completely as though they were specifically enumerated in this Charter.

### **Section 2.02 Exercise of Powers**

All powers shall be exercised in a manner prescribed in this Charter, or if not so prescribed, in a manner provided by legislation of the CityVillage. When not prescribed in this Charter or by legislation of the CityVillage, the powers shall be exercised in the manner provided by the laws of the State of Ohio, until Council provides by legislation a different manner of exercising the powers.

### **Section 2.03 Construction of Powers**

The powers of the CityVillage under this Charter shall be construed liberally in favor of the CityVillage, and the specific mention of particular powers in the Charter shall not be construed as limiting the general powers granted in this Charter.

### **Section 2.04 Cooperative Authority**

The CityVillage may exercise any of its powers, perform any of its functions, and provide related financing, jointly or in cooperation, by contract or otherwise, with any one or more states, including but not limited to the State of Ohio, and any of their political subdivisions,

special districts, instrumentalities, divisions, or agencies; the United States or any of its divisions or agencies; or any individual, partnership, corporation, or other type of entity, whether for profit or not-for-profit, unless prohibited by the Constitution of the State of Ohio.