



Charter Review Commission
November 27, 2018 Regular Meeting Minutes
Village Hall

Call to Order:

The meeting was called to order by Secretary Debra Lowery at 4:02 p.m.

Roll Call:

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

Clerk Mason reported that Chair Cooke emailed her that morning stating he would not be attending due to illness, and Vice Chair Weyers emailed her letting her know of a work-related scheduling conflict.

Council/Staff members present: Council Member Matt Shull, Mitch Banchevsky, Law Director, and Jennifer Mason, Clerk of Council. Council Member Chip Fellows arrived around 4:12 p.m.

Approval of the September 25, 2018 meeting minutes:

Secretary Lowery asked if members had reviewed the proposed October 23, 2018 meeting minutes. Clerk Mason told the members that she received three non-substantive corrections from Secretary Lowery and Member Redick. She had made those changes to the original. Member Carleton moved to adopt the October 23, 2018 meeting minutes as corrected. Member Redick seconded and all members voted to adopt the minutes as corrected.

Approval of the Agenda:

Member Evans moved to approve the agenda. Member Carleton seconded and all members voted to approve the agenda.

Hearing of Visitors:

None.

Approval of Revisions:

Articles III, IV, & V

Law Director Mitch Banchefsky reviewed the most substantive changes as outlined in his Memorandum Re: Meeting #4 – Proposed Revisions to Charter Sections III, IV, and V (attached).

Council Member Shull told the CRC that council was good with language that capped absences at three unexcused absences, removing the word “consecutive.” Council Member Shull said that council still had the discretion to excuse or not excuse an absence.

Secretary Lowery asked and Council Member Shull answered that he had talked to everyone on council and reported back the results of the conversations to Law Director Banchefsky. The consensus of those discussions was built into the language of Law Director Banchefsky’s memorandum. In review, council was okay with the “Council-Manager” format. Council preferred naming a President *Pro Tem* annually. Finally, removing the word “consecutive” regarding absences was preferred because council could determine what constituted an excuse, which had happened in the past.

Member Carleton moved for the approval of the changes to Articles III, IV & V per Law Director Banchefsky’s Memorandum (attached). Member Fee seconded and all members voted to approve the changes.

Review of New Albany Charter:

Articles VI

Law Director Banchefsky reviewed Article VI, jumping to the first recommend change at Section 6.03(A). The suggestion was to strike language starting at “file a reasonable number of copies in the office of the Clerk of Council and such other public places as Council may designate” and replace that with “publish the legislation pursuant to Section 6.12.” Member Carleton noted that 6.12 did not reference publishing ahead of a meeting, only publishing after the meeting. After research, further review, and confirmation, the CRC recommended finishing the line with “publish the legislation as council may designate.” Council’s designation was set forth in Council Rules of Procedure.

Law Director Banchefsky asked if the CRC had any other questions regarding Article VI and the remainder of the title/city designation updates. Member Carleton asked about Section 6.10(A) regarding amendments not requiring a public hearing. He asked why a major change wouldn’t require another hearing. Law Director Banchefsky replied that the public was notified of the meeting, and when the first reading, second reading, and public hearing would take place. To do a subsequent public hearing after an amendment would require additional public notice and delay council’s actions. Council Member Shull noted that the changes were discussed at an open meeting and the public was

welcome at both readings and all meetings. In Council Member Shull's recollection, changes were rare and minor. Council Member Fellows concurred. The CRC discussed the possibility of a major change and how that would likely spur a rewriting and re-introduction of the legislation.

Law Director Banchefsky offered that constructive notice was a well-established legal provision. Procedures were in the Charter and in Council Rules of Procedure. The city's business needed to progress and, in some economic development cases, it needed to move rapidly. Setting more public hearings would slow down the city's business by two weeks or longer. In order to be flexible and allow council to make changes while the legislation was pending, Law Director Banchefsky recommended keeping the existing language. Council Member Shull added that most amendments improved the legislation.

Member Carleton asked and Law Director Banchefsky answered that amendments could be done ahead of time or on the floor at a meeting with a motion. Council Member Fellows stated that, if council wasn't ready to move forward with a piece of legislation, it was tabled to the next meeting. Law Director Banchefsky gave the example of a zoning issue being referred by council back to the Planning Commission or Rocky Fork Blacklick Accord. Council Member Shull described the longer journey that some legislation took to reach council, through commissions and legal counsel.

Other Business:

Law Director Banchefsky told CRC members that the next memo would discuss Sections VII and VIII of the Charter, including The Administrator and Administrative Department and Personnel Systems.

Poll public for comment:

None.

Poll members for comment:

None.

Adjournment:

Member Fee moved to adjourn. Member Redick seconded. The meeting was adjourned at 4:32 p.m.

Signed:



Andrew Cooke, Chair



Debra Lowery, Secretary

12/18/18
Date



Memorandum

TO: The New Albany Charter Review Commission

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

DATE: Novembre 12, 2018

MEETING: November 27, 2018

RE: Meeting #4 – Proposed Revisions to Charter Sections III, IV & V

As discussed at the October 23, 2018 meeting, detailed below are the proposed revisions to Sections III, IV & V of the current Charter. The changes are indicated in 'redline'.

I look forward to discussing this with you on the 27th.

Article III: Mayor

Section 3.01 Term:

The Mayor shall be elected, at large, by separate ballot for a four (4) year term. (No change)

Section 3.02 Powers and Duties:

(A) General Grant of Power and Duties

The Mayor shall have all the powers, rights, and duties as a Council member, as described in Section 4.02.

(B) Specific Grant of Powers and Duties

In addition to the powers, rights, and duties as a Council member, the Mayor shall:

- (1) serve as president and preside over all Council meetings;

- (2) act as a Council member and have the right to vote on all matters before the Council, but shall have no veto power;
- (3) perform all ceremonial duties and functions as necessary for non-administrative purposes;
- (4) exercise all judicial powers and functions granted to mayors of municipal corporations by the laws of the State of Ohio and applicable court rules;
- (5) have authority and discretion to appoint a magistrate and/or other eligible Council member, with approval of Council, to hear and determine prosecutions of traffic and criminal cases subject to the laws of the State of Ohio;
- (6) act as chief spokesperson for the City Village in dealing with other governments;
- (7) exercise military powers and functions granted to mayors of municipal corporations by the laws of the State of Ohio or the United States; and
- (8) perform or exercise such other powers, duties, and functions as provided by this Charter and Council Rules, to the extent such Council Rules are consistent with this Charter.

Section 3.03 President Pro-Tempore and Acting Mayor:

(A) President Pro Tempore

During its organizational meeting held pursuant to Section 4.03(A), ~~in each even numbered year~~, Council shall choose, by a vote of four Council members, one of its members as President pro tempore who shall serve as the Mayor during the temporary absence or disability of the Mayor.

(B) Acting Mayor

In the event of the temporary absence of both the Mayor and President pro tempore, the senior Council member, based on length of continuous elected service with the City Village, shall serve as the Acting Mayor. If two or more Council members have held the same length of continuous elected service with the City Village, then an Acting Mayor shall be chosen from among those two or more Council members by a vote of four Council members at the organizational meeting of Council in each even-numbered year held pursuant to Section 4.03(A).

Article IV: Council

Section 4.01 Composition, Term and Quorum (No change)

(A) *Composition*

Council shall be composed of seven (7) members, including the Mayor.

(B) *Terms*

Council Members, other than the Mayor, shall be elected at large for four (4) year overlapping terms beginning on January 1 after their election.

(C) *Quorum*

Four Council members shall constitute a quorum at all meetings.

Section 4.02 Powers and Duties

(A) *General Grant of Powers and Duties*

All powers of the ~~City Village~~ permitted by this Charter and the Constitution and laws of the State of Ohio shall be vested in Council. Council shall provide for the exercise of all powers and for the performance of all duties and obligations imposed on the ~~City Village~~ by law, through the adoption of legislation.

(B) *Specific Grant of Powers and Duties*

Without limitation of the powers stated in Section 4.02(A), Council shall have the power and duty to:

- (1) establish or authorize the number of positions in the various departments, divisions, offices, bureaus, boards, commissions, and committees of the ~~City Village~~ and to adopt a wage, salary, and benefit structure for all positions within the classified and unclassified service;
- (2) create, combine, change, and abolish departments, divisions, offices, bureaus, boards, commissions, and committees not specifically created by this Charter;

- (3) provide for an independent audit of the accounts and records of the City Village, which may be in addition to audits by State offices and agencies as may be required under the laws of the State of Ohio;
- (4) conduct inquiries and investigations regarding the affairs of the City Village and the conduct of any City Village department, office, or agency and for this purpose subpoena witnesses, administer oaths, take testimony, and require the production of evidence;
- (5) levy taxes and assessments and incur debt subject to limitations imposed thereon by this Charter and the Constitution and laws of the State of Ohio;
- (6) adopt and to provide for the enforcement of local police, sanitary, and other similar regulations as are not in conflict with general laws;
- (7) appropriate funds based on the annual operating and capital budgets and to delegate execution of such annual budgets to the Manager Administrator;
- (8) regulate by Ordinance the use of private real estate in the City Village; and
- (9) appoint and remove the Manager Administrator, to establish the Manager's Administrator's compensation, and to appoint an acting Manager Administrator when necessary.

Section 4.03 Meetings (No change)

(A) *Organizational Meeting*

Council shall be a continuing body and shall meet annually before the first regularly scheduled meeting of the year for the purpose of organizing. At such meeting, the newly elected Council members, if any, may take the oath of office; the Council may transact such other business as may come before it; and in even number years Council shall nominate a President pro tempore and acting Mayor as required by Section 3.03.

(B) *Regular Meetings*

Council shall hold at least one regular meeting each month and shall determine the frequency, dates, and times of additional regular meetings in order to properly conduct its business.

(C) *Special Meetings*

Special meetings of Council may be called, for any purpose, by the Mayor or any three (3) Council members upon at least twenty-four hours notice to each Council member, which notice may be served personally or left at the usual place of residence. Council members who attend special meetings of Council or who are present at another regular or special meeting where a special meeting is announced by the presiding Mayor, President pro tempore, or acting Mayor need not receive notice of the special meeting. Council members may waive receipt of notice of a special meeting either prior or subsequent to the meeting. Attendance at a special meeting constitutes a waiver of receipt of notice of special meeting.

(D) *Adjournment or Recess of Meetings*

Any meeting of Council may be adjourned or recessed to another time, date, or place without giving the notice required in Section 4.03(C).

(E) *Open Meetings*

All meetings of Council shall be open to the public, except as allowed by the laws of the State of Ohio, and for economic development purposes.

Section 4.04 Compensation (No change)

Once in any calendar year and only as a non-emergency ordinance, Council may determine the annual compensation and benefits of its current members, including the Mayor. In the event Council shall fail to establish salaries and benefits as required in this Section, the salaries and benefits in effect shall remain until changed in accordance with this Section.

Section 4.05 Rules and Journals (No change)

Council shall adopt its own rules of procedure which shall not conflict with this Charter and which shall remain in effect until amended or repealed by Council. The Council Rules shall not be subject to initiative or referendum. The Council Rules shall provide for such matters as Council shall determine to be necessary for the proper functioning and governance of Council. Council shall maintain a journal of its proceedings.

Section 4.06 Clerk of Council

Council shall appoint a person to serve as Clerk of Council. The Clerk of Council shall be an employee of the City Village and shall give notice of Council meetings to its members and

the public, keep the minutes of Council's proceedings, and perform such other duties as are provided by this Charter or by Council. The Clerk of Council shall be Council's employee subject to Council's direction and under the general supervision of the Manager Administrator. The Clerk of Council shall serve at the pleasure of Council and may be removed without cause by Council.

Article V: Elected Officials

Section 5.01 Eligibility and Nominations

(A) *Eligibility*

Any elector of the City Village who has been domiciled in the City Village, or any area annexed to the City Village, for one (1) year immediately prior to filing a nominating petition, shall be eligible to hold an elected office. All elected officials shall be domiciled in and electors of the City Village during their entire term of office.

(B) *Nominations*

No primary election shall be held for the nomination of candidates for elected office. Nominations for the elected offices of the City Village shall be made by petition signed by not less than twenty-five (25) nor more than seventy-five (75) electors of the City Village. Petitions shall be in the form determined by the election officials of the State of Ohio for the nomination of non-partisan candidates. Group petitions shall not be permitted. Petitions shall be filed with the election officials of the State of Ohio as provided by the law of the State of Ohio.

Section 5.02 Prohibitions

(A) *Holding Other Office*

Except where authorized by the laws of the State of Ohio or legislation of the City Village, no elected official of the City Village shall hold any other elected public office during the term for which the elected official is elected. Except as set forth in Section 3.02 (B)(5), no elected official shall hold any other City Village office or employment with the City Village during the term for which the elected official is elected. Except for boards, commissions, and committees, no former elected official of the City Village shall hold any compensated appointed office or employment with the City Village until one year after the expiration of the term for which the elected official was elected. Nothing in this Section shall be construed to prohibit Council from selecting any current or former elected official to represent the City Village on the governing board of any intergovernmental agency or organization.

(B) City Village Employees

Except for the purpose of inquiries and investigations under Section 4.02(B)(4), elected officials of the City Village shall deal with City Village employees who are subject to the direction and supervision of the Manager Administrator solely through the Manager Administrator. No elected official of the City Village shall in any manner direct or demand the hiring or termination of any City Village employee whom the Manager Administrator is empowered to hire, but Council may express its views and fully and freely discuss with the Manager Administrator anything pertaining to the hiring and termination of such employees.

Section 5.03 Forfeiture of Office

(A) *Grounds Constituting Forfeiture*

The office of an elected official shall be forfeited upon a determination that the elected official:

- (1) has pled to or has been convicted of a felony while in office;
- (2) has pled to or has been convicted of any crime involving dereliction of duties or breach of public trust while in office;
- (3) lacks, or is found to have lacked, at any time prescribed by this Charter, any eligibility requirements of Section 5.01(A);
- (4) has violated any prohibition of Section 5.02(A); or
- (5) has failed to attend three consecutive regular Council meetings in a twelve month period without being excused by Council.

(B) *Judge of Grounds Constituting Forfeiture*

Council shall be the sole judge of the grounds constituting forfeiture of office. Council shall initiate the process to establish grounds for forfeiture of office by motion and shall have the power to subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

(C) *Notice and Public Hearing*

Upon finding that grounds exist which subject the elected official to forfeiture of office, Council shall instruct the Clerk of Council to notify the elected official. The Clerk of Council shall notify the elected official by any method which includes written evidence of receipt. The elected official so notified shall receive a public hearing before

Council to be held no earlier than ten (10) days nor later than thirty (30) days after notification of forfeiture is received by the elected official.

(D) Final Determination

Council shall make a final determination by a motion to regard the office of the Mayor or Council member as forfeited. The elected official subject to forfeiture of office shall be entitled to vote. Upon passage of the motion, the office shall be deemed vacant and Council shall fill the vacancy as provided in Section 5.04.

Section 5.04 Vacancies and Filling of Vacancies (No change)

(A) Vacancies

An elected official's office shall become vacant upon the death, resignation or forfeiture of office as provided in Section 5.03.

(B) Filling of Vacancies

(1) Mayor

Any vacancy in the Office of Mayor shall be filled by the President pro tempore. If the vacancy occurs on or after July 1 of the second year of the Mayor's term, the President pro tempore shall serve for the remainder of the Mayor's unexpired term. If the vacancy occurs on or before June 30 of the second year of the Mayor's term, the President pro tempore shall serve until a successor is elected at the next regular municipal election. The person so elected shall take office on January 1 following such election for the remainder of the Mayor's term. Upon the election of a new Mayor, other than the President pro tempore then serving as Mayor, the President pro tempore shall serve the remaining original elected term as Council member.

In the event of a vacancy in the office of Mayor, whereby the President pro tempore is required to serve as Mayor, the Council shall select a person to fill the vacancy on Council, as provided in Section 5.04(B)(2). However, nothing herein shall prevent the President pro tempore from serving the original full elected term as Council member. The person chosen to fill the vacancy on Council shall serve a term as Council member equal to the term the President pro tempore serves as Mayor. In the event the President pro tempore's original elected term expires while filling the Mayor's unexpired term, the new President pro tempore shall assume the remainder of the Mayor's unexpired term.

(2) *Council Member*

Any vacancy in the office of a Council member shall be filled by the appointment of an elector, qualified under 5.01(A), by a majority of the remaining Council members. If the vacancy occurs on or after July 1 of the second year of the vacated Council member's term, the person nominated by Council shall serve for the unexpired term, except as provided in Section 5.04(B)(1). If the vacancy occurs on or before June 30 of the second year of the vacated Council member's term, the qualified person nominated by Council shall serve until a successor is elected at the next regular municipal election. The person so elected shall take office on January 1 following such election for the remainder of the vacated Council member's term. If Council fails to fill a vacancy in Council within sixty days after the occurrence of the vacancy, the Mayor shall appoint a person to serve for the time as provided in this Section.