



Charter Review Commission

March 26, 2019 Regular Meeting Minutes

Village Hall

Call to Order:

The meeting was called to order by Chair Cooke at 4:01 p.m.

Roll Call:

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

Council/Staff members present: Council Member Matt Shull, Mitch Banchefsky, Law Director, and Jennifer Mason, Clerk of Council.

Approval of the February 26, 2019 meeting minutes:

Chair Cooke asked if members had reviewed the proposed February 26, 2019 meeting minutes. Clerk Mason reported Member Lowery found, and that she removed, an extra "in" on the distributed draft. Also in the draft, Council Member Shull was speculating about voter turnout, however, Clerk Mason's summary made it appear to be more authoritative. Also, it wasn't clear when members were discussing primary versus regular turnout, so that language was revised to show that members were speculating and doing rough math. Chair Cooke asked if members had any questions or concerns about the changes, or had any further changes. Hearing none, Vice Chair Weyers moved to adopt the February 26, 2019 meeting minutes as amended. Member Carleton seconded and all members voted to adopt the minutes as amended.

Approval of the Agenda:

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

Hearing of Visitors:

None.

Approval of Revisions:

Law Director Mitch Banchefsky directed member's attention to the one highlighted change in Section 9.04 (F) Certification of Funds which read, "...except as otherwise provided by council." This language took care of the purchase order issues raised by Finance Director Bethany Staats. When council set the financial policy, it could set the threshold for when the city would require a purchase order.

In Section 10.01 Creation and General Rules (B)(2), the word "Compensation" came out because it was referenced elsewhere and was redundant.

Member Redick moved to approve the above changes to sections 9.04 and 10.01 as set forth on the attached memorandum. Member Carleton seconded and all members voted to approve the changes.

Articles IX & X plus XI, XII, XIII, and XIV:

Law Director Banchefsky stated there were fewer changes in this section. Any instance of "Village" was changed to "City" and "Administrator" was changed to "Manager."

The next change was in Article XIV – Transitional Provisions, Section 14.01. Law Director Banchefsky recommended taking out redundant historical language. The effective date could be set wherever the CRC wanted it. January 1, 2020 seemed like a good place to start and was up for discussion.

In other charters Law Director Banchefsky had been involved with where there were significant changes to the codified ordinances, the effective date of the charter had been set out later to allow for more time. However, Law Director Banchefsky did not think there would be other legislative changes hinging on this charter. Law Director Banchefsky told the CRC that the charter would hopefully be approved by the voters in November and then effective in January.

In Section 14.02 Succession, Law Director Banchefsky had suggested replacing that with the language in the attached memo as discussed at the last CRC meeting. He opened that language up to other further suggestions. None were requested.

Member Evans moved to approve the changes in Articles XI, XII, XIII, and XIV as set forth in the attached memorandum. Member Carleton seconded and all members voted to approve the changes.

Other Business:

Clerk Mason referred the CRC to the proposed schedule (attached) going forward which was also emailed to members. She asked the CRC whether they would want a designee or all to be present at the first or second council meeting to present their recommendations to council.

Council Member Shull asked, if council requested further changes, would the CRC have to meet again. Law Director Banchefsky answered that, legally, it was not required for the CRC to meet. Council Member Shull said that if it was legally required, he wanted to allow enough time. Given that answer, he thought a June 18th first reading at a council meeting would be a good time for the CRC to make its presentation. Council Member Shull stated he would mention the upcoming first reading date in his report to council on June 1st.

The CRC discussed the various times for the CRC meetings and the council meetings. Clerk Mason added those times to the schedule.

Chair Cooke confirmed there would be no CRC meeting in April. Clerk Mason replied that skipping April would give Law Director Banchefsky and her enough time to pull together the full charter after the meeting with the Board of Elections representative.

Council Member Shull stated he would be unable to make the May 28th CRC meeting due to being out of the country. Clerk Mason noted it was possible that the CRC would not meet on May 28th if the changes were all wrapped up and approved on May 14th.

Poll public for comment:

None.

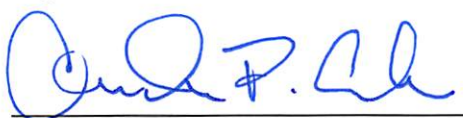
Poll members for comment:

None.

Adjournment:

Member Redick moved to adjourn. Chair Cooke seconded. The meeting was adjourned at 4:16 p.m.

Signed:



Andrew Cooke, Chair


Debra Lowery, Secretary

5/14/19
Date



Memorandum

TO: The New Albany Charter Review Commission

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

DATE: March 5, 2019

MEETING: March 26, 2019

RE: Meeting #8 – Approved Corrections and Revisions to Articles IX and X
and Revisions to Articles XI, XII, XIII & XIV

At our last meeting, we had an additional revision to Article IX and a correction in Article X both highlighted in yellow.

First, as the Commission will recall, Finance Director Staats asked that we revisit language in the first paragraph of Section 9.04 (F), so as to give Council the flexibility to in effect establish when purchase orders are necessary. This revision is designed so as to eliminate the need to obtain purchase orders for small and/or ongoing purchase contracts. As noted by Ms. Staats, this revision would enable Council to establish a threshold as to when purchase orders are required via financial policy legislation.

Accordingly Section 9.04 (F) will read as follows:

(F) Certification of Funds. Except as otherwise provided by Council, no contract involving the expenditure of money shall be entered into or authorized by the Manager unless the Director of Finance or designee shall first certify that:

(1) Funds required for the contract are in the City's treasury or in the process of collection; and

(2) Funds have been appropriated by Council for the specified purpose and remain unencumbered.

The Director of Finance shall file and record the certification of availability and appropriation of funds in the accounting records of the City and shall furnish a copy to the vendor or contractor. Without the certification, a contractual obligation shall be void and unenforceable against the City unless recognized by Council as a moral obligation.

Additionally, Section 10.01 (B)(2) was corrected to reflect a previously approved deletion of a duplicate reference to “compensation” which is addressed in Section (B)(7) as follows:

Section 10.01 Creation and General Rules:

(A) Creation of Boards and Commissions. The City shall have a Planning Commission, a Board of Zoning Appeals, a Personnel Appeals Board, and such other boards and commissions as may be created by Council.

(B) General Rules for Boards and Commissions. The following general rules shall govern Boards and Commissions:

(1) Each board or commission created by Council shall consist of at least three (3) members;

(2) Compensation. Terms, appointments, and removals shall be determined by Council unless otherwise provided in this Charter;

(3) Each member of a board or commission shall be and shall remain an elector of the City during the term of appointment, unless otherwise provided by Council;

(4) A vacancy occurring during the term of any member of a board or commission shall be filled for the unexpired term in the same manner as the original appointment;

(5) Each vacancy shall be filled with sixty (60) days;

(6) Each board and commission shall establish its own rules of order to be approved by Council. If no unique Rules are established, the board or commission shall operate according to the Standard Rules of Procedure for New Albany Boards and Commissions

(7) Members of boards and commissions shall serve without compensation unless otherwise provided by Council; and

(8) All meetings of boards and commissions shall be open to the public, except as allowed by the laws of the State of Ohio and/or this Charter.

What follows are the approved revisions to Articles XI, XII, XIII & XIV.

ARTICLE XI. - ELECTIONS, RECALL, INITIATIVE, AND REFERENDUM

(No Change)

Section 11.01 – Elections:

- (A) Regular Elections. Regular municipal elections shall be held on the dates and times fixed by the election laws of the State of Ohio.
- (B) Special Elections. Council may, at any time, order a special election by legislation which shall set forth the date and purpose of the election, including but not limited to the referral of pending legislation to the electors for their approval or rejection. Special elections may be held on any date.
- (C) Conduct of Election. All regular and special elections shall be conducted by the election officials of the State of Ohio. Elections shall be held in conformity with the provisions of this Charter or as otherwise provided by Council. Where not addressed by this Charter or by Council, the provisions of the election laws of the State of Ohio shall be followed.
- (D) Public Information Expenditure. Council shall have the power to appropriate and expend public funds to pay the cost of providing information to the public in connection with tax, bond, and other non-partisan public issues, but not in connection with the election of any candidate for public office.

Section 11.02 – Recall:

- (A) Power to Recall. The electors shall have the power to remove from office by a recall election any elected official of the VillageCity in the manner provided in this Section.
- (B) Recall Petition Prerequisites. As to any elected official who has served at least six (6) months of a term of office, an elector or electors of the VillageCity may serve written notice upon the Clerk of Council of their intent to circulate petitions for the recall of the elected official. Petitions for the recall of the elected official may not be circulated until the written notice of intent is served upon the Clerk of Council.
- (C) Recall Petition Form. The petition shall contain a verified statement of not more than one hundred words setting forth specific grounds upon which the removal of the elected official is sought. The petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name of the elected official whose removal is sought. Separate petitions are necessary for each elected official whose removal is sought. The petition shall be signed by at least that number of electors equal to twenty-five percent (25%) of the electors voting at the last preceding regular municipal election.
- (D) Filing, Examination, and Amendment of Petition. No later than thirty (30) days after service of the notice of intent on the Clerk of Council, the petition demanding the removal of an

elected official shall be filed with the Clerk of Council. Within twenty (20) days after the day on which the petition is filed, the Clerk of Council shall determine, subject to verification from the Board of Elections, whether or not it meets the requirements of this Section. If the Clerk finds the petition insufficient, the Clerk shall promptly certify the particulars in which the petition is insufficient, deliver a copy of the certificate to the person who filed the petition, and make a record of delivery. The petition may be amended within ten (10) days after the date of the delivery. The Clerk shall, within five (5) days after such an amendment has been filed, reexamine the petition, and if still insufficient, the petition shall be rejected and no further action taken thereon.

- (E) Recall Election. Unless the elected official whose removal is sought resigns within five days after delivery of the Clerk's certificate, Council shall fix a day for holding a recall election, to be placed on the ballot at the succeeding general or primary election occurring not less than ninety (90) days after the date of the Clerk's certification of sufficiency to Council, and shall cause notice of the recall election to be published on the same day of each week for two consecutive weeks in a newspaper of general circulation in the ~~Village~~City. At the recall election, this question shall be placed upon the ballot: "Shall (name of elected official whose removal is sought) be allowed to continue as (elected official's position)?", with the provisions on the ballot for voting affirmatively or negatively. If a majority of the vote is negative, the elected official shall be removed, the office shall be vacant, and the vacancy shall be filled as provided in Section 5.04. If the elected official is not removed at such recall election, no further recall petitions shall be filed against the elected official for a period of one year following the recall election.

Section 11.03 - Initiative and referendum:

Legislation, issues, and other measures may be proposed by initiative petition and adopted by election as provided by the Constitution and laws of the State of Ohio. Legislation adopted by Council shall be subject to referendum, as provided by the Constitution and laws of the State of Ohio, except that legislation calling for elections under this Charter shall not be subject to referendum and as otherwise provided in Section 4.05.

ARTICLE XII - GENERAL PROVISIONS

(No Change)

Section 12.01 - Conflicts of interest, ethics, and campaign financing

Unless otherwise provided in this Charter or by Council, the laws of the State of Ohio pertaining to conflict of interest, criminal misbehavior, ethics, and financial disclosure by municipal officials and employees, campaign financing and other election practices of candidates for municipal office shall apply under this Charter.

Section 12.02 - Effect of partial invalidity:

A determination that any provision of this Charter is invalid shall not invalidate or impair the force and effect of any other provision, except to the extent that the other provision is wholly dependent for its operation upon the provision declared invalid.

Section 12.03 - Amendments of Charter:

This Charter may be amended or revised by the electors as provided by this Charter or the Constitution and laws of the State of Ohio.

ARTICLE XIII - CHARTER REVIEW COMMISSION

Section 13.01 - Composition and term:

During the month of July 2008 and each ten (10) years thereafter, the Council shall appoint seven (7) electors of the ~~Village~~City, holding no other office or employment with the ~~Village~~City, as members of a Charter Review Commission to serve until their duties as provided herein are completed. The members shall serve without compensation.

Section 13.02 – Duties:

The Charter Review Commission shall review this Charter and no later than twelve (12) months after appointment report the Commission's findings and conclusions to Council. This report shall transmit recommended amendments, if any.

ARTICLE XIV - TRANSITIONAL PROVISIONS

Section 14.01 - Effective date of revised Charter:

This ~~Updated~~ Revised Charter ~~was approved by the voters in November adopted on July 12, 1999~~2019, became effective on March 1, 2000, and was subsequently amended and became effective 4/4/10January 1, 2020.

Section 14.02 – Succession:

~~The municipal corporation existing as the Village of New Albany under the laws of the State of Ohio and the Charter approved by the electorate on November 3, 1992 and effective on January 1, 1993, shall continue to be a body politic and corporate under the same name under this Charter or 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.~~

~~Upon becoming a City, the position name of "Village Administrator" shall become "City Manager". The City Manager shall have all the powers conferred upon the Village Administrator contained within this Charter, by the Constitution and laws of the State of Ohio, and as provided by Council.~~

~~Upon advancing to City status, the provisions of this Charter shall apply.~~

The municipal corporation existing as the Village of New Albany under the laws of the State of Ohio and the Charter and subsequent updates, approved by the electorate effective on January 1, 1993, effective March 1, 2000, January 1, 2010, and January 1, 2020 respectively, and which advanced to city status on April 18, 2011, shall continue to be a body politic and corporate now known as the City of New Albany.