



Charter Review Commission
September 25, 2018 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
Andy Cooke	P
Johnna Evans	P
Mary Fee	P
Glenn Redick	A

Council/Staff members present: Mayor Spalding as city council *liaison*, Mitch Banchefsky, Law Director, and Jennifer Mason, Clerk of Council.

Approval of the August 30, 2018 meeting minutes:

Chair Cooke asked if members had reviewed the proposed August 30, 2018 meeting minutes and asked if they had any additions or corrections. Clerk Mason told the members that she received two non-substantive corrections from Member Lowery and had made those changes. Vice Chair Weyers moved to adopt the August 30, 2018 meeting minutes as corrected. Member Fee seconded and all members voted to adopt the minutes.

Approval of the Agenda:

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

Hearing of Visitors:

None.

Overview of Home Rule Powers:

Law Director Mitch Banchefsky described "Home Rule" as a term for the powers granted to municipalities via the state constitution. Municipalities could have all powers of local self-government to adopt and enforce within their limits such local police,

sanitary, and other similar regulations as were not in conflict with general laws. Home Rule powers were granted in an effort to provide more local control over certain governmental activities, but not to allow complete independence from state government. Home Rule powers came from the state constitution which was superior to state laws regularly enacted by the state legislature. A charter was not required to have some home rule powers, but a charter was necessary to claim all home rule. By adopting a charter, a municipality could set up a system of government which differed from the statutory plan set out in Chapter 7 of the Ohio Revised Code (O.R.C.). The state constitution provided that any municipality could adopt or amend a charter for its government, and could exercise all powers of local self-government with some exceptions.

The state constitution distinguished “local self-government” versus “police regulations.” Local self-government related to the form of municipal government and control of municipal property. Police powers covered police, sanitary, and other controls which regulated public safety, health, and welfare of citizens. Charter municipalities were free from the regulation by the legislation in matters of local self-government. Municipal police powers could not conflict with the general laws enacted by the state legislature.

Local self-government powers dealt with the organization of a municipality as well as procedures under which the municipality functioned. Municipalities could deviate from state law and regulate matters of procedural self-government only by charter. Examples of local self-government powers included deciding the structure of local government, regulation competitive bidding, creating standards for initiative and referendum, and annexation procedures. With a few constitutional exceptions, most home rule powers could not be superseded by state law, including the power to contract, tax, pay employees and officers, and establish and vacate streets. Assessments, incurring debt, and purchasing and disposing of property by a municipality were controlled by state law.

Police regulations were laws that protected public health, safety, and welfare of persons and property. They were aimed at matters of private conduct. Police regulations enacted by a municipality could refine, but never conflict with state law.

General laws were laws that were intended to have general application throughout the state and had state-wide significance. General laws regulated the conduct of individuals. Courts held that state laws which attempted to regulate the actions of local government were not “general laws.” Law Director Banchefsky described when a municipality was acting with its authority and when it was acting outside its authority.

The Charter Review Commission (CRC) would be making recommendations to council, and council would decide which changes would go on the November 2019 ballot. Law Director Banchefsky offered that the CRC could recommend a new form of government to council.

Law Director Banchefsky described the three types of municipal governments allowed by state law – the three commissioner plan, the city manager plan, and the federal plan. Underneath the above structures, there were subsets of strong mayor and weak mayor. A charter would specify general rules regarding organizations and functions of municipal government. A charter could opt a municipality out of civil service commissions.

Law Director Banchefsky reviewed the charter review process with the CRC, including making recommendations, council approving recommendations for the ballot, sending the approved recommendations to the electorate, and publishing the recommendations in a newspaper of general circulation.

Member Lowery asked and Law Director Banchefsky described New Albany's current form of government as mayor elected at large who also served as a member and president of council. The mayor presided over Mayor's Court, however, Mayor Spalding had a potential conflict due to his employment with the State of Ohio, so had subsequently appointed another member of council to preside over uncontested cases. Law Director Banchefsky further discussed mayors elected by council instead of at large, council elected by wards, and city managers/administrators.

Review of New Albany Charter:

Articles I & II

Preamble:

Law Director Banchefsky noted there would be a lot of changes where a reference to the "Village" would be changed to "City."

Law Director Banchefsky read the Preamble with the CRC. He explained it was standard charter language. He suggested updating from Village to City, deleting references to "preparing for city status" and "complete replacement," and changing the effective date to January 2020.

Mayor Spalding noted there was vigorous debate about the naming of the city by the last Charter Review Commission. The CRC and staff discussed the legal definition of a city.

Member Carleton moved approve the suggested language for the Preamble reading, "Revise reference from "Village" to "City." Delete references to "preparing for City status" and "complete replacement to the original Charter..." and following language. Additionally, the effective date should be updated to January 1, 2020." Chair Cooke seconded. All members voted in favor of the changes. Motion passed.

Article I:

Law Director Banchefsky read through Article I and Section 1.01 Name with the CRC. He suggested changing Section 1.01 to read: "The municipal corporation existing as the City of New Albany under the laws of the State of Ohio and the Charter originally

adopted January 1, 1993 and subsequently amended, shall continue to be a body politic and corporate under the same name under this Charter.” The CRC confirmed with Law Director Banchefsky that this was a full replacement of the section.

Member Carleton moved approve the suggested language for Section 1.01 reading, “The municipal corporation existing as the City of New of New Albany under the laws of the State of Ohio and the Charter originally adopted January 1, 1993 and subsequently amended, shall continue to be a body politic and corporate under the same name under this Charter.” Vice Chair Weyers seconded. All members voted in favor of the suggested language. Motion was adopted.

Law Director Banchefsky read through Section 1.02 Boundaries with the CRC. He suggested to modify the section to update to “city” and refer to the “Revised Charter.” Member Carleton asked whether the boundaries referred to in Section 1.02 should be future looking. Law Director Banchefsky recommended leaving the boundary language the way it was which would create a benchmark at the time the new charter was adopted.

Member Lowery clarified that the CRC would vote on these motions, then again on a document that memorialized the changes, then again on the final charter. Law Director Banchefsky confirmed all of those steps.

Law Director Banchefsky reviewed Section 1.03 with the CRC. He had no recommended modifications.

Member Carleton moved to approve the suggested language for Section 1.02, “Update to City and refer to the “Revised Charter” in order to capture the boundaries as they currently exist,” as well as approve Section 1.03 Form of Governments, which had no suggested modifications. Vice Chair Weyers seconded. All members voted in favor of the suggested language. Motion was adopted.

Article II:

Law Director Banchefsky reviewed Article II: Powers of the Village and Section 2.01 General Powers Granted with the CRC. Law Director Banchefsky added this section was probably the most important provision of the charter as it granted the city the most power and authority possible under the state constitution. He noted longer, more detailed powers provisions risked leaving something out.

Member Carleton asked why the charter didn’t refer to the U.S. Constitution as a governing document, much like the member’s Oath of Office. Mayor Spalding replied that the Ohio oath of office statutorily required that commitment. The authority of the New Albany’s Charter only stemmed from the State of Ohio’s constitution and Ohio’s constitution allowed the city to make some modifications to state law to retain certain powers. That did not apply to the U.S. Constitution.

Member Lowery moved to approve the suggested language for Section 2.01, “Update reference to City,” Vice Chair Weyers seconded. All members voted in favor of the suggested language. Motion was adopted.

Law Director Banchefsky reviewed Section 2.02 Exercise of Powers with the CRC. He stated that if the city’s charter was silent, then the next authority was city’s ordinances. If both were silent, then the next authority was the O.R.C. or the Ohio Constitution. He only recommended changing “village” to “city” in this section.

Member Fee moved to approve the suggested language for Section 2.02, “Update reference to City,” Member Lowery seconded. All members voted in favor of the suggested language. Motion was adopted.

Law Director Banchefsky reviewed Section 2.03 Construction of Powers with the CRC.

Vice Chair Weyers moved to approve the suggested language for Section 2.03, “Update reference to City,” Member Carleton seconded. All members voted in favor of the suggested language. Motion was adopted.

Law Director Banchefsky reviewed Section 2.04 Cooperative Authority with the CRC. Law Director Banchefsky told the CRC that the city sometimes engaged in cooperative purchasing. Some agencies specialized in doing state-wide bidding. He stated this section allowed the city maximum flexibility.

Member Carleton moved to approve the suggested language for Section 2.04, “Update reference to City.” Vice Chair Weyers seconded. All members voted in favor of the suggested language. Motion was adopted.

Additional discussion:

Clerk Mason observed that the current charter capitalized numerous terms like “City” and “Charter.” The city’s published codified ordinances and ordinances that came before council no longer capitalized those words. Mayor Spalding recommended adopting a consistent approach to this issue before the final recommendation of revisions of the charter. Law Director Banchefsky stated these terms were still capitalized in contracts for legal reasons. Vice Chair Weyers agreed that contracts capitalized terms and noted the city charter was not a contract. The CRC agreed to put off this issue until the final revision.

Mayor Spalding told the CRC that the goal of the charter was to provide the city with as much legal authority as possible under state law. Staff and CRC discussed the state’s incursions into traditionally “home rule” territory.

Member Carleton asked and Law Director Banchefsky replied that he would let council know that the CRC would be discussing the sections regarding the mayor and council at

the next CRC meeting. He would do the same with the city department heads on sections that concerned them. Mayor Spalding did not think council would be suggesting any significant changes to the existing charter language, except to request some clarifications that the mayor be able to designate somebody on council to provide services for Mayor's Court.

Other Business:

Clerk Mason referred to the Memorandum distributed to the CRC with proposed meeting dates. She offered that the CRC could still meet on October 23rd, instead of the proposed October 30th meeting date. Clerk Mason asked the CRC if they had any other proposed changes to the drafted schedule. The CRC agreed to meet on October 23rd and Clerk Mason corrected that date. Clerk Mason stated she would re-issue the memo with the corrected date.

Poll members for comment:

None.

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None.

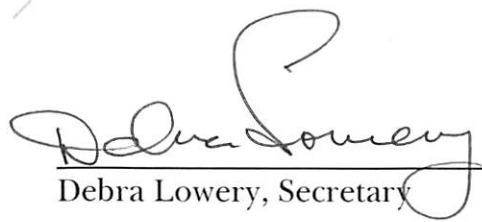
Adjournment:

Member Carleton moved to adjourn. Member Fee seconded. The meeting was adjourned at 4:57 p.m.

Signed:



Andrew Cooke, Chair



Debra Lowery, Secretary

10/23/18
Date