

Charter Review Commission
Kingseed Law Library, 6:00 p.m.
February 8, 2024

Mayor Brooks Compton welcomed Commission members with opening remarks and thanked them on behalf of City Council for serving on this important commission.

Mayor Compton left the meeting at this time.

Chairman Jack Lohbeck called the meeting to order at 6:06 p.m. In attendance were Commission members Linda Ashworth, Jim Collins, Ed Griffith, Terry Posey, John Serr, and Bill Walker. Also in attendance were Municipal Attorney Scott Liberman and Assistant Clerk of Council Donna Fiori.

A motion was made by Mr. Walker to excuse Tony Miltenberger, Greg Sample and Alternate James Neidhard from the meeting. The motion was seconded by Mr. Posey and passed unanimously.

Following introductions, Mr. Lohbeck proposed the dates of February 29 and March 13 for the next two Charter Review Commission meetings. Members concurred the dates were acceptable. Mr. Lohbeck indicated future meetings will be scheduled at the next meeting.

Mr. Lohbeck noted that minutes of the previous Charter Commission from 2016 were provided to the group before this meeting along with a copy of the Charter for the group to examine.

Mr. Liberman provided an overview of public meetings and public records laws. He also referenced duties, and the timetable and suggested topics for the Commission to review, as also described in a memo previously distributed to members. Staff and City Council have identified items for the Commission to look at and will address during the review of their respective sections.

ARTICLE I: Name and Boundaries

Mr. Lohbeck directed the members to begin the review. In *Section 1.02 Boundaries* it was questioned if a date should be inserted instead of saying “boundaries as now exist”. It was discussed and determined no revision was required since the statement, as it is read in the Charter would apply to any given point in time and includes all of the City of Centerville. It was mentioned that the Charter will be as of a particular date so by inference would imply a point in time. Members noted no counties are specified in this section as they could change.

ARTICLE II: Form of Government

Commission members and Mr. Liberman discussed different forms of government.

ARTICLE III: Powers

Under *Section 3.04 Intergovernmental Relations* types of intergovernmental relations including the Transportation Improvement District (TID) and the Miami Valley Fire District were discussed. It was noted these sections are typical in most Charters in Ohio.

ARTICLE IV: The Council

Under *Section 4:01 Powers; Numbers; Selection; and Term*, the commissioners discussed term limits noting Kettering has adopted them. The group voiced satisfaction with the current system based on the ability for a recall and an election every four years allowing voters to decide on candidates.

Section 4.03 Mayor and Deputy-Mayor contains typographical inconsistencies with Deputy Mayor not always being hyphenated. It was agreed Deputy Mayor should not be hyphenated and should be standardized throughout the Charter. Mr. Liberman stated the Charter allows for City Council to make nonsubstantive corrections for grammatical or typographical errors.

Section 4.03 (b) Deputy-Mayor. A significant discussion was held regarding the potential conflict or clarity in this section that states "Upon the election of a Mayor, other than the Deputy-Mayor then serving as Mayor, the Deputy-Mayor may retain a position as Councilmember for the remainder of his or her unexpired term" with *Section 4.05 (d) Filling of Vacancies* "Any appointee under this section shall qualify under the provisions of this Charter, shall hold office, and shall serve for the unexpired term and until a successor is elected and qualified." It is an issue to be revisited after further evaluation by Mr. Liberman.

It was also noted that this section has redundant language and inconsistency in the official version in the first paragraph "In the event of a vacancy in the office of Mayor whereby the Deputy Mayor is required to serve as Mayor, the Council shall select a person to fill the vacancy in Council as provided in Section 4.05 (d)" is repeated in the second paragraph. It was discovered that the pamphlet version did not include this duplication. Mr. Liberman will research this further and report back to the group.

Section 4.05 Vacancies; Forfeiture of Office; and Filing of Vacancies. This item was recommended for review per Mr. Liberman's memo noting the Charter is silent on what happens if a candidate for office becomes disqualified either through death or otherwise and replacing a candidate in that person's place before election day. Since the Charter is silent, the City must rely upon State law and decisions by the Board of Elections that state that any votes for that person is a nonvote.

Mr. Serr explained the process in a nonpartisan race of appointing a small committee and then those people would choose a successor, but this is only if the candidate marked this option on their petition. Examples of the death of a candidate and the procedures followed at the polls were discussed.

The Charter could say if a candidate becomes disqualified either through death or otherwise the City Council appoints someone to run in that person's place. Another option

would be to have the Charter state if a candidate becomes disqualified through death or otherwise that the votes count. This could potentially elect a dead person which then would default to *Section 4.05 (d) Filling of Vacancies*.

The consensus of the group was it should go back to City Council to fill that position. If someone dies, they remain on the ballot and if they win City Council will fill that seat.

Section 4.04 Prohibitions. Members discussed in this section the reference to other Municipal office or Municipal Employment refers to the City of Centerville since Municipal is spelled with a capital M. In response to a question from Mr. Serr the group concurred a two-year cooling period after the expiration of a term for Municipal employment as referenced in the Charter is sufficient.

In relation to *Section 4.06 Recall*, the group talked about the number of signatures required for a valid recall petition. This section states "Such petition shall be signed by the number of electors which equals twenty-five percent (25%) of the total number of electors voting for the candidates for Councilmember" which Mr. Serr noted is not something tracked by the Board of Elections due to undervotes and overvotes. The group had an extensive discussion about various calculations based on prior elections. The following revision was suggested "Such petition shall be signed by ten (10) percent of the electors registered to vote at the last regular Municipal election held in the Municipality" which would be consistent with *Section 12.04*.

Section 4.12 Independent Audit. Mr. Lohbeck inquired why an audit is not required every year according to this section. Mr. Liberman stated an audit is conducted every year whether done by the State or an independent auditor. Discussion on the State requirements for audits and if a yearly audit is necessary occurred. Mr. Liberman will clarify with the Finance Director what is required and what is the practice of the City and report back to the group.

Section 4.08 Judge of Qualifications. Mr. Serr brought attention to the section in the second paragraph that states "notice of such hearing shall be published in one or more newspapers of general circulation in the Municipality at least fifteen (15) days in advance of the hearing." Newspapers are outdated and the language could be changed to be consistent with *Section 5.08* "the term "publish" means to post in full on the City of Centerville website or generally accepted electronic methods and to post in full in not less than three (3) of the most public places in the Municipality as determined by Council." Mr. Liberman indicated some things do require posting in the newspapers by State law. He will find out if this item is required to be advertised in the newspaper and if not, it could be changed. The group discussed the most valuable ways for the citizenry to access valuable information.

Mr. Lohbeck adjourned the meeting at 7:52 p.m. The next Charter Review Commission meeting is scheduled for February 29, 2024, in the Kingseed Law Library at 6:00 p.m.

Donna Fiori

3/1/2024

Donna Fiori