

Charter Review Commission
Kingseed Law Library, 6:00 p.m.
February 29, 2024

Chairman Jack Lohbeck called the meeting to order at 6:00 p.m. In attendance were Commission members Linda Ashworth, Ed Griffith, Tony Miltenberger, Terry Posey, John Serr, Bill Walker, and alternate James Neidhard. Also in attendance were Municipal Attorney Scott Liberman and Assistant Clerk of Council Donna Fiori.

A motion was made by Mr. Walker to excuse Jim Collins and Greg Sample from the meeting. The motion was seconded by Mr. Miltenberger and passed unanimously.

A motion was made by Ms. Ashworth to approve the February 8, 2024 Meeting Minutes. The motion was seconded by Mr. Posey and passed unanimously.

Mr. Liberman provided an update on outstanding items from the last meeting.

Mr. Liberman confirmed in *Section 4.03(b) Deputy-Mayor* "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 and can be removed by Council in accordance with Section 12.04(d) which allows for administrative changes.

Mr. Liberman noted the question on 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" is consistent with *Section 4.03(b) Deputy-Mayor* "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". Therefore, no changes are recommended.

Concerning *Section 4.12 Independent Audit* Mr. Liberman confirmed with the Finance Director that the City conducts an audit every year which is more than what the Charter currently requires. Mr. Liberman shared charter language from Kettering which more closely resembles City practices. The availability of the audit to the public was discussed.

In *Section 4.08 Judge of Qualifications* Mr. Liberman stated advertisement in a newspaper of general circulation is not a State Law requirement so the advertising requirement in this section can be changed. He suggested making it consistent with any changes recommended in *Section 5.03 Passage of Ordinances*.

Mr. Lohbeck asked what the next steps are for the Commission once the review is completed. Mr. Liberman stated a report prepared by the Chair with input from the Commission is provided to City Council. The report may include recommendations for changes to the Charter or recommend no changes. Mr. Lohbeck suggested a redline version of the Charter for review at the next meeting to discuss the changes or any additional changes to help move forward with a recommendation.

Mr. Lohbeck directed the members to continue with the review.

ARTICLE V : Legislation

Section 5.03 Passage of Ordinances Mr. Liberman's memo indicates no constitutional or general law requires the City to publish in three locations within the City and a more simplified means may be more meaningful. Commission members discussed current practices and that the publishing requirements are ineffectual and outdated. Mr. Serr shared that ORC 731.21 provides acceptable methods of fulfilling the publishing requirements. It was recommended to publish on the website and social media then as a backup utilize the official public notice website <https://www.publicnoticesohio.com/>.

Section 5.04 Effective Date. Mr. Liberman explained ordinances are subject to referendum and that the 30-day waiting period to is required. Longer waiting periods would be an obstacle to the efficient operations of the City.

Section 5.09 (b) Codification. Commission members suggested changes to codification from at least every ten (10) years to every year. The proposed amendment intends to be consistent with City practices.

ARTICLE VI: The Manager

Under *Section 6.01* Mr. Liberman recommended the removal of the residency requirement for the City Manager since the Ohio Supreme Court ruled a residency requirement as unconstitutional. Commission members concurred with the recommendation to avoid confusion.

Mr. Liberman recommended a review and update to *Section 6.02(i)* concerning Council approval for contracts. Mr. Liberman explained the current process requires all contracts be approved or ratified by Council and is unduly cumbersome. The recommended approach for Municipal Charters in Ohio is for the Council to designate contracting authority - usually the Mayor or City Manager. Council may delegate a certain authority to the City Manager for binding the City under a broad, umbrella resolution (i.e. City Manager has authority to enter into contracts on behalf of the City where the expenditure or liability is no greater than \$75,000). Commission members had an extensive discussion about budget controls, bidding thresholds, budget encumbrances, tying language to the bidding threshold ordinance which incorporates a 3% increase, and contracts that don't require bidding. Mr. Liberman will provide updated language for review at the next meeting.

Under *Section 6.04 Removal* Commission members discussed if "In any case of removal, the former Manager shall be paid such consideration as may be determined by the Council acting by resolution" needs more targeted guidance. Mr. Liberman noted the City Manager is under contract so these items are addressed and covered through the contract process. No changes are proposed.

ARTICLE VII: Administrative Departments

Commission members discussed the relevance of this section relating to the listing of departments remarking an organizational structure can and should be fluid. *Section 7.02 Creation of New Departments* does permit flexibility in creating additional departments. Dated references and the need for modernization were discussed. Mr. Liberman indicated titles and operations reflected in Article VII may not accurately reflect the operations of the City. Examples of title changes include renaming the Director of Finance as Finance Director and Municipal Attorney as Law Director to adhere to the more common names. It was also discussed changing Administrative Code to Municipal Code. Mr. Liberman

will meet with Department Heads to review and report back with language that meets with what the City is doing.

Mr. Serr noted that “deemed” in *Section 7.02 Creation of New Departments* should be “deems”. This correction can be made by Council.

Section 7.08 Department of Finance. Commission members discussed this section covers financial reporting practices but should also state we have policies and procedures that outline proper internal controls. This will be discussed further with the Finance Director.

ARTICLE VIII: Finance, Taxation and Debt

Section 8.02(c) Capital Program. Mr. Liberman suggested a revision to remove the requirement that the capital program be adopted prior to the budget. This creates an awkward scenario when the capital budget is approved before the operating budget. Commission members concurred it should be with the adoption of the budget and not prior to it.

Section 8.04 Budget. Commission members discussed difficulty with proposing a five-year operating budget as a requirement due to the speed of changes and unknowns in the market. It was also noted the City can only appropriate for one year. No changes were recommended.

Section 8.05(a)(ii) Council Action on the Budget. A typographical error was noted in this section. The word “an” should be “than”. This correction can be made by Council.

Mr. Griffith inquired if there should be anything in the Charter regarding how we handle surplus. Mr. Liberman will discuss this with the Finance Director.

Section 8.06 Certification. Commission members inquired if we must get certified by both Counties or just Montgomery County and if they should be referenced in this section. Mr. Liberman will discuss this with the Finance Director.

ARTICLE IX: Boards and Commissions

Commission members discussed the boards and commissions application and interview process. The discussion was raised about the relevance of limiting boards and commissions strictly to residents. Mr. Liberman noted that this is covered by Ordinance and states they must be electors of the City. The two exceptions of the Arts Commission and Board of Architectural Review were discussed. No changes were recommended.

ARTICLE X: Personnel

Mr. Liberman explained the City does not have a civil service board nor does it apply all the processes as outlined Article X. The following items were recommended for review.

Section 10.02 Exempt Positions. Removal of this section may be warranted since exempt positions are covered by Ordinance. Commission members discussed various positions in the City not included on the exemption list and the ones that are on the list.

Section 10.03 Personnel Officer. Renaming this section and any additional reference from Personnel Officer to HR Director which aligns with the current City practice.

Section 10.06 Promotional Examinations. Suggested removal since no such examinations exist. Mr. Liberman will verify with the Police Department to verify if promotional exams are utilized.

Section 10.07 Classification of Personnel. Removal of this section may be warranted since the classification of personnel is covered by Ordinance.

Commission members discussed *Section 10.05 Candidacy For Municipal Office* which states “No employee of the Municipality shall continue therein after becoming a candidate for nomination or election to any Municipal office. Except for elective officials, no officials or employees of the Municipal government may engage in political campaigns in which candidates of this Municipality are involved”. This raised concern that members of boards and commissions would be restricted based on the fact they take an oath and therefore would be considered officials. It was suggested that removing the second sentence or just removing the word officials would work. Mr. Liberman will research any violations related to this section.

ARTICLE XI: Nominations and Elections

Section 11.02 Conduct of Elections specifies the Board of Elections of Montgomery County and does not mention Greene County. It was proposed to update it to include Greene County or just state relevant county.

ARTICLE XII: General Provisions

Commission members reviewed Article XII and offered no comments or recommendations.

ARTICLE XIII: Transitional Provisions

Commission members discussed the only section that has not been repealed in this Article is *Section 13.08 Continuation of Contracts and Improvements* and questioned its relevance. Mr. Liberman indicated it should probably remain in case there are old contracts that may be relevant to this section.

Mr. Lohbeck turned the attention to rescheduling the March 13 meeting due to conflicts and the progress made in the review this evening. The group agreed to have the next meeting on March 21.

Mr. Griffith brought attention to the fact that the word citizen is not used in the Charter only electorate and does not reference the role of the citizen. Commission members discussed the Charter Preamble and the Ohio Constitution.

Mr. Lohbeck adjourned the meeting at 8:00 p.m. The next Charter Review Commission meeting is scheduled for March 21, 2024, in the Kingseed Law Library at 6:00 p.m.

Donna Fiori

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