

MEETING MINUTES  
CITY OF WILLOUGHBY HILLS 2014 CHARTER REVIEW COMMISSION  
Monday, July 14, 2014

**Call to Order:**

Meeting called to order by Chairman Andy Gardner at 6:35 p.m.

**Roll Call:**

Members Present:

Stephen Atkins, Chairman Andy Gardner, Joyce Grady, C. J. Latsa, Judy Shrefler,  
Sandy Taddeo, Tanya Taylor-Draper, Vice Chairman Jim Walsh (arrived at 6:44 p.m.) and  
Jerry Wolanin

Members Absent:

None

**Approval of Charter Review Commission minutes of 07/08/14:**

Motion to approve by Joyce Grady

Motion seconded by Judy Shrefler

ROLL CALL: 8 AYES, Vice Chairman Jim Walsh absent for vote; MOTION PASSES.

**Public Hearing (in compliance with Section 5.6 of the City Charter):**

Public Hearing opened at 6:38 p.m. Chairman Gardner outlined time allocation as set forth by Charter Review Commission at 7/8/14 regular meeting.

The following individuals spoke in **Round 1:**

**Dale Fellows, 2812 Fowler Drive, Willoughby Hills, OH 44094**

1) Election related issues:

- 7.2 recommend change to "90 days"
- 8.31 recommend change to "60 days"
- 8.33 recommend change to "45 days"

All of these three changes are recommended due to the challenges of military voting concerns with the Board of Elections.

- 2.13 & 3.14 "prior to his election"

Need clarification of date – Is this referring to Election Day or the certification of Election results date, which is a few weeks after the election?

2) Other:

- 5.15 Zoning

Recommends deletion of entire Section. Mr. Fellows does not think this needs to be in the Charter. He feels it “takes away local control from the community.” “Due process is needed.” BZA gets appeals and, in the past, when he worked with Mr. Cihula on BZA, he felt BZA took public input into consideration and they worked “to protect the public”. Some reviews took “6 to 9 months” but they diligently worked to get the appeals done with the best result for the residents and city.

- 5.32 Zoning

Mr. Fellows recommended deletion of this Section since it references 5.15 which is recommended to be deleted in its entirety by Mr. Fellows.

- 5.61 Charter Review Commission

Requests clarification of “what type of public office” is meant by this line. Does it mean Willoughby Hills only or any municipality, etc.

- 5.62 Charter Review Commission

Recommends deletion of “not sooner than July 15 nor” and then add “no”. This would change the start date that ballot issues would be brought to Council.

- 7.2 Tax Levy

Recommends 55% for passage of any tax-related ballot issue at any election. He stated it is a “philosophic difference stating majority for passage.”

**Law Director Thomas Lobe, 2920 Gatsby Lane, Willoughby Hills, OH 44092**

Law Director Lobe stated that “the framework of our Charter is important. We need to get consistency in the Charter.” He then distributed his document for the Commission entitled “Law Director suggested topics for potential review by Willoughby Hills Charter Review Commission of 2014” and reviewed the Articles in numeric order as his time permitted, beginning with the following in Round 1:

- 1.2 – Rules for Changing Municipal Boundaries

Delete “primary or special election”. He cited that “Charter Review Commission changes can only be done at General Election, yet termination of the existence, merger or annexation of Willoughby Hills can be done at Primary or Special Election.”

- 3.14 – Residency requirements for Council

The Charter currently requires an individual to have one year of continuous status as resident and elector of the City for a Council member; however, it

requires two years for Mayor (See 2.13). “Most cities are going to 3 years or longer as an elector.”

- 3.15 Removal from Office  
Recommends deletion of this item based on Commission’s possible decision to delete Article 9.
- 3.25 The Clerk  
Recommends deleting the residency requirement due to legal issues. “Only elected officials need the residency requirement as a matter of law.”
- 5.15 Mandatory Public Vote on Land Use Changes  
“This item was initially brought forward by Initiative Petition; takes all powers out of the hands of Willoughby Hills and its Commissions and usually places the power in the hands of one Judge, who probably is not a Willoughby Hills resident.” Tom then gave a history of past Administrations’ discord with BZA when the petitioners wanted to give the power to the people; “very political issue.”

**Frank Cihula, 35060 Dixon Road, Willoughby Hills, OH 44094**

Mr. Cihula clarified 2.13 and 3.14 for resident Dale Fellows. He indicated that “prior to his election” refers to the day the Mayor takes Oath of Office.

Mr. Cihula questioned the history of Land Use Variance lawsuits to Law Director Lobe.

**Linda Fulton, 2990 Marcum Blvd., Willoughby Hills, OH 44092**

- Article IX  
Ms. Fulton feels Article IX “needs to be tightened up, but there is nothing wrong with it.” We need to describe nepotism, cronyism and conflict of interest; wants it more explicit than what most attorneys might prepare.

**Florine O’Ryan, 35400 Hanna Road, Willoughby Hills, OH 44094**

- Article IX  
Mrs. O’Ryan said, “Volunteers are not coming out of the woodwork; please take this into consideration. Good families work together and their kids grow up to follow suit.” “It is hard to define family” (cited that hers includes aunts, uncles, cousins and even friends). “It is hard to get volunteers to commit to regular meetings and many times the functions that go along with it.”  
(This makes reference to Article 9.22 which limits the appointment of individuals to Boards and Commissions.)

**Robert Kowalsky, 2585 Timberline Drive, Willoughby Hills, OH 44094**

- Article IX

Mr. Kowalsky opened with the statement, “I shall not wag the dog.” He reminded the Commission that “you can order action in the Charter.” He said they can come to a “good solution.”

Mr. Kowalsky said that the Commission needs to “establish and maintain due process for Council to protect the innocent until proven guilty.” He stated that “Council is to open the door to anyone who finds wrongdoing in the City. “ He pointed out that accusations are played up in the media and that the Commission needs to rewrite Article IX – “it is just someone’s opinion.”

- Initiative Petition

Mr. Kowalsky talked about “because someone did not like the Department, that someone wanted to put something on the ballot.” He gave the history of his Ocean City, California cousin who spoke about only being permitted to serve on a committee for two years and how they solved issues by “just asking” rather than having to approve an ordinance (citing our last Council meeting). He gave a history of during a previous Administration whereby developer Osborne and then Mayor O’Ryan and Council President Lorenz worked to get a zoning issue resolved.

Mr. Kowalsky reminded the Commission not to “put their thumbs down on everything.”

The following individuals spoke in Round 2:

**Law Director Thomas Lobe, 2920 Gatsby Lane, Willoughby Hills, OH 44092**

Mr. Lobe continued his discussion with:

- 5.25 Appeal of decisions of ABR

Does not think it appropriate to have these decisions go to Council, particularly when decisions from Planning Commission, BZA, Civil Service Commission and Charter Review Commission do not go to Council. He noted that the ABR Board is comprised of the same members as Planning and Zoning Commission. He would recommend paralleling appeal routes.

- 6.3 Emergency Ordinances

Recommends to remove the last paragraph (sentence) due to the fact that the Electorate ultimately decides the issue and the Board of Elections now wants issues earlier rather than later.

- 7.2 Voter Approval of Tax Levies  
The tax levy is “not to exceed 5 years” – should this be changed to “10 years” and/or “for perpetuity”. Mr. Lobe pointed out that in a city with our finances, it is a big issue for every Administration to have to take the tax levy to the ballot.
- 8.23 Recall  
Requires 25% of the Electors signing the petition, but the Revised Code only has 10%. “State statutes has law for recall at 10%; we make it harder to recall an elected official.”
- 8.3 Procedures  
We do not have Primary Elections, but rather the General Election ultimately becomes a Primary if more than two people run for Mayor. The Mayor is ultimately decided by an election held in December with low turnout and potentially bad weather. Mr. Lobe cited the history of Mort O’Ryan’s Mayoral election when the bad weather did indeed keep voters away from the polls. He said this is usually done to prevent having a lot of elections that cost money.

**Dale Fellows, 2812 Fowler Drive, Willoughby Hills, OH 44094**

Mr. Fellows commented on Mr. Lobe’s recommendations as follows:

- 1.2 *Supports* deletion of “Primary or Special Election”
- 3.14 *Disagrees* with residency requirements for Council
- 3.25 *Supports* deletion of residency requirement for Council Clerk
- 4.2 *Supports* modification to come into compliance with Section 2.21
- 4.31 *Supports* modification to come into compliance with Section 2.21
- 5.25 *Supports* appeal of decisions of ABR having same appeal route as others.
- 6.3 *No comment – needs more time to review for an opinion*
- 7.2 *No comment – needs more time to review for an opinion*
- 8.23 *Disagrees* – states that this gives ability to Electorate if no one does anything with 9.32 by recall
- 8.3 *Disagrees* – noted that there is a history of a possible 5% vote for Special Election and now everyone can vote absentee.

**Frank Cihula, 35060 Dixon Road, Willoughby Hills, OH 44094**

With regard to residency requirements on 3.14, Mr. Cihula pointed out that he prefers “3 years as a requirement to run for office of Council or Mayor. “Mayor is a pretty important job and you need to know the City before you are elected.” Mr. Cihula gave the example of a man on SOM Center Road who ran for Mayor in the past only “in order to seek higher office”.

**Robert Kowalsky, 2585 Timberline Drive, Willoughby Hills, OH 44094**

Mr. Kowalsky made the following points:

- 1) Initiative Petition – “Zoning should be your vote.”
- 2) Recall Procedure – Mr. Kowalsky spoke about a case in the past whereby the Mayor had an Initiative Petition against individuals who were brought to jail because of signatures; indicated the “10-day Grace period” was removed from the Charter in 2008 for Initiative Petitions. He pointed out that a “signature is nothing without a Driver’s License.”
- 3) 50% Majority Needed for Mayoral Appointment – Mr. Kowalsky indicated that many countries have that as a percentage—“are they wrong?” He recommended that it should be “the majority.”
- 4) Due Process – Mr. Kowalsky pointed out a problem in the past with a Finance issue concerning a check and a P.O.; indicated that is why “you need the process of who is innocent and who is guilty.” He suggested adding a line that indicates that Council will have due process.
- 5) 10-Day Grace Period – Mr. Kowalsky asked “Where is the 10-day Grace period?” This references a change made by the Commission in 2008 when, after submission of a petition to the Board of Elections, the submitter of the petition had ten days to amend it.

The following individuals spoke in **Round 3**:

**Frank Cihula, 35060 Dixon Road, Willoughby Hills, OH 44094**

- 5.32 BZA – Mr. Cihula indicated that the last paragraph was put in to tie in to 5.15. He gave the history of an incident in a previous WH election where residents were advised that a similar provision was contained in the Eastlake Charter, but it was not.
- 9.34 – Removal of Council of Mayoral Appointees – Mr. Cihula indicated that he recalled that Mayor Campbell supported this because the Mayor would not be able to appoint a “buddy of his”; Council can “do it” and “take the heat off of him.”

**Law Director Thomas Lobe, 2920 Gatsby Lane, Willoughby Hills, OH 44092**

Article IX – Mr. Lobe pointed out that this Article covers all – including volunteers, Directors, etc. In Article 9, “you have to have a reason to get rid of someone, but in Article 2.21, you do not need a reason, just a vote.” He reminded the Commission that the Ohio Ethics Commission controls many ethical considerations and that the Ethics

Commission was not in existence when the first Charter Review Commission was created. “We have the right to be different, but should we be different?”

Mr. Lobe then offered the following:

“In the event that the Commission decides to revise Article IX, there are many terms and phrases that are outdated and/or legally inaccurate:”

- 9.1 “Bureau”, “Agency” – no longer in existence in our City
- 9.22 “Noncivil Service employment” – “All employees are Civil Service and are either Classified or Unclassified (see further Section 9.4 Civil Service).
- 9.22 “Immediate Family” – “No definition and the OH Revised Code has many different definitions depending on the section; for example, for reporting purposes, the ethical definition only means “spouse and minor children”, yet other ethical definitions are very broad.” “What do we want for Willoughby Hills?”
- 9.2 Nepotism Policy –“There is no Nepotism policy. Should this be a Charter issue, a policy or ordinance? Should it be the responsibility of the Charter Review Commission or Administration or Council? The State has set forth standards that are revised regularly.”
- 9.32 Definition of “Gross Misconduct,” “Malfeasance”, “Nonfeasance”, and “Moral Turpitude” – Mr. Lobe pointed out that these were defined by Shirley Vincenty in previous Charter Review Commission discussions (see CRC meeting minutes of 4/22/98), but never added to the Charter for clarification.
- 9.34 Due Process – Mr. Lobe pointed out that there is “more due process afforded for removal of non-elected officials and Department Heads (i.e. Secretary) than to a member of Council.”
- 9.4 Civil Service – Mr. Lobe “defers to Civil Service Commission Representative to update and specifically include the Willoughby Hills employment positions that are either Classified or Unclassified.”

**Dale Fellows, 2812 Fowler Drive, Willoughby Hills, OH 44094**

- 9.43 Police Chief and Fire Chief

Mr. Fellows said that 9.43 was changed in 2008 and that we “can go one level above what the State has.” He agrees “that changes need to be made” because “Civil Service used to mean that it was necessary to take a test, but that is no longer the case.”

- Other:

In light of the recent events in Cuyahoga County, Mr. Fellows pointed out that we do not want that to happen here so we need to establish the best way to ensure that our city officials are above and beyond reproach.

9.32 – due process is missing and lack of enforcement is missing.

9.34 – it takes 5 members of Council to sign off on an allegation , maybe it should be “3” because it then goes to Council for a final vote.

Public Hearing closed at 7:45 p.m.

**Old Business:**

None

**New Business:**

Vice Chairman Jim Walsh asked some verification of a few items to Law Director Lobe:

1) 4.32 Last line – Mr. Lobe agreed that he did not fully understand the intention of this item as there are no items that he would prosecute. He indicated that the Magistrate prosecutes in Mayor’s Court but Mr. Lobe does not prosecute any action before the Mayor.

2) % of zoning cases gone to court?

Mr. Lobe will get back to the Commission with those numbers. He indicated that large companies try to sue us in court, but smaller cases might come up with better results if handled by BZA. It is his opinion that “all of the cases could have been better handled internally. “They still have a legal remedy to go to court if they don’t agree with our decision.”

3) 8.23 “if the Clerk finds the petition and the allegations contained therein legally sufficient...”

“Is she qualified to do so?” Mr. Lobe explained that she is responsible to verify the requirements of the number of signatures, with the Board of Elections making the final count of valid signatures.

4) 6.3 Actions by Council – Vice Chairman Walsh thought this is “contradictory to 5.32 Zoning.” Mr. Lobe agreed.

Vice Chairman Walsh thanked the participants of the Public Hearing for their “good comments.”

Tanya Taylor-Draper asked for more explanation from Mrs. Florine O’Ryan.

Mrs. O’Ryan stated:

“Commissions and Boards are made up of volunteers with the Mayor selecting them. It is a volunteer job. It takes a lot of someone’s time and effort. When you have rules about families (like nepotism), volunteers are hard to come by. There should not be such strict rules about who you can put on a commission, including their family or who can be employed. I sat on a Board as a Chairman.” When it came time to elect a new Chairman, “no one even wanted to be Chairman.” “Be careful about how many rules you put on Boards and Commissions.”

**Public Portion:**

Public Portion opened at 7:57 p.m. The following resident spoke:

- 1) Robert Kowalsky, 2585 Timberline Drive, Willoughby Hills, OH 44094  
Had one question for the Commission. “Now do you all understand?”

Public Portion closed at 7:59 p.m.

**For the Good of the Order:**

None

**Adjournment:**

Motion to adjourn by C.J. Latsa seconded by Jerry Wolanin

ROLL CALL: 9 AYES – unanimous      MOTION PASSES.

Meeting adjourned at 8:00 p.m.

APPROVED: 7/15/14

  
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Andy Gardner, Chairman

ATTEST: Gloria Majeski  
Gloria Majeski