MEETING MINUTES
CITY OF WILLOUGHBY HILLS 2014 CHARTER REVIEW COMMISSION
Tuesday, July 15, 2014

Call to Order:
Meeting called to order by Chairman Andy Gardner at 6:34 p.m.

Roll Call:
Members Present:

Dr. Stephen Atkins, Chairman Andy Gardner, Mrs. Joyce Grady, Mr. C. J. Latsa, Mrs. Judy Shrefler, Mrs.Sandy Taddeo, Mrs. Tanya Taylor-Draper, Vice Chairman Jim Walsh and Mr. Jerry Wolanin

Members Absent:

None

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

Motion to approve by Mrs. Joyce Grady
Motion seconded by Vice Chairman Jim Walsh

ROLL CALL: 9 AYES MOTION PASSES.

Public Hearing (in compliance with Section 5.6 of the City Charter):
Public Hearing opened at 6:36 p.m. Chairman Gardner outlined time allocation as set forth by Charter Review Commission with three rounds, each speaker being permitted seven minutes maximum during the three rounds (not to exceed 4 seven-minute opportunities over the two-night Public Hearing process).

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

1) Councilman David Fiebig, 35701 Hanna Road, Willoughby Hills, OH 44094

He has reviewed Charters of other cities. Charters should give a framework with a balance of power between Administration (The Mayor) and Legislation (The Council) branches. He feels it is important to bring the voters into it when you make major changes to zoning codes. He then made the following Charter suggestions:

- Suggested to have 2/3 of Council approve the ballot issues for consideration once 2/3 of the CRC has agreed on these items for submission to Board of Elections.

- Would appreciate having Council receive a report from CRC at conclusion of their Charter Review which reports as to why decisions were made. This would explain the Commission's thought process when looking back years from now.
- Composition of CRC – felt Mayor's appointment of current members was rushed. Stated "we don't have to get it on the ballot." **Proposes to look at 5.6** – from CRC effective for half a calendar year and then every 8 years thereafter. Recommends the nine members be appointed as follows: 7 appointed by Council (1 appointed by each Council person) and 2 appointed by the Mayor.

- **3.1 Composition**
  Removal from Office...may remove for gross misconduct...: recommends adding ¾ members of Council. Also recommended that accused member should be notified in writing and given the chance to respond to allegations. Recused member should not be able to vote on it.

2) **Ms. Cheryl Ota, 2960 Marcum Blvd., Willoughby Hills, OH 44092**
Requested that City officials letters that have been prepared as part of the CRC's Public Hearings be read orally by the CRC.
Due to time constraints during the meetings, the Clerk agreed to make them available immediately on the website.

3) **Mr. Robert Kowalsky, 2595 Timberline Drive, Willoughby Hills, OH 44094**
Discussed his displeasure with Pleasant Valley Road Bridge Fund and the lack of transfers made to same over the years.

Round 1 closed.

Round 2 opened and closed – no speakers.

Round 3 opened.

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

1) **Mr. Robert Kowalsky, 2595 Timberline Drive, Willoughby Hills, OH 44094**
"You need a process." "Documents are written to say 'I dare you to go to court", holding up Finance Director Brichacek's memo. "Take the 10 day Grace period back and give it to Initiative Petition." Mr. Kowalsky recommended that Council should be putting their names on the legislation. He told the Commission, "You are set up to have no

time. You have the most authority in the City. I think it is a sacred Charter. If you can't do it, just adjourn."

Round 3 closed at 7:06 p.m. This closed the Public Hearing sessions.

Chairman Andy Gardner opened the floor for presentation by City Administration. Mayor's Executive Assistant Gloria Majeski spoke first and brought up the following points:

- Request for Board/Commission terms of office clarification affecting:
  Section 5.1 Planning & Zoning Commission
  Section 5.3 Board of Building & Zoning Appeals
  Section 5.5 Civil Service Commission

In each of these sections, the appointment of members is outlined. The point that needs to be clarified here is that the appointment commences on January 2 (or the first meeting of that particular Board or Commission following January 2), unless such appointment is to fill an unexpired term left vacant. All appointments should expire according to the term limits based on the January date.

Changing the language in each of these sections will help Administration when the Mayor makes his appointments to Boards and Commissions. As the Charter reads now, if someone accepts a three-year appointment on February 3rd, his term should expire on February 3rd three years later. Instead of Administration having to keep track of the Mayor having to reappoint individuals at odd times and run the risk of having that day pass, it would seem prudent to add this language to all of the above sections to clarify the terms of office.

- Request to add a line to all sections involving Boards & Commissions to establish a disciplinary action procedure for removal of Board/Commission member due to gross misconduct, malfeasance, or non-feasance in office, or upon conviction while in office of a felony or other crime involving moral turpitude. There is currently no means to terminate a Board/Commission member who may be guilty of the items listed previously. This would involve the following Charter sections:
  Section 5.1 Planning & Zoning Commission
  Section 5.2 Architectural Board of Review
  Section 5.3 Board of Building & Zoning Appeals
  Section 5.4 Recreation Commission
  Section 5.5 Civil Service Commission
  Section 5.6 Charter Review Commission

Mrs. Majeski then gave a history of the controversy surrounding Article IX. She further suggested the following changes to Article IX:

1) What is the real need for Article IX? Can we just perhaps state "The City shall have a policy on file regarding Nepotism, Conflict of Interest and Vendor Conflict of Interest which will outline filing and compliance procedures and a policy for disciplinary action for non-compliance?
2) The above item would be the only item I would save in Article IX. I would suggest moving some of the information contained in Article IX to other places in the Charter:
   Section 9.1 Officers – move to Section 1.5 Officers
   "Section 1.51" The word "officer" as used in this Charter shall include the Mayor, members of Council, Clerk of Council and the Directors of all Administrative Departments.
   (NOTE: THIS WAS PREVIOUSLY 9.1 AND HAS NOW EXCLUDED THE MEMBERS OF BOARDS AND COMMISSIONS SINCE THEY SHOULD NOT FALL IN TO THIS CLASS OF COMPENSATED INDIVIDUALS).
   "Section 1.52 No officer or employee shall hold any other elective public office, nor any other employment incompatible with his duties as an officer of this Municipality"
   (NOTE: THIS WAS PREVIOUSLY THE SECOND PARAGRAPH OF 9.21)

   "Section 1.53 Every officer shall, before entering upon the duties of his office, take and subscribe his oath or affirmation to support the Constitution of the United States and of the State of Ohio and the Charter and Ordinances of Willoughby Hills, and faithfully, honestly and impartially discharge the duties of the office"
   (NOTE: THIS WAS PREVIOUSLY THE 3RD PARAGRAPH OF 9.22)

   Section 9.2 General Qualifications – delete first paragraph of 9.21 and replace with:

   "9.21 For All Personnel. The City shall maintain a policy on file regarding Nepotism, Conflict of Interest and Vendor Conflict of Interest. The City shall provide a process by which Public Officials and Employees may identify and resolve ethical issues. Furthermore, the City shall provide a fair and impartial process by which alleged violations of this Charter may be heard.
   (THIS REPLACES THE CURRENT FIRST PARAGRAPH)
   (9.21 CURRENT SECOND PARAGRAPH MOVED TO 1.5 OFFICERS)
   (9.21 CURRENT THIRD PARAGRAPH DELETED – WILL BE COVERED BY CONFLICT OF INTEREST POLICY NOTED IN 9.21 ABOVE)
   (9.22 CURRENT FIRST PARAGRAPH DELETED – WILL BE COVERED BY NEPOTISM & CONFLICT OF INTEREST POLICIES NOTED IN 9.21 ABOVE)
   (9.22 CURRENT SECOND PARAGRAPH MOVED TO 1.5 OFFICERS)
   (9.22 CURRENT THIRD PARAGRAPH MOVED TO 1.5 OFFICERS)

   (SECTION 9.3 IS TO BE REMOVED IN IT ENTIRETY AS RECOMMENDED LAST CRC MEETING OF 6/25/08, BUT NEVER FOLLOWED THROUGH BY PREVIOUS COMMISSION AT ELECTION, AS SIMILAR POINTS ARE CONTAINED IN 2.21)

SHE NOTED, HOWEVER, THAT THE CURRENT 2.21 DOES NOT ADEQUATELY ADDRESS REMOVAL OF EMPLOYEES BY MAYOR OR COUNCIL, DESCRIPTIONS FOR MALFEASANCE, MISFEASANCE, ETC., OR THE DUE PROCESS FOR COUNCIL, OFFICERS OR EMPLOYEES. SHE ASKED THAT THE COMMISSION MAKE SURE ALL OF THESE ITEMS ARE ADDRESSED BEFORE JUST DELETING SECTION 9.3 AS PREVIOUSLY SUGGESTED.

(SUGGESTED MOVING FROM CIVIL SERVICE SECTION 9.4 AND MOVING TO 2.21 AS WELL: "THE MAYOR SHALL HAVE THE AUTHORITY TO SUSPEND OR REMOVE THE POLICE CHIEF OR FIRE CHIEF ONLY AS PROVIDED FOR IN SECTION 733.35 OF THE OH REVISED CODE, PROVIDED, HOWEVER, THAT SUCH SUSPENSION OR REMOVAL SHALL HAVE THE CONCURRENCE OF TWO-THIRDS (2/3) OF THE MEMBERS ELECTED TO COUNCIL"

Mayor Weger then took the floor to discuss the following points:

- 5.15 and 5.32 Rezoning
  Noted that when it was put in, there was an overwhelming vote; probably need to leave it as it is.
- Charter Review Commission
  Mayor Weger identified this Commission as "diverse,intelligent people " and felt that he has done a wonderful job in his selection of people to "get the job done." He would not agree with Council having an input on the CRC member selection. He was fair in his choice of members, many of whom he did not know and none of whom he "owes anything to." He recommended that the Commission be the "filter as to what they think are worth to be in our Charter." Once they have made their recommendations, he advised to then "send it to our voters to make a decision." "To have veto power over you is unfair." "You have the right to present documents to the voters."
- Definitions of Malfeasance, Misfeasance, etc.
  Mayor referenced 4/22/98 CRC meeting minutes whereby Shirley Vincenty documents definitions for these items and recommends that the Commission revisit those minutes as a baseline for their description in our Charter. "They mean different things to different people" and recommended clarification by definition.
- **5.62**
  If you want to submit the changes earlier, "that's ok." Recommends "3 year residency for Council" because he does not feel that after one year an individual would have a handle on what is going on in the city.
- **Article IX**
  He does not feel Boards and Commissions should be in the "Officer" category because they do not get paid. Reinforced Mrs. O'Ryan's remarks about "volunteers are hard to come by. They care about the city rather than seeking political gain to move up the ladder. "

In closing, Mayor Weger reminded the CRC that "the Charter should be a framework, not specific to all things. Council can always legislate definition, you need to give them the background to make the changes." That concluded the Mayor's report to the Commission.

Chairman Andy Gardner advised the CRC that Civil Service will be here next week to present their suggested Charter changes to the Commission. He then opened the floor for any additional Council input.

Councilman John Plecnik spoke and offered the following points:

- CRC has a tough deadline. He believes **Article IX** sets a higher standard than State regulations and that terms such as malfeasance, etc. need to be "flushed out." "Immediate Family" definition, he believes, should "mirror OH Ethics law definition." "The debate on this Article should be much longer than four months."
- **3.14 Residency** – Councilman Plecnik feels that an individual should be permitted to run for Council after one year of residency. He cited a very qualified individual whom he would believe to be qualified for a Council seat who has been in the City one year. He wondered if there may not be a longer residency requirement for District Councilmen so they are more familiar with their districts.
- **Article IX** - Councilman Plecnik expressed concern over Administration's recommendation with the word "shall" when referring to the Conflict of Interest and Nepotism Policy. He offered that perhaps "salary should be withheld if official duty is not done." He said the Charter needs to be enforced and seemed to state that the word "shall" did not provide the enforcement he would be comfortable with.
- **Article IX** -Volunteers – Councilman Plecnik did not agree with Administration's recommendation to remove volunteer "Boards and Commission" members from the "Officer" definition. He indicated that he believes those volunteers may have access to City funds or make decisions to affect City funds, as he felt the 460 Fund was an example of for the Recreation Commission. "While not paid, they still have considerable power", he said. In addition, he does not believe "2 members of the same family who are both in positions where they can help one another out" should be permitted. He feels Article IX should set a higher standard.

Old Business:

Chairman Andy Gardner asked for the opinions of the Commission for the best way to approach the sequence of reviewing the Charter items previously presented. He has at least 35 suggested changes on the list so far, with probably another 15 or so from tonight's Public Hearing. Some are "clean up" changes (such as "Bureau" and "Agency" deletions per Mr. Cihula). On a larger scale, there are Article IX and Section 5.15. Civil Service Commission is pending but will not detain us from the other issues. He will get a complete list of items ready for next week and then the Commission can determine whether they want to prioritize or address the items sequentially.

Mrs. Taylor-Draper asked that the time frame be clarified.

Chairman Andy Gardner said that Joyce Grady had verified September 1st as the date with the Director of the Board of Elections, mentioning that some cities even send a few at a time prior to that date so the Board of Elections can get started on the preparation of the items. It is up to Council to forward them to the Board of Elections. We just need to get it to Council. In 2008, Council called a Special Council Meeting, waived the two-day notification and waived the three-reading rule to get the items to the Board of Elections timely. Chairman Gardner confirmed that Home Rule trumps the Election Board.

Vice Chairman Jim Walsh asked how a total re-write of the Charter would be handled. (Chairman Gardner will check with Law Director Lobe). Vice Chairman Walsh asked about breaking into smaller groups (respectful of the Sunshine Law) to get more accomplished. Chairman Gardner prefers to work through the issues as a group and then decide on what the Commission wants to do. His plan would be to work through, discuss and then pick the most important issues to tackle.

Mr. Wolanin suggested looking at the Board of Elections issues now then deferring more substantial issues (which may require community input). He felt that if we do nothing now, next year's slate would be too huge. He recommends putting items on both the 2014 and 2015 ballots.

Mr. Latsa agreed with this. He would prefer to "take care of the easy items and that will give experience for more difficult items." He proposed that each member propose a list that they would like to address.

Mr. Atkins agreed. "We need to do this right."

Mayor Weger offered that he knows it is a big task. "Pick the ones that you can do now." He would plan to reappoint all current members to complete any unfinished Charter business and felt it was unfortunate they were not appointed sooner. But he feels that once "you have the momentum of your foot in the door, the harder decisions will become easier with that knowledge."

Councilman Fiebig referenced a NY State document regarding, "Creating a Charter." He recommends creating a balance of power through Administration (Mayor) and Legislation (Council). "Forget about deadlines, "he said, "Let's do this right rather than doing it quickly."

Councilman Plecnik agreed with Mr. Wolanin's suggestion to defer any substantial changes and agreed it would be smart to "clean up the easier items." He had concerns that everyone would rush through and not be able to get input from the public.

Mrs. Shrefler pointed out that she had reviewed the previous CRC meeting minutes and found that in 2008, only 8 meetings were held. The highest number of meetings held was 13. She feels that the frequency of this Commission's meetings put this Commission ahead of previous Commissions. "We still have a lot of time ahead of us." As one who engages in "forward thinking," she asks, "How do we wish we had proceeded?" She recognizes that the Commission

cannot get all of the changes on the ballot but recommends prioritizing the issues, rather than doing them sequentially.
Vice Chairman Walsh agreed that he prefers to work on a deadline because "we will perform to it." Mrs. Grady agreed.
Mr. Wolanin had concerns about a huge document going on the ballot for the voters.
Vice Chairman Walsh offered considering a procedure where the issues would be classified as either important or non-important, or urgent versus non-urgent. For example , the zoning issues would take a lot to re-write.
Chairman Gardner explained that some of the issues may be able to be grouped together, such as: 1.2 Revise Charter – Special Election, etc.

Council/Mayor terms

Two year residency related to date sworn in.

This discussion closed with Chairman Gardner agreeing to prepare a complete list of ballot item considerations, which the members can then select to work on to get ready for the ballot.

New Business:

None

Public Portion:

Public Portion opened at 8:15 p.m. The following residents spoke:

1) Mr. Robert Kowalsky, 2585 Timberline Drive, Willoughby Hills, OH 44094
   Mr. Kowalsky expressed his displeasure with the hiring of the City's Economic Director.
   He suggested to the Commission, "Here is the solution...make a checklist by what you want to accomplish and add up the Charter Review Commission votes."
   "What if you just stood there and never adjourned?" "85 days till election!"
2) Ms. Linda Fulton, 2990 Marcum Blvd., Willoughby Hills, OH 44092
   She stated that it was her opinion that the Commission work sequentially. 2008 CRC took 4 months with a September 1st deadline. Election Board wants it by August.
   Ms. Fulton offered that a public meeting showing the changes is important, especially if there are a lot of changes. " Next November is a bigger election. It is important to do it right. Don't worry about the deadline if you plan for November 2015."

Public Portion closed at 8:22 p.m.

Chairman Gardner responded to Ms. Fulton's comment regarding public meetings. He indicated that two public meetings were held last time after issues were submitted, but before Election Day. The City also does a mailing with the proposed changes.

For the Good of the Order:

None

Chairman Gardner took a straw poll for thoughts on 2014/2015 submissions:
Mrs. Taddeo – supports issues for 2014 and 2015 ballots
Mrs. Shrefler – supports trying to complete for 2014 and reach deadline
Mrs. Taylor-Draper – still unsure – "good points on both sides"
Mr. Wolanin- supports issues for 2014 and 2015 ballots – "prioritize"
Chairman Gardner – review all and discuss
Vice Chairman Walsh – look at all issues and "give it our best shot"
Mr. Atkins – prefers sequential review of items – concerns about the public on vacation for input
Mr. Latsa – go through as many as possible and prioritize for 2014 ballot.

Mrs. Taylor-Draper inquired about the Commission's plan to proceed with the Charter Review items. Chairman Gardner will provide a list for all to review and prioritize (1 to 5) by urgency. Chairman Gardner also advised the group that Economic Development Director Steve Roszczyk had provided a memo with his suggestions to the Commission that was distributed to the members, but not delivered orally by Mr. Roszczyk. This document was provided to all members.

Public Portion was re-opened at 8:33 p.m. to give Councilman Fiebig an opportunity to add one more item for the Commission's consideration:

Councilman Fiebig – Advised the Commission the City mails the ballot language to our residents and it costs the City money to do so. (This was offered as a consideration if the Commission decides to put ballot items on in 2014 and 2015).

Public Portion was again closed at 8:34 p.m.

Adjournment:
Motion to adjourn by Mr. Jerry Wolanin seconded by Mrs. Joyce Grady.
ROLL CALL: 9 AYES – unanimous MOTION PASSES.

Meeting adjourned at 8:35 p.m.

APPROVED: 7/22/14

ATTEST: Gloria Majeski
Gloria Majeski

W. James Walsh, Vice Chairman
(in the absence of Chairman Gardner)