

MEETING MINUTES
CITY OF WILLOUGHBY HILLS 2014 CHARTER REVIEW COMMISSION
Tuesday, July 29, 2014

Call to Order:

Meeting called to order by Chairman Andy Gardner at 6:32 p.m.

Roll Call:

Members Present:

Dr. Stephen Atkins (not present at Roll Call, but arrived at 6:40 p.m.), Chairman Andy Gardner, Mrs. Joyce Grady, Mrs. Judy Shrefler, Mrs. Sandy Taddeo, Mrs. Tanya Taylor-Draper, Vice Chairman Jim Walsh and Jerry Wolanin

Members Absent:

Mr. C.J. Latsa

Eight of nine members are present – recognized as quorum.

Approval of Charter Review Commission minutes of 07/28/14:

Motion to approve by Mrs. Joyce Grady

Motion seconded by Mrs. Sandra Taddeo

VOTE: 8 AYES.

MOTION PASSES.

Public Portion:

Public Portion opened at 6:34 p.m.

The following individual spoke:

1. Ms. Linda Fulton, 2990 Marcum Blvd., Willoughby Hills, OH 44092

Ms. Fulton spoke about her concerns with the previous presentation of Law Director Lobe, indicating she believes it is “OK to have more in our Charter than Ohio Ethics Commission.” She prefers “broad versus vague” and added she would like the CRC to be concerned only with Willoughby Hills and not compare us to surrounding cities. “Stay with betterment of Willoughby Hills – not other ciites.”

Ms. Fulton then gave some views on Article IX, where she feels “nepotism and conflict of interest need to be explicitly defined.” Knowing the Charter was written in the 60’s

as a village and in the 70's as a city, she feels that maybe some things need to be updated to keep up with the changing laws, but "not to get rid of it."

2. Mr. Robert Kowalsky, 2585 Timberline Drive, Willoughby Hills, OH 44094

Mr. Kowalsky asked the Clerk to correct all previous CRC minutes to ensure that his name and address were correct. Mr. Kowalsky spoke about "two factions in Willoughby Hills battling for control (employee structure)", "History is the one thing that does not change." Mr. Kowalsky suggested a three-minute review limit on all of the Prioritization Worksheet items for the CRC to review and then determine, "Does it stay or does it go?"

Public Portion closed at 6:47 p.m.

Old Business:

Article IX

Chairman Andy Gardner distributed a document entitled "Discussion of Article IX Charter Issues" dated July 29, 2014. This included the following Article IX discussion topics:

- Removal from Office
- Scope of Application to City Employees/Officers/Volunteers
- Conflict of Interest
- Nepotism

Mr. Jerry Wolanin offered his written thoughts on Article IX, beginning with Ethics/Conflict of Interest, as well as Proposed Changes to Article IX. He expressed his concerns about the probability of the definition of "immediate family" changing. He felt that perhaps there should be a "window of a number of years" whereby an official would not be permitted to be a party to a contract/act as a vendor. Mrs. Joyce Grady expressed that it may not be realistic to put a window on something like that for a violation. Mr. Jerry Wolanin agreed that it is too vague presently and gave the example of a salt vendor who may then run for an elected office. Perhaps we may want to use the OH Ethics standards so we don't have to "come back later and fix it, especially considering that definitions change."

Vice Chairman Jim Walsh had the same thoughts about "malfeasance, misfeasance, etc." asking if these were legal terms or if we needed to define them. Chairman Andy Gardner suggested that in his business as a contract attorney, definitions are written right into the contract. That creates an advantage of having a clear definition so that you have a place to look for it. He reminded the CRC that "Council can keep up with these changes, too." Vice Chairman Jim Walsh agreed that the definitions should be "put in an Appendix".

Mrs. Sandy Taddeo expressed concern about the “indirect and direct interest” with a “no-relatives policy.” Mrs. Tanya Taylor-Draper agreed that “Willoughby Hills is a small city” and it would be impossible to think that everyone does not know “someone.” Chairman Andy Gardner said, “More than knowing, it is doing business with them.” He gave an example of a Councilwoman having an interest in an insurance agency where the City went out to bid for an insurance quote. Dr. Stephen Atkins suggested “going out for lowest and best bid to keep it fair.” Chairman Andy Gardner asked, “What do we as the residents want to say is fair and how do we want to do business?” Mrs. Judy Shrefler offered that on one extreme the Charter says “no relatives” yet there is no conflict of interest policy so “anything goes.” She felt that Ohio Ethics Commission “meets somewhere in the middle.” Vice Chairman Jim Walsh agreed that we are a small community and we “don’t want to discourage vendors to go elsewhere. Same with volunteers – we want to involve people.” Mr. Jerry Wolanin offered that “different areas of government should be okay, as long as not directly supervised” as it relates to nepotism. Mrs. Sandy Taddeo suggested that “9.1 Officers” definition is “all inclusive” but “volunteers should be in a different category.” Mrs. Tanya Taylor-Draper feels that her “gut reaction” is that an employee or Council member should recuse themselves from interaction with a situation that may present itself to be a conflict. Dr. Stephen Atkins stated that it comes down to “Public Service and Self Service and that maybe you need to make a choice, but the two should not intersect.” Mrs. Joyce Grady agreed that she would like to “change 9.1 definitions to pull volunteers from there.” Chairman Andy Gardner offered that Council could adopt a Nepotism and Conflict of Interest Policy. Mrs. Joyce Grady agreed that it would be a good idea to legislate it. Mr. Jerry Wolanin stated that we should “establish a benchmark with Ohio Ethics Commission and legislate some items with ordinances. He expressed concern about upcoming changes such as definitions of “immediate family” that would make our Charter outdated and require CRC intervention again. Mrs. Judy Shrefler agreed that there is a huge advantage to use Ohio Ethics Commission, but is interested in what others may perceive as the ramifications. Vice Chairman Jim Walsh suggested that if we point to someone else’s guidelines to update our own, “we give up some autonomy.” Mr. Jerry Wolanin said it is a “complex area, but Ohio Ethics Commission has the expertise” and suggested that we should “reference going to Ohio Ethics state statutes “somewhere in the Charter.” Vice Chairman Jim Walsh agreed. He also perceives a discrepancy in “gratuity” and expressed concerns about “cohabitating individuals” with the definition of “immediate family.” Chairman Andy Gardner explained that there is “no legal binding for cohabitation with no claim on property.” Vice Chairman Jim Walsh agreed to “probably safer to defer to State’s definition of family.”

Chairman Andy Gardner then discussed the possibility of a relative of the Mayor or Council being employed, even with a Classified position. With regard to Nepotism, the group agreed it may be wise to Remove 9.22 (first paragraph) in favor or something that provides:

“Except for members of Boards and Commissions and Classified employees, no member of the immediate family (as defined by the Ohio Ethics Commission) of the Mayor, any Council member or Department Head (as defined in City Charter) may be employed by the City.”

Chairman Andy Gardner will draft for CRC review at next meeting. In the interim, he will check with Law Director Lobe to see if this constitutes a “no relatives policy” which would be in violation of Ohio Ethics Commission. A vote was taken to move in this direction.

VOTE: 8 AYES – unanimous ACTION PASSES.

Further discussion ensued regarding removing “Bureau” and “Agency” from Section 9.1 and assignment of new Section numbers. Chairman Andy Gardner advised that both issues should be taken care of with suggested changes. “Bureau” or “Agency” may be something to be utilized in the future though and perhaps may not be wise to remove at this time.

Chairman Andy Gardner announced that we will leave Article IX on “Old Business” for Monday’s meeting for further discussion.

Public Portion #2

Public Portion #2 was opened at 8:26 p.m.

The following residents spoke:

1) Mr. Frank Cihula, 35060 Dixon Road, Willoughby Hills, OH 44094

- a) Clarified that at the Ohio Ethics Commission workshop, “gratuity” issue was raised and was defined as “anything substantial.”
- b) With regard to Article IX, he felt that the CRC is making “more and more of a case to go with Law Director Lobe’s recommendation to eliminate it” and that the “few areas that are necessary can be plugged in elsewhere.”

2) Ms. Linda Fulton, 2990 Marcum Blvd., Willoughby Hills, OH 44092

Ms. Fulton agreed that it is “hard to get volunteers, but not impossible.” She feels that having a Recreation Coordinator employed by the city and her brother as Chairman of the Recreation Commission who has a business that the city utilizes for City business may be a conflict. With regard to nepotism, Ms. Fulton suggested that “you must find out where they are volunteering” and suggested “watch where you put them.”

3) Mrs. Florine O’Ryan, 35400 Hanna Road, Willoughby Hills, OH 44094

Mrs. O’Ryan asked, “What is a volunteer?” She gave examples of individuals employed in the City that may be in violation under the current Charter (i.e. the Shrefler girls previously employed as Community Center monitors, the Germano family, herself as a previous bank employee at the bank where the City did business and a Councilman employed at CSU when our Fire Department takes classes at CSU.” She expressed her concern about these “indirect” relationships that seem to be in violation with our current Charter language, but does not agree with it.

4) Ms. Cheryl Ota, 2960 Marcum Blvd., Willoughby Hills, OH 44092

Ms. Ota expressed her concerns about volunteers being in a “click”, as well as the appointments by the Mayor. She suggested that the Community Center monitor positions be advertised to give more Willoughby Hills residents an opportunity. Ms. Ota expressed concerns that the Recreation Commission is “picked by the Mayor.”

5) Mr. Frank Cihula, 35060 Dixon Road, Willoughby Hills, OH 44094

Mr. Cihula asked to be recognized once more to be able to state that “the Recreation Commission was created by our Charter. “ Twice in our history, the make up of the Commission was changed because “there is a lot of work to do.” One must “volunteer and do the work.” He added that the second change that was made was to change the number of members.

6) Mr. Robert Kowalsky, 2585 Timberline Drive, Willoughby Hills, OH 44094

Mr. Kowalsky thanked the Chairman for the second opportunity in Public Portion. He said that he believes the Ohio Ethics Commission is bipartisan. He reminded the CRC that our Charter is “our ability to expand to govern ourselves.” He further suggested the creation of a “Willoughby Hills Ethics Commission, “ possibly made up of Council, Administration, citizens and members of the Civil Service Commission. “Why create our own?” he asks. “Today, liquor is a gratuity. Tomorrow, Zoloft would be a gratuity.” “No one has anywhere to go to get a decision. We can prevent that if we bring it in house.”

Ms. Linda Fulton and Mr. Robert Kowalsky asked Vice Chairman Jim Walsh about the Tri-C Ethics Class. Vice Chairman Jim Walsh agreed to get the information and make it available to them at the next meeting.

Public Portion closed at 8:50 p.m.

