

MEETING MINUTES  
CITY OF WILLOUGHBY HILLS 2014 CHARTER REVIEW COMMISSION  
Monday, August 11, 2014

**Call to Order:**

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

**Roll Call:**

Members Present:

Dr. Stephen Atkins, Chairman Andy Gardner, Mrs. Joyce Grady (arrived at 6:42 p.m.), Mr. C. J. Latsa, Mrs. Sandy Taddeo, Mrs. Tanya Taylor-Draper, Vice Chairman Jim Walsh and Jerry Wolanin

Members Absent:

Mrs. Judy Shrefler

Seven of nine members are present at Roll Call – recognized as quorum.

**Approval of Charter Review Commission minutes of 08/04/14:**

Motion made by Mrs. Tanya Taylor-Draper to approve the minutes of 8/4/14, seconded by Vice Chairman Jim Walsh. Vote: AYES 6, 1 abstention (Mrs. Sandy Taddeo), MOTION PASSES.

**Approval of amended Charter Review Commission minutes of 8/5/14:**

Motion made by Mrs. Tanya Taylor-Draper to approve the amended minutes of 8/5/14, seconded by Mr. C.J. Latsa. Vote: AYES 5, 2 abstentions (Mrs. Sandy Taddeo and Vice Chairman Jim Walsh). MOTION PASSES.

**Public Portion:**

Public Portion opened at 6:37 p.m.

The following individuals spoke:

1. **Councilman John Plecnik, 2890 Bishop Road, Willoughby Hills, OH 44092**  
Councilman Plecnik spoke of the “no-relatives policy” and made reference to a 1996 opinion which dealt with “no-relatives policy” in the State. After doing independent research, Councilman Plecnik said he could not find a lot of cases that deal with it, but

all of the ones he did see (when they strike down no-relatives policy) are dealing with Classified service and are “very, very expansive policies that say if your brother-in-law is hired by the Police Department, you cannot be hired in the FD or PD.” He further discusses cases where Classified employees tested for positions and the status of their hirings. He indicated he “felt it was different to have a policy where it says that you cannot have a relative of the boss (i.e. Mayor or Council member) in a Non-Classified position that the boss is filling.” Councilman Plecnik pointed out that there is no “objective evidence that you are the best person for the job,” as you have in a Classified service. He felt it gives the look of “scratching each other’s back.” He indicated his search did not reveal any Non-Classified cases that were struck down and, since many other cities have them, he believes them to be valid, but believes that the extreme “no-relatives policy” is not valid. He completed his discussion to say that he “believes what our current Charter attempts to do is valid.”

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

Mr. Kowalsky said, “The Charter is not broken.” “There are no problems with Article IX.” He further stated that “we are here because of incompetence.” He ended his discussion with the thought for the CRC (spelling each letter out): “I-N-C-O-M-P-E-T-E-N-C-E R-A-I-N-S.”

Public Portion closed at 6:43 p.m.

**Old Business:**

Chairman Andy Gardner passed the gavel and to give his opinion. He indicated that he had been approached by two CRC members on separate occasions with the concern that they were concerned about fully expressing their opinions if the CRC did not put any issues on the ballot and sought reappointment. They were concerned that if their opinions were not shared by those reappointing and reconfirming the group, they may not be reappointed. Chairman Gardner agreed that we have no guarantee that any of the current members will be reappointed by the Mayor or Council for the Charter Review Commission. The only solution to guarantee that would be to put a self-serving issue on the ballot to get the Commission reappointed to keep us here through 2015. He agreed that this idea was “silly and irresponsible.” Instead, he advised the CRC to “speak your mind without fear.” He encouraged them to do the right thing and not be concerned about speaking their opinions openly. (At that point the gavel was returned to him).

Chairman Gardner started the discussion with a recap of the assignments (for members who may have missed the previous meeting) as follows:

Continuation of discussion on Article 9:

- 1) Mrs. Tanya Taylor-Draper/Mrs. Joyce Grady and Mrs. Judy Shrefler:  
*Conflict of Interest – Financial*
- 2) Dr. Stephen Atkins/Vice Chairman Jim Walsh:  
*Removal Provisions*
- 3) Chairman Andy Gardner/Mr. Jerry Wolanin:  
*Ensuring the Charter provides for appointment and removal procedures for all City personnel.*

Reports from each group followed:

- 1) Dr. Stephen Atkins indicated he had reviewed other charters and the provision for “Mayor’s Removal from Office” were virtually identical to each other in these comparisons. They provided for 2/3 vote of Council for approval, 10-day notification as far as a due process element. His only question after the review of these was “What triggers a hearing?” He then decided to include in his proposal :
  - a. A 4-member requirement to prepare affidavit documenting complaint
  - b. A 5-member majority to remove Mayor and/or Council member

Vice Chairman Jim Walsh said that he felt this was complete (giving Dr. Atkins credit for the majority of the work on this proposal) because it addresses due process concerns. He said that the trigger mechanism is “pretty key” and that there is no room for question. Vice Chairman Jim Walsh indicated that he had asked a Court House representative about the need to further define such words as “malfeasance, misfeasance, etc.” He was advised that “they are defined by common law” so he did not feel the need to define them and said we do not want to be bound by our definitions. Chairman Gardner indicated that definitions are built into any contract he does. He said that the current Charter does not have “Removal of Mayor” clause, only Section 8.23 has a “Recall” provision (as provided under State law). There is no provision where Council can take that action. Dr. Atkins then clarified the number “5” as the number to remove Mayor or Council, indicating that there is no restriction on the “accused” being able to vote. He clarified “adjudicated legally incompetent” to answer Mr. Jerry Wolanin’s question to verify that it would be the “Court to make that decision”, which would probably be initiated by the member’s family, not Council. Dr. Atkins said that there was language in other charters which included “missing three meetings” but felt the “Rules of Council” should cover that. He indicated there were no other substantial

items found in other charters that were not already in ours or that should be considered for inclusion.

- 2) Mrs. Joyce Grady and Mrs. Tanya-Taylor Draper asked for a little more time to prepare their thoughts and presentation with the absence of Mrs. Judy Shrefler. They provided a basic overview of "Conflict of Interest", (see handout) whereby Ohio Revised Code 102.03 (d) and (e) were utilized to replace Paragraphs 1 and 2 of the current Charter (Section 9.21). In addition, they suggested to "include time limitation of 5 years prior from start of term, position" to the third paragraph. They stated that this was the "basic concept" but it is "still in the works."
- 3) Chairman Gardner and Mr. Jerry Wolanin reviewed "Appointment/Removal of Classified and Unclassified employees" (Chairman Gardner giving Mr. Jerry Wolanin credit for the bulk of the proposal preparation) with distribution of handout indicating the Charter location of removal and appointments for each classification. In addition, if due process was lacking in any area, this was noted on the chart. They suggested the addition of "physical and/or mental incapacity" to be included with the current language of "gross misconduct, malfeasance, misfeasance, etc." Chairman Gardner noted there is already (in 2.4) a provision for "unable to perform duties" (after 12 weeks) whereby Council could remove the Mayor. His goal was to be more comprehensive and the chart double checks that there are no unintended consequences of missing another section.

Chairman Gardner said they will work on getting the language ready and Mrs. Joyce Grady feels their work should be ready by Monday, August 18, 2014 as well.

Old Business closed.

New Business opened:

Chairman Andy Gardner announced that Council Chambers is booked for Tuesday, August 12 due to an 8:00 p.m. BZA meeting. It was the consensus of the group to move the CRC meeting of August 12, 2014 at 6:30 p.m. to the Community Center, O'Ryan Room.

## **Public Portion #2**

Public Portion #2 was opened at 7:25 p.m. and the following residents spoke:

- 1) **Mr. Frank Cihula, 35060 Dixon Road, Willoughby Hills, OH 44094**  
Mr. Cihula wanted to mention with regard to 9.21 consideration: areas that the Commission may want to give consideration to regarding prohibition of employment

should include employees of public utilities, the phone company, cell providers and the Post Office.

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

Mr. Kowalsky reminded the CRC that "Removal is only by a vote." He referenced the Cleveland Charter where officials were not removed, but rather asked to resign. He spoke about the requirement of 4 votes to bring a hearing and having an "open door" to do it.

**3) Councilman John Plecnik, 2890 Bishop Road, Willoughby Hills, OH 44092**

Councilman Plecnik asked the CRC to "think about practical consequences, not other cities and not the OEC." "Are you happy to live in a city where a Councilman is the Prosecutor's brother?" The current Charter has broader restrictions. He indicated that he "personally agrees with the current Charter regarding no one outside of Civil Service" being related to an employee. He spoke about 2921.42 (a)(4) regarding interest in public contracts and his discomfort with permitting a Council member's father getting a City contract. He felt it inappropriate. Councilman Plecnik asked the CRC about their "taking away the protection of 'indirectly'", indicating that it makes it more difficult for a Council member or Mayor to take advantage of the City. In closing, he told the CRC, "You may want to be more specific than the current Charter. If you don't say anything, it could happen."

**4) Ms. Cheryl Ota, 2950 Marcum Blvd., Willoughby Hills, OH 44092**

Ms. Ota expressed her concerns with members of the same family being hired and it creating problems for the City. She cited an example of her previous employment at a shop where the foreman's relatives made up the work force, the family had a family member funeral, and no one came to work. She would like to see us be aware of that problem, should the hiring of relatives be permitted.

Public Portion closed at 7:35 p.m.

**For the Good of the Order:**

None

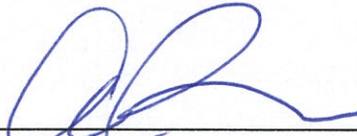
**Adjournment:**

Motion to adjourn by Mrs. Joyce Grady seconded by Mrs. Sandy Taddeo.

ROLL CALL: 8 AYES – unanimous                      MOTION PASSES.

Meeting adjourned at 7:35 p.m.

APPROVED: 8/18/14

  
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Andy Gardner, Chairman

ATTEST: Gloria Majeski  
Gloria Majeski