

MEETING MINUTES
CITY OF WILLOUGHBY HILLS 2014 CHARTER REVIEW COMMISSION
Monday, August 4, 2014

Call to Order:

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

Roll Call:

Members Present:

Dr. Stephen Atkins, Chairman Andy Gardner, Mrs. Joyce Grady, Mr. C. J. Latsa, Mrs. Judy Shrefler, Mrs. Tanya Taylor-Draper, Vice Chairman Jim Walsh (not present at Roll Call but arrived at 7:32 p.m.) and Jerry Wolanin

Members Absent:

Mrs. Sandy Taddeo

Seven of nine members are present – recognized as quorum.

Approval of Charter Review Commission minutes of 07/29/14:

Motion to approve by Mrs. Joyce Grady

Motion seconded by Mrs. Tanya Taylor-Draper

VOTE: 6 AYES, C. J. Latsa Abstained

MOTION PASSES.

Public Portion:

Public Portion opened at 6:34 p.m.

The following individual spoke:

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

Mr. Kowalsky distributed a document regarding “Charter is for us the Citizens”. It is “set up as an evolving document to go forward.” The document outlined some “pros” of the “Willoughby Hills Ethics Commission.” The “Civil Service Commission” was also addressed.

Public Portion closed at 6:42 p.m.

Old Business:

Continuing Discussion re. Article IX:

Chairman Andy Gardner presented a “first cut” (which he had run by Law Director Lobe last week), proposing an amendment to the first sentence of Section 9.22. Chairman Andy Gardner and Law Director Lobe had spoken with Staff Advisory Attorney John Rawski from the Ohio Ethics Commission (OEC). Mr. Lobe believes “no-relatives policy” have been struck down in the past and our draft document should be “more narrow.” “The ‘no influence standard’ seems to be more appropriate to today’s recommendation by the OEC,” Rawski said. “Anything less than ‘no influence’ subjects the City to challenges” he added. He suggested that we “narrowly define ‘family member’ and we can call ‘home rule’ in to possibly mitigate this. He stated, however, that “matters of State concern cannot be ‘trumped’ by Home Rule.” With this in mind, Chairman Gardner then distributed email documents from Mr. Rawski to Mr. Lobe regarding issues of Nepotism and City Charters. This consisted of case law:

- 83-004 holds that in conflict between the Ethics Law and a city charter, the Ethics Law will prevail.
- 90-010 applies that Ethics Law Nepotism restrictions to hiring that requires Civil Service testing.
- The court case does not address issues within the Ethics Commission’s jurisdiction, but addresses a county’s attempted “no-relatives” policy.
- Tab “D” addresses Classified employment of a Firefighter who took the test, interviewed and could not be hired because the Safety Director is his father.

Chairman Gardner then referred back to his “first cut” document to begin the discussion of amendment of the first sentence of 9.22. This document lists: 1) The current Charter provision, 2) The proposed new provision which may be inserted in Article I or Article IX of the Charter, 3) The Alternate Provision which eliminates “member of the immediate family... in noncivil service employment”, prohibits an Officer of the Municipality from authorizing the employment of a family member (as defined by OEC) or use their authority or influence to secure the employment of any family member.” and 4) The Alternative Approach would delete the existing first sentence of 9.22 and allow the ORC and requirements of the OEC to control this. We could delegate legislatively to Council or a legislative body that reports to Council.

At this point, Chairman Gardner wanted to express his personal opinion and Vice Chairman Jim Walsh was not yet in attendance to pass the gavel to. For that reason, Mr. Jerry Wolanin made a motion to nominate Mrs. Judy Shrefler as Vice Chairman Pro Tem until Vice Chairman Jim Walsh arrived. The motion was seconded by Mrs. Joyce Grady.

VOTE: 6 AYES, Mrs. Judy Shrefler abstained. MOTION PASSES at 6:55 p.m.

Chairman Andy Gardner then expressed his intent to put into words a Nepotism Policy that stated no relatives of the Mayor, Council or Department Heads could be employees, except Classified Civil Service provision and volunteers. This provision would include the Part-time Finance Director. He felt that the Commission's Check and Balance is with Council accepting the Mayor's recommendations.

Mrs. Judy Shrefler stated she preferred the "Alternate Provision", but in accordance with the OEC, would like to add (when referring to public officials and employees cannot hire or use their positions to secure employment for their family members nor recommend or nominate their family members for public jobs) "nor give to their family members, or use their positions to secure for their family members, raises, promotions, job advancements, overtime pay or assignments, favorable performance evaluations, or any other things of value related to their employment." (This was taken from page 29 of Mr. Lobe's handout from OEC Advisory Opinion). She stated "why reinvent the wheel?" Mrs. Shrefler said she supports the OEC.

Chairman Gardner reminded the CRC that "once it is in the Charter, it hangs there." He agreed that the CRC can wait to make a decision until all have time to review the options offered in the handout.

Chairman Gardner then moved on to attempt to cover items previously outlined by him to include "Removal Provisions," "Scope of Application of the Charter," and "Conflict of Interest Section 9.21 (financial)". He noted that Conflicts of Interest provisions exist in the Wickliffe Charter, but OEC came into existence after their Charter was written. OEC cites exceptions to the Conflicts of Interest, including public bid process, but our Charter says "no" and orders removal from office.

Mr. C.J. Latsa asked if OEC has created broad guidelines, "what is the benefit of putting that in the Charter?" Chairman Gardner indicated that there are 3 ways to go: 1) As Mr. Jerry Wolanin proposed, "apply OEC standards where applicable," 2) "Values judgment" whereby there is a higher standard than the OEC. One can try to institute "Home Rule" here, however, Law Director Lobe has concerns about lawsuit possibilities, and 3) "Letting it apply." There was discussion about different standards putting the City at risk. Mr. Jerry Wolanin proposed to "Remove 9.1 in its entirety (all three paragraphs) or amend it to provide crossover to OEC." He felt there was too much ambiguity as it is now. Mrs. Judy Shrefler suggested to keep in the second paragraph as it refers to "holding no other elected office." She asked Chairman Gardner for clarification on 9.22 Nepotism Policy. Chairman Gardner suggested changing the first paragraph of 9.22 as previously noted, address the second paragraph

elsewhere in the Charter, and keep the third paragraph relating to oaths, unless the CRC decides to follow Mayor's suggestion to move it elsewhere in the Charter as well.

The group began discussion on "Removal from Office". Chairman Gardner mentioned that other cities have it, but there is a due process provision (including the Council member in question is not eligible to vote on the removal). Dr. Stephen Atkins indicated his review of other charters indicates the Removal of Mayor and Removal of Council are in separate sections. (Page 56 of the Mr. Lobe packet is Wickliffe's Charter provision and Page 85 is Kirtland's Charter provision). It was noted that some charters have 30 days (versus 10 days) in other charters for removal. All agreed there needs to be "due process".

(At this time, Vice Chairman Jim Walsh arrived (7:32 p.m.) and relieved Mrs. Judy Shrefler of the Vice Chairman responsibilities in his absence.)

Other concerns raised during this discussion included:

- Council member being able to vote when removal vote is being taken
- 5 members of Council – seems "ok" if you are making decisions of other than removal of a Council member, but 5 of 7 is "awful high standard."
- Leads us down the path of definitions of "malfeasance"...
- Classified/unclassified removals – no removal without cause

Dr. Stephen Atkins and Vice Chairman Jim Walsh agreed to try to draft "Removal" for next Monday's meeting to include provisions to incorporate due process. All members can review their proposal and offer input.

Mrs. Joyce Grady, Mrs. Judy Shrefler and Mrs. Tanya Taylor-Draper will work on 9.21 for next Monday's meeting. All members can review their proposal and offer input.

Chairman Andy Gardner and Mr. Jerry Wolanin will review 9.1, defining "officers", reviewing final product on 9.1 to see if "definition will still have a negative impact."

The plan is for all CRC members to review 9.22 Nepotism Policy for tomorrow's meeting.

Mrs. Tanya Taylor-Draper wanted to ensure that "the common Joe would understand what all this means" with regard to the items going on the ballot. Chairman Andy Gardner outlined the procedures for putting the issues on the ballot, getting out literature and doing public forum to educate. "It will be our job to educate them."

Old Business closed at 8:04 p.m.

New Business opened and closed at 8:04 p.m.

Public Portion #2

Public Portion #2 was opened at 8:05 p.m.

The following residents spoke:

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

Mr. Cihula complimented the CRC for adding a second Public Portion to give the residents the opportunity to speak on issues post discussion. He also advised the CRC that they can form a committee of CRC members registered with the Board of Elections, purchase signs, etc. for ballot issue support. For the final presentation of the ballot issues, "only those present in the room will hear them."

Mr. Cihula asked about Article IX's inclusion of an elected official being able to serve on a Board of Commission (i.e. Planning Commission).

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

Mr. Kowalsky cited "split factions of Council" and "Mayor's request to address Article IX". He stated that "nothing allows accuser to defend their right to be innocent."

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

Councilman Plecnik had concerns with lowering the standards currently in the Charter. He understands conflicts with OEC provisions and encouraged the CRC to "set higher standards than OEC." He does not want "a collective groan" or appearances of impropriety. He does not want high level officials with conflicts down the road, such as a "brother who is the prosecutor." "Changing to OEC sets it to a lower standard", he stated.

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

Mr. Cihula pointed out that if you would not allow a Council member to vote on his own removal, you are 'finding him guilty before the vote.'

Public Portion closed at 8:15 p.m.

For the Good of the Order:

None

Adjournment:

Motion to adjourn by Mrs. Joyce Grady seconded by Mr. C.J. Latsa.

ROLL CALL: 8 AYES – unanimous MOTION PASSES.

Meeting adjourned at 8:16 p.m.

APPROVED: 8/11/14



Andy Gardner, Chairman

ATTEST: Gloria Majeski
Gloria Majeski