

CITY ADMINISTRATION'S SUGGESTIONS FOR POSSIBLE CHARTER REVIEW ITEMS:

I am speaking on behalf of myself and Mayor Weger as representatives of the Administration Department for the City of Willoughby Hills. Both Mayor Weger and I have the privilege of witnessing the City Charter at work on an almost daily basis. We both have significant corporate environment experience and recognize the difference in structure and procedures with regard to City government. We both have lived in the city for over 30 years, I have seen good things and bad things about the Charter and have both been very involved in our community, aside from our current positions with City Administration. That is why we hereby offer our suggestions to the Charter Review Commission in this Public Hearing forum as follows:

- 1) Clarification of Board/Commission terms of office affecting:
 - Section 5.1 Planning and Zoning Commission
 - Section 5.3 Board of Building and Zoning Appeals
 - Section 5.5 Civil Service Commission

In each of these sections, you will see that 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.

- 2) Addition of line to all sections involving Boards and Commissions to establish disciplinary action procedure for removal from Board/Commission member appointments 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. 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

3) Article IX – Personnel

To understand the need for the Commission to review Article IX in its entirety, we felt it is important to provide a brief history of recent events that have brought this Charter item to the forefront. For those individuals who may not have been present during the recent Council meeting discussions on this topic, we feel it is important to relay the events leading up to some very serious allegations that created ill will among some of the parties involved. We hereby offer you the recap of the following events:

- 2/26/14 A resident spoke in Council Meeting Public Portion and cited that Article IX Section 9.1 gives the following definition for “Officers.” This includes Mayor, Council, Council Clerk, Dept. Heads of all Administrative Departments and all members of Boards and Commissions. She then stated that Article IX Section 9.22 states that “No member of the immediate family of any officer of the Municipality may be employed by the Municipality in any noncivil service employment. She offered that she believed the appointment of Tom Majeski as Civil Service Chairman and my employment as Mayor’s Administrative Assistant was in violation of the Charter.
- When Tom Majeski learned of the alleged violation the next day, he researched the allegations and then wrote a letter to Mayor Weger, Council and Law Director Lobe which described the circumstances when he was asked by the Mayor to serve on the Civil Service Commission. In his letter, he also substantiated the apparent violation of other Board/Commission members who had immediate family members employed by the Municipality. (A copy of this letter is provided for your review).
- Law Director Lobe made a formal presentation of Article IX and directed Council to keep all Boards and Commissions “status quo” until he had reviewed the allegations of a Charter violation. Taking into consideration what Florine O’Ryan stated last night, if we were to get rid of all of the potential violators, we would lose many good, hard to find volunteers, as well as members of Council.
Law Director Lobe researched the issue and recognized many problems with Article IX. While researching the other allegation, he also recognized that Section 9.32 Removal by Council gives no due process for a Council person, yet 9.34 provides for due process for Removal by Council of Mayoral Appointees. In addition, the Charter lacks a definition of “immediate family” so one cannot even determine to what extent some of the appointments would be in violation, if at all.
- The Mayor, in his quest to preserve the appointments he has made without any undue influence by the employee or Board/Commission member, determined that there is indeed NO violation of the appointments he has made. When one reads Article 9.22, it says “No member of the immediate family of any officer of the Municipality may be employed in any **noncivil service** employment. All current City employees are considered Civil Service (as he cited in Section 9.4 of the City Charter) in either a Classified or Unclassified Service status. In conclusion, this allegation was put to rest with one simple Charter phrase (noncivil service).

While this issue regarding a possible Charter violation has been put to rest, it brought to light many items that need to be changed in this Article.

Our thoughts on this are as follows:

- 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? Our suggestion would be to have Administration draft these policies, possibly by way of a committee of concerned residents, and then present them to Council to adopt by way of an ordinance. We would use the Ohio Ethics Commission policies as a guideline for this process. This would give a true sense of who the majority feels is fair to hire, serve on commissions or provide services without conflict.

- 2) The above item would be the only item we recommend saving in Article IX. We 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 (Article I is "The Municipality")

"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 Full-time 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)

WE NOTE, 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. PLEASE MAKE SURE ALL OF THESE ITEMS ARE ADDRESSED BEFORE JUST DELETING SECTION 9.3 AS PREVIOUSLY SUGGESTED.

(SUGGEST 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”

This concludes our suggestions for the Charter Review Commission. We think these changes will serve to provide clarity for policy adherence for many years to come. Thank you.

Gloria Majeski, Executive Assistant to Mayor
Robert M. Weger, Mayor

City of Willoughby Hills
35405 Chardon Road, Willoughby Hills, OH 44094
Phone (440) 946-1234 / Fax (440) 975-3535

CIVIL SERVICE COMMISSION

Thomas J. Majeski, Chairman

Thomas Kicher, Vice Chairman

Carolyn Patton, Secretary

February 28, 2014

Mayor Robert M. Weger
City of Willoughby Hills
35405 Chardon Road
Willoughby Hills, OH 44094

RE: Civil Service Commission Appointment

Dear Bob:

I understand resident Linda Fulton brought up my ineligibility to serve on the Civil Service Commission at last night's Council Meeting's Public Portion. Please consider this letter a request to waive this Charter provision, similar to how Council waived Council Clerk Savage's non-residency provision at the January 6, 2014, Organizational Meeting.

This waiver should be retroactive to my April 30, 2008, appointment date so as to not have to negate my following actions during my tenure:

- Review and revision of the Civil Service Manual
- Administration of the Full-time Police Officer test (affecting full-time appointments for Police Officer Jamie Onion, Police Officer Gregory Leonbruno, Police Officer Tony Mino and Police Officer Michael Jones)
- Administration of the Promotional Police Officer test (affecting promotion to Sergeant rank for Officer Matt Naegele and Officer Mike Gerardi)
- Administration of the Full-time Firefighter test (affecting Part-time firefighters Jon Havel, Jeff Planisek, Jason Brothers, Micah Nerone, Sean Lawler, Cindy Sabo, Edward Shannon, Richard Quinn and Robert Vencl)
- Opinion given to then Council President Dave Reichelt regarding provisions for pensionability and mandatory retirement age for safety forces in the city. (Incidentally, I was commended personally by Councilwoman Fellows and Councilman Fiebig at the time for my input into this matter)
- Review of Fire Department job descriptions
- Acted as Quality Control representative for all Civil Service testing done during my appointment

In addition, I add the following points to my request:

- I receive no compensation for my position on the Civil Service Commission.
- I have been a member of the public service sector for 40 years, which includes over 20 years of prior service to the City of Willoughby Hills, as well as an active resident in our community for over 50 years. In addition, I have educational experience with an Associates Degree in Fire Science, American Heart Association Basic Life Support and Advanced Cardiac Life Support Instructor, Certified State of Ohio Fire Safety Inspector, Paramedic, Continuing Education Instructor/Paramedic, Certified Fire Instructor for the State of Ohio, Outreach Instructor for the Ohio Fire Academy, Shift Officer for the City of Pepper Pike Fire Department, Assistant Fire Chief for the Village of Gates Mills and Certified Professional Firefighter and Assistant Scoutmaster of Willoughby Hills Boys Scout Troop 562. You recognized this experience and offered me the appointment, rather than me seeking the appointment from you.
- I was successful with the help of my fellow Commission members, Tom Kicher and Carolyn Patton, in resurrecting a Civil Service Commission that had been dormant over the past administrations due to the passing of Chairman George Whittington, whose widow I contacted to obtain records upon my appointment.

In closing, while I recognize this charter provision waiver is in order to continue my appointment, there are other members who may possibly also fall into this category that Ms. Fulton did not identify, but I would bring to your attention at this time. They are as follows:

Dale Fellows, member of Charter Review Commission, appointed 3/20/08 conflicts with Councilwoman Nancy Fellows

Dee Germano, member of Recreation Commission, appointed 3/13/11, reappointed 1/8/14 conflicts with Councilman Frank Germano

Lynn Hallum, member of Recreation Commission, reappointed 1/8/14 conflicts with Councilman Chris Hallum

Dan Philipp, member of Recreation Commission, reappointed 1/8/14, conflicts with Recreation Coordinator Denise Edwards

Devin Edwards, Property Staff Employee hired 6/22/13 conflicts with Recreation Coordinator Denise Edwards

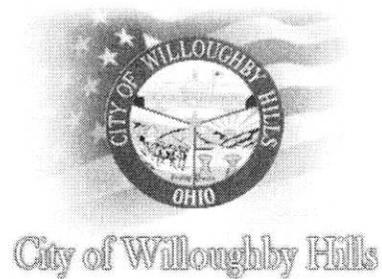
Jeannette Nelson, Member of Recreation Commission, reappointed 2012, conflicts with Property Staff employee Bradley Nelson hired 1/19/13.

I hope this will serve to provide you with the information to waive the charter provision identified in Article IX of the City Charter so I can continue the excellent work I have done on behalf of the City as Chairman of the Civil Service Commission.

Sincerely,


Thomas J. Majeski
Civil Service Chairman

cc: Law Director Thomas Lobe
Council Members
Council Clerk



To: Willoughby Hills Charter Review Commission
cc: Mayor Weger
From: Steve Roszczyk
Subject: Charter Review
Date: July 09, 2014

Thank you for the opportunity to provide input to your review of the city charter. While it is no doubt daunting, your task is vital to the health and well-being of The City of Willoughby Hills and your willingness to tackle the issues is appreciated.

Proposed are two issues for your consideration.

The first is a minor change to the charter to reflect what is currently being practiced and deals with **Article II, Section 2.2 Duties and Responsibilities. Paragraph 2.21 Appointments to Office and Removals from Office** states, “The Mayor shall appoint the heads of all Departments of the Municipality, including but not limited to the Department of Law, Department of finance, Department of Public Safety, Police Department, Fire Department, Department of Public Service, the City Engineer, the Road Supervisor, Recreation Coordinator, City Prosecutor and Building Commissioner...” The Economic Development Department should be added to this list.

The position of economic development director was created in April of 2012 and while the department, at this point, consists of only one employee, future development in the City may create the need for additional personnel.

The second concerns **Article V, Section 5.15 Mandatory Public Vote on Land Use Changes.**

This section states, “Any change to the existing permitted uses in zoning districts, or any changes in the Municipal Zoning Map as amended from time to time, cannot be approved unless and until it shall have been submitted to the Planning Commission, for approval or disapproval. In the event the City Council should approve any of the preceding changes, whether approved or disapproved by the Planning Commission it shall not be approved or passed by the declaration of an emergency, and it shall not be effective, but it shall be mandatory that the same be approved by a majority vote of all votes cast of the qualified electors of the City of Willoughby Hills at the next regular Municipal election, if one shall occur not less than sixty (60) or more than one hundred and twenty (120) days after its passage, otherwise at a special election falling on the generally established day of the primary election. Said issue shall be submitted to the electors of the City only after approval of a change of an existing land use by the Council for an applicant. Should the land use request not be affirmed by a majority vote it cannot be presented again for one full year and new request must be made at that time.”

In essence, ANY change to the City’s current zoning must be approved by referendum. In hindsight, it’s easy to see why the City adopted this policy. Willoughby Hills was a most desirable place to live. The Charter’s framers wanted to maintain this desirability and allow the residents a say in who their neighbors would be. In addition, business conditions were such that cities were in a position to demand that

developers conform to city regulations. Thus, making zoning changes cumbersome, expensive and uncertain was an easy way to allow only desired businesses to locate in the City.

However, that playing field has changed:

- The demographics of the City are markedly different
- There is less home ownership
- The homeowners share of the tax burden is increasing
- There is a reliance on 'recycled retail' space to fill the business tax void
- The City is virtually out of land available for new commercial/industrial development under current zoning configurations
- Business conditions/climate have changed
- Business attraction competition is formidable

These changes have made requiring a referendum obsolete. Consequently, the method used to change zoning laws should be streamlined and made more user friendly.

Common options are to allow overlay districts or to place the decision in the hands of elected officials, who are ultimately answerable to the electorate. It is likely that there are more 'creative' options existing throughout the state.

How the process change is accomplished is not for me to decide.

Unfortunately, it is clear that the old way has become a barrier to economic development. If the City is serious about attracting new business, it must change the way it conducts its business and the place to start is with the process required for zoning changes.

Thank you for your consideration.

If you have any questions please let me know. If you would like to meet to discuss these issues in more detail, I can be available on either July 21 or July 22.

Regards,



Steve Roszczyk
Economic Development Director
440-918-8746; econdev@willoughbyhills-oh.gov

Memorandum

Law Director suggested topics for potential review by Willoughby Hills Charter Review Commission of 2014:

Article I

Section 1.2 Delete “primary or special election” – for example, CRC changes can only be done at General Election, yet termination of the existence, merger or annexation of WH can be done at primary or special elections.

Article III

Section 3.14 – it is only for one year, but the Mayor has to be for 2 years (see 2.13)

Section 3.15 - potential delete – see discussion on Article IX

Section 3.25 – “the Clerk” – delete the residency requirement due to legal issues

Article IV

Section 4.2 – Finance Department – has to be modified to come into compliance with Section 2.21. Appointment is now with Mayor and Council.

Section 4.31 – Has to be modified to come into compliance with Section 2.21. Appointment is now with Mayor and Council.

Section 4.32 – Delete the last line.

Article V

Section 5.15 – Initially brought forward by Initiative Petition; takes all powers out of the hands of Willoughby Hills and its Commission and usually places the power in the hands of one Judge, who is not a resident of Willoughby Hills.

Section 5.25 – Appeal of decisions of ABR go to Council, but decisions from the Planning Commission, BZA, Civil Service and Charter Review do not go to Council. The ABA Board is comprised of the same members as Planning and Zoning Commission, but there are different appeal routes.

Article VI

Section 6.3 – Potentially remove the last paragraph and sentence due to the fact that the Electorate ultimately decides the issue and the Board of Elections now wants issues earlier rather than later.

Article VII

Section 7.2 – The tax levy is “not to exceed 5 years” – should this be changed to “10 years” and/or “for perpetuity”?

Article VIII

Section 8.23 – Recall – requires 25% of Electors signing the petition, the Revised Code only has 10%.

Section 8.3 – Procedures – We do not have Primary Election, 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.

Article IX

Should it be removed in its entirety? Many ethical considerations are now controlled, reviewed and prosecuted by a statewide commission titled “Ohio Ethics Commission” which was not in existence at the time of the first Charter Review Commission in 1970. Further, State law and the Charter also have provisions for recall as it pertains to elected officials. As it pertains to non-elected officials, but limited to Department Heads and Directors, Section 2.2 of the Charter was modified in 2008 to give a more balanced approach utilizing the Mayor and Council for confirmation and/removal without the necessity of the provisions of 9.32 which are lacking in due process and other legal requirements. The greater majority of cities do not have this article and/or provision in their Charter and rely upon State law.

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

Section 9.1 “Bureau”, “Agency”

Section 9.22 “noncivil service employment”; “all employees are Civil Service and are either Classified or Unclassified (see further Section 9.4 Civil Service).

Section 9.22 “immediate family”; no definition and the OH Revised Code has many different definitions depending upon the section; for example, for reporting purposes, the ethical definition only means “spouse and minor children”, yet other ethical definitions are very broad.

Section 9.2 – no nepotism policy; should this be a Charter issue, a policy or ordinance? Again, the State has set forth statewide standards.

Section 9.32 – definition of “gross misconduct,” Malfeasance”, “nonfeasance”

Section 9.32 – definition of “moral turpitude”

Section 9.34 – more due process afforded for removal of non-elected officials and department head (i.e. Secretary) than to Councilman.

Section 9.4 – Civil Service – Defer to Civil Service Commission Representative to update and specifically include the WH employment positions are either Classified or Unclassified.

Recommendations to the Charter Review Commission

Elections related:

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

2.13 & 3.14 "...prior to his election..." Q: does this refer to election day or certification of the election?

5.15 delete

5.32 delete last paragraph

5.61 "...shall not have held elected public office during the five(5) years preceeding..."
Q: any public office or City of Willoughby Hills public office?

5.62 delete "not sooner than July 15 nor" and then add "no"

7.2 require 55% for passage of any tax related ballot issue at any election (my personal opinion)

Dale Felbuss - Resident