

**MINUTES OF THE MEETING OF THE CHARTER REVIEW COMMISSION
OF THE CITY OF AVON, OHIO, HELD THURSDAY, MARCH 10, 2022,
AT 7:00 P.M. IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING,
LOCATED AT 36080 CHESTER ROAD**

Chairman John Weigman called the meeting to order at 7:00 p.m.

ROLL CALL

COMMISSION MEMBERS PRESENT:

Patricia Ashley, Ward 1; Mary Berges, Ward 3; Elizabeth Damstra, Ward 3; Clint Gault, Ward 4; James Gemelas, Ward 1; Joseph Glick, Ward 1; William Logan, Ward 4; Marcel Mylen, Ward 2; Alternate A Melissa Ramirez, Ward 3; Alternate B Bruce Klingshirn, Ward 4; John Weigman, Ward 1

ALSO PRESENT:

Law Director, John Gasior; Secretary to the Commission, Barbara Brooks

APPROVAL OF MINUTES OF THE FEBRUARY 24, 2022, MEETING

A motion was made by Mr. Gault and seconded by Mr. Gemelas to dispense with the reading of the minutes of the meeting of the 2022 Charter Review Commission, held Thursday, February 24, 2022, and to adopt said minutes as published.

Mr. Glick stated that he had a point of clarification on the minutes. He said that, in the meeting of February 24th, he had raised a point that he wanted to bring up again and it was not printed in the minutes; it was pertaining to Article IX, Section 7, Salaries and Bonds. He had mentioned considering for future discussion whether or not we wanted to form some sort of a citizen oversight around compensation for Council as well as some of the other appointed positions. And really, for two reasons: to provide more transparency which seems to be a trend among the charters of other cities and also to eliminate the complexity that Mr. Gasior had mentioned before around not being able to vote for your own compensation increase if you were up for reelection in that cycle. So it may just be something we want to consider for future discussions. Mr. Weigman suggested putting that on the agenda for two weeks out. He asked Mr. Glick to get back with Ms. Brooks and give her the verbiage for discussion.

The vote was Ms. Ashley, “yes”; Ms. Berges, “yes”; Ms. Damstra, “yes”; Mr. Gault, “yes”; Mr. Gemelas, “yes”; Mr. Glick, “yes”; Mr. Logan, “abstain”; Mr. Mylen, “yes”; Mr. Weigman, “yes”.

The vote was 8 in favor and 1 abstention and the Chairman declared the motion passed.

ARTICLE IV, SECTION 15 – ENACTMENT OF ZONING ORDINANCES AND REGULATIONS

Ms. Brooks stated that when Ms. Damstra asked a question at the last meeting of February 24th, she was speaking about notification of Board of Zoning Appeals variances and she asked Ms. Damstra if that was correct. Ms. Damstra answered, yes. Ms. Brooks then said that in Article IV, Section 15, that is talking about ordinances related to zoning changes in Council, so she just wanted to make that clarification.

DISCUSSION OF THE FOLLOWING ARTICLES OF THE CHARTER OF THE CITY OF AVON

a.) ARTICLE V – ADMINISTRATIVE OFFICERS AND DEPARTMENTS

Mr. Weigman asked if there were any thoughts from anybody as far as changes or suggestions?

Mr. Gasior noted that the biggest change under this Article was made the last time that Charter Review met and that was the removal of the Parks Director. Since then there have really been no changes required.

Mr. Glick asked, regarding the Finance Director, if there was a requirement that they are either a CPA or have some certification in order to be the Finance Director of a city? Mr. Logan said that he has been the Finance Director of the City of Avon since May, 2008, and he is a CPA. But it does indicate in Article V, Section 3, that “no person shall act as Director of Finance unless such person possesses an undergraduate degree with a major in accounting or finance (which he has) from an accredited four year college or university or a postgraduate degree in accounting or finance (which he has in finance) and such person has at least three full years of accounting experience.” It says that in the Charter.

Mr. Logan said that he has a comment about Section 6, Treasurer, before we leave Article V. It might have been the last Charter review where some questions came up on the Treasurer position and he remembers going to one of the meetings to clarify it. It is an interesting position because it is not a treasurer position in the true form of, say, a school treasurer; that is a completely different role. And he knows that the City of N. Ridgeville has a treasurer in a completely different role. Our treasurer is a very part-time job which reports right to the President of Council and Mr. Logan looks at that job as more of an internal type audit function. So our treasurer signs every check that goes out of here; we require two signatures and the Treasurer’s is one of those. It does not mean that every single check happens that way; sometimes the Asst. Finance Director and/or the Mayor will sign with him but generally our Treasurer is signing every check, doing bank reconciliations every month, reviewing all receipts every month, approving wire transfers, and we only wire money a few times a year to pay debt service; that is the only thing we wire money for. The Treasurer does not report to Finance and does not even use our financial software. We have to provide the Treasurer with certain reports each month, certain bank statements, but it is an independent function of the Finance Department. There were some questions about it the last time around on Charter Review. Mr. Logan said that he is not suggesting a change; he just wanted to explain the position.

b.) ARTICLE VI – CIVIL SERVICE COMMISSION

Mr. Gasior said that in the Charter Reviews in 2007 and 2012 we made some changes that he thought that everybody is satisfied with and we have been operating under those changes since then. A big one paved the way for us to adopt a “rule of three” when we promote and that worked out pretty well for us on promotional exams.

Mr. Glick stated that he had a point of grammatical modernization. Throughout the document it talks about “Chairman” and he thought that they should consider changing that across the document to “Chairperson”.

Mr. Weigman asked Ms. Brooks if updates like that can just be performed and Ms. Brooks said that Mr. Gasior could clarify that. Mr. Gasior then said that he thought that we can probably make that change with the codifier without having to go through the Charter amendment process to do that. He did not see any reason why we cannot just take out the masculine and go with something more gender neutral. “Chairperson”

would be a good designation there. We may see that again in subsequent Article VII. Mr. Weigman asked Ms. Brooks if that would be just a general “search and replace” on a computer program and Ms. Brooks said that she would have to contact the codifier to update it online and in the physical codified book.

c.) ARTICLE VIII – FINANCES

Mr. Weigman stated that he reached out to the School District Treasurer concerning the threshold for public bidding for the School District. Mr. Logan said that for the City of Avon, there is a \$10,000 threshold in regard to the sale of a publicly owned asset, and a \$50,000 threshold with respect to purchases. Mr. Klingshirn noted that it does not even say that in the Charter. Ms. Damstra said, but it is State of Ohio law, isn't that right? Mr. Gasior said, yes, that is right. Mr. Weigman asked if that was the piece for disposal of property or was it actually the bidding and Mr. Logan said, the public bidding. The first paragraph in here is in regard to public bidding of product or services and we do not reference it here and maybe we should; we do reference Ohio Revised Code. We mention the exceptions in this paragraph to some degree but the second paragraph in this section 5 is in regard to disposition of assets having a value of \$10,000 or less and an asset can be an old ambulance or fire truck or vehicle that we are selling. If it has a value of \$10,000 or more we come to Council and have them pass an ordinance before we place it on some kind of an auction. Assets under \$10,000 we use a service called GovDeal; it is an online auction and over the years that Mr. Logan has been here, we have sold a couple hundred assets that way. So the first paragraph in this Section 5. is about the bidding for purchasing, but the second paragraph is the disposing of assets.

Mr. Weigman noted that in our first meeting, Mr. Logan had mentioned that he wanted to look at a piece of this. Mr. Logan said that he and Mr. Gasior have talked and in the first paragraph, one of the exceptions to that public bidding is “personal services” and we always kind of struggle with that. Should we go out to bid? Should we put something out there officially for a brokerage service for brokering health insurance or a study for a broadband assessment? Or for a consulting type service? Where is the definition of personal services? In the Ohio Revised Code 307.86, it does get a little specific with some of those things; it does mention consultant, it does mention services related to information technology such as programming services that are proprietary or limited to a single source, and things like that. Mr. Logan said he is not necessarily suggesting a Charter change but he is just suggesting we maybe define “personal services” a little better.

Mr. Weigman agreed that the definitions should probably be something for Council to tighten up and not for discussion as a Charter amendment. Mr. Logan asked if Council can legislate what might be considered a personal service? Mr. Gasior said, yes, he thought they could do that. The way this is worded in Section 5, it says “except for” and then “for personal services” so Council might pass an ordinance and define what that is. There really is not any comparable section in Section 7 in the ORC, which covers municipalities. The only thing you have is section 735.05 where you have the \$50,000 limitation on the expenditure but we could certainly adopt all of those exceptions in 307 and make it part of our Codified Ordinances. It might be a little cumbersome, sticking it in the Charter, especially if it is subject to changing periodically and Mr. Logan agreed.

Mr. Glick said that Mr. Logan had mentioned consulting firms. Let's say, for instance, we have a consulting firm come in to evaluate the operations of the City government, wouldn't we have an RFP (Request for Proposal) for that from multiple firms? Mr. Logan said, yes, for something like that, he would want to have an RFP. We have asked for certain audits to be done of certain operations and for those things, we have gone out to an RFP bid process. Mr. Glick said, but it would not be required though because you could categorize that as a personal service. Mr. Logan said that you probably could. Mr. Glick said that he was just wondering if it would make sense to put some legislative sort of definition to it, perhaps thresholds against whatever the legislation would define.

Mr. Weigman asked Mr. Gasior if he could present that to City Council and see if that is something they would want to take up and Mr. Gasior said, yes, certainly you could take it to City Council.

Jen Demaline, 39345 Loretto Court, stated that outside of being a member of Avon City Council, she works for the City of Bay Village as the Human Resources Director and she just wanted to inform the Commission that Bay Village does have an ordinance such as the one they are speaking about that defines and sets limits outside of the Charter.

Mr. Weigman asked Ms. Brooks if she could pull that ordinance up so that they might take a look at it and Ms. Brooks said she would do that. Mr. Gasior asked for a copy of that also and Ms. Brooks said that she would provide that to him.

Mr. Logan stated that he had one other comment with regard to the exceptions. For the first exception it says, "except for such amounts as are set forth in the Ohio Revised Code as exceptions to the requirement of public bidding by municipalities". Mr. Logan said that there is a thing that is called a "State Contract". There is a vendor that has a State Contract with an Ohio agency now (he thought it was the Development Services Agency) and if that State Contract is out there and your purchase is over \$50,000 you are still ok as long as they have that State Contract number. And sometimes there are personal services that have those contracts as well. Mr. Gasior added that there are a lot of cooperative purchasing organizations out there that were allowed to piggyback on those bids that are solicited by those organizations and take advantage of the pricing.

Mr. Gault said they had talked before about increasing the threshold from \$50,000 to \$75,000 or \$100,000; what is the pro/con on that? Mr. Gasior said that one of the reasons to think about it is that the prevailing wage is \$78,000 and it just seemed like the two should go hand in hand. If you are going to have to bid a job at \$50,000 you will not have to pay prevailing wage until the contract goes over \$78,000 so it is almost like, why don't we just put the two together but that is not the way the State operates it. The State separates the two; you have the \$50,000 threshold on the one hand and then you have the \$78,000 threshold on the other. The significance of that is that if we want to do a small sidewalk program and we want to take that on ourselves and the bid comes in at say \$20,000., we have a contractor doing that work for \$20,000 and the homeowner wants to accept the assessment or pay and we are giving them the best price we can because we are not paying prevailing wage; that contractor is not paying prevailing wage. If that sidewalk project goes over that \$78,000, we are putting a big price tag on that sidewalk for the homeowner because our contractor is now going to have to pay prevailing wage. That would probably encourage the homeowner to go out and hire a local contractor and have the work done themselves. So that is the only time it comes up is when you have these small contracts and you are trying to do work that you are going to assess for, which is really the sidewalk program and you are trying to give the resident the best price that you can but if your sidewalk program expands to a large scale of \$100,000 or \$120,000 project, you are not going to be able to do that for the folks.

Mr. Logan stated that when he started working for the City 13 years ago, the prevailing wage was around \$40,000; now it is \$78,000 and has been \$78,000 for a couple years. Mr. Gasior noted that goes up much faster than the other. He think the better idea is that we take care of that personal services definition through our Codified Ordinance and that will probably help us far greater than any other changes that we need to make. He added that he thought maybe in the next couple of years, the State is going to amend 735.05 and raise that \$50,000 number to probably \$75,000 just because the last time they did it was in 2012 so it has been 10 years and he cannot imagine with prices going up and the cost of everything, that they are not going to increase that.

DISCUSSION OF AMENDING ARTICLE IV, SECTION 12, LAST PARAGRAPH (POSTING PLACES)

Mr. Weigman asked Ms. Brooks to clarify that currently five postings are required and Ms. Brooks said that was correct; the Charter says we have to post in five places. Mr. Weigman stated that the School District posts on their website and if there are special meetings, those are posted in the local newspapers as well. Ms. Brooks said that what they are talking about in the Charter is posting enacted legislation. Mr. Weigman said that he was just giving a comparison. He thought that it is a burden for the City to post all these places.

Mr. Klingshirn said that he went to one of the locations and the person he talked to did not even know what he was talking about so he does not think half of the places post them and if they do, it is for a day and then they are gone. He noted that most people use the website. Mr. Gault asked what the process was for posting the legislation; how is it sent? Ms. Brooks responded that once we certify all the legislation, the copies are given to the Police Dept. and the Police Dept. distributes them to the five locations and then those locations are to post them publicly somewhere for the public to come and view them if they wish. Mr. Weigman asked what the five locations were and Ms. Brooks said, the Library, Drug Mart, Senior Center, City Hall, and the Post Office. The Charter says City Hall and four other locations.

Mr. Gemelas stated that if there is no real proof of service for our posting then we can get ourselves in a little bit of trouble with that because it is bad enough when you try to litigate and you cannot find service on somebody. He said he cannot see how we are doing that without at least an attestation by the officers that it was posted in the five places. And that could pose a real problem. Ms. Brooks said that she agreed with Mr. Gemelas. The Police Dept. is taking them around but how do we control what happens to them? All the locations are not City property.

Ms. Damstra asked why does the Police Dept. have to do the posting? Ms. Brooks said that she does not know that they have to do it; that has just been practice for probably decades.

Mr. Gault asked if we have to post at five places. Can't we just say online and City Hall? Mr. Gemelas said and then there is the proof that it was posted on the website; you have to make sure that people are actually putting it in there. Ms. Brooks stated that they are already posted on the website. She handles that and they are there permanently once she places them there.

Mr. Weigman asked Mr. Gasior to consider writing up a potential update to the Charter as far as the locations for posting. Ms. Damstra stated that before that is done, she would like to add a comment. She thinks that it is important to still have a physical copy in some place. Ms. Ramirez added that it is also important specifically for different age groups to have something physical. Ms. Damstra said, yes, she did notice that most of the posting places were where senior citizens might go but she still thinks physical copies are important. She said that she would not go on the website just to check it out. Mr. Logan said that he agreed. There are people who come into City Hall, and not just seniors, who do not know how to use a computer or an I-phone. He said, so he does not know that we have to post in five places but the Library, the Post Office, and City Hall would be good because there are a lot of people out there who are not going to use the web.

Ms. Damstra asked if there would be a place in our new Library for things like this and Mr. Gasior said that he thought that our Safety/Service Director went over and checked with the Library and he believes they are going to have a spot in the new Library for posting. Ms. Brooks added that she spoke with the Library Branch Manager yesterday and she confirmed it with her.

Mr. Weigman suggested changing the number of posting places from five to four and taking out the retail location. That would not lessen the burden a lot but the Police are probably hitting those other places more often anyway. Mr. Gemelas said that the legislation could be emailed to the locations and they could confirm that they posted it. Mr. Gasior stated that it is on the website and Ms. Brooks confirmed that it was. Mr. Gasior stated, so if you just go to the City Hall website you can access it and Ms. Brooks said, yes, you can. Mr. Gasior said, so we could cut the posting places back to four and then insert language that we will post the legislation on the City's website. Mr. Gemelas said his only concern is being able to prove that we did post it. Technically, we cannot do anything without that being for sure. If somebody comes in and rips one down from one of the four locations, somebody could say they were there and did not see that. Mr. Gasior noted that we have not had a problem but he guessed there always could be. Mr. Gemelas said the first thing we always attack is whether you comply with your own ordinances. Mr. Gasior said that he thought that the real issue is the fact that it specifies in the Charter that you are going to post in five places. And what those five places are should be up to Council which is where we are right now. Council sets that up and he thought that Council could eliminate Drug Mart and replace that with the City's website as the fifth place.

Mr. Weigman said, so if we go with the path that we are talking about right now, we will not need to go to the voters. Leave the posting places at 5 and just change the fifth one to the City website. The number will still be five, so no change and no vote required. Ms. Demaline said if they do decide to go to the voters, she would go all the way and just have it posted electronically. You can always do more postings; we can have an Ordinance that we post more places. Mr. Gasior said what he was thinking of doing was just leaving it the way it is and then just like we replaced Buck's Hardware with the Library, we can take out Drug Mart and put the City's website as the fifth place to post. And then we cover the Charter because we are posting in five places and then Council just designates the City's website as the fifth location. Ms. Demaline said she would be happy to introduce that to Council.

Mr. Logan stated that he agreed with Mr. Gemelas that somehow we should try to get a verification that they posted it, perhaps getting a confirmation email back to us that says it is posted. Mr. Gasior said, or the officer would come in and testify that they left a copy. Mr. Gemelas said the officer could file a proof of service that says they went to this location and they sign it this date and we keep that in the records, just like we do with anything else where we file litigation. We have process servers doing that all the time. Mr. Weigman said that maybe it is worthwhile having a discussion with the managers or directors at each of these locations to just remind them what the requirement is. He suspects that maybe they do not understand it. Ms. Demaline asked how often things are posted and Ms. Brooks said that we are sending them weekly or bi-weekly. Mr. Gameles noted that could be a little burdensome for a lot of people; that is five copies for every one ordinance, correct? Ms. Brooks said that is correct; this is posting certified copies of the ordinances.

Mr. Gault said that he thought it was a good point about the possibility of the City getting into trouble if it cannot prove that it abides by the requirement of posting in five places. He suggested posting the legislation online and having it out for public viewing in the lobby at City Hall as the standard thing that we always do and then just as a nice practice that we do on our own, we could exceed the requirement and have it at the Library, etc. Then nobody can sue or bring litigation by asking for proof of posting at all these places. Also, he thought it was a waste of City dollars to be sending out all these copies and having our Police officers driving around to five different place to post them.

Mr. Gasior said, so following up on Mr. Gault's point, we could amend the Charter to say that we are just going to post electronically and at City Hall and if Council wants to expand on it they can do that. Mr. Klingshirn added, and to the point about proof that it was posted, we know that Ms. Brooks is going to put it up in the City Hall lobby and it will be on the website.

DISCUSSION OF WARD DISTRICT SIZES

Ms. Brooks stated that she provided at their places copies of what is posted on the charters of Avon Lake, City of Westlake and City of Elyria regarding wards. Mr. Gasior said that he thought that all these charters require a review of the wards every 10 years. Avon Lake's charter states "shall review ward division within 90 days after the first day of July of the year following the decennial census year". Mr. Gasior said that he wanted to point out that the Avon Ward Council members are up for election in the odd-number years every four years. They were just up in November of 2021 and they will be up again in 2025, 2029, 2033, etc. so maybe we should consider like the first day of July of the second year following the decennial census which would always kick in to that second year at 2022, 2032, 2042, etc. It gives everybody enough time to know where their Ward is in advance of that next election that is going to occur in an odd number year.

Mr. Weigman asked, so it would be July of 2022, then to kick this off? Mr. Gasior said he thought that we should start in 2032. He thought that Council is going to have to address what they do in the next Ward election which will take place in 2025. Mr. Weigman asked why would we wait and Mr. Gasior said because there is nothing really impacting the election of anybody in a Ward. There is not another Ward-specific election until 2025. Mr. Weigman asked, so why don't we get this done before 2025? Mr. Gasior said, yes, but Council could do that in 2023. Mr. Weigman clarified, on their own. Mr. Gasior said, yes, and you could start a Charter provision for 2032 and then every 10 years after that your Charter is requiring Council to do what Council is going to do this time around. Right now the only body that needs to address this is City Council under Chapter 206 of the Codified Ordinances and it spells out what the boundaries are. Mr. Gasior said that he talked to David Stambol at the Board of Elections about a month ago and he said we do not need to worry about this because the next election in Avon is for At-Large Council members, so the Wards do not matter. It does not matter what Ward you live in for the County elections, the elections for State Representatives, etc. The actual Ward vote does not really come into play again until 2025. So Council has time to redraw these boundaries and then, if the Charter amendment passes, you will have in the Charter an obligation to draw up those boundaries after the 2030 census.

Mr. Gasior added that you could say that we are going to do a review by 2024 and then we are going to require it in July of 2032 and then every 10 years thereafter.

Ms. Berges stated that if we did not do something for this next upcoming Ward election, you could almost wait for the next Charter Review Commission to enact that language.

Mr. Weigman said that he thought the review ought to be done as there is such an imbalance in the Wards. He has been through the election as a School Board representative and he knows how huge and how unfair it is to the Ward 1 Councilperson to run the campaign there; it gets gigantic. So he thought that in fairness to all the Council candidates, it just makes sense to do it before the next Ward elections.

Ms. Ramirez asked, if we did not write the language that way saying we have to do it by 2024, what drives Council to do it? Is there anything saying that they have to? Mr. Gasior said, no, and that is why you put it in the Charter saying they have to do it by a date in 2024 and then the next date would be that second year following the decennial census and then every 10 years thereafter.

Mr. Weigman stated that if no one objects to that, Mr. Gasior can have that written up for the next meeting and Mr. Gasior said that would be fine.

ADDITIONAL COMMENTS

a) MEMBERS OF THE COMMISSION

Mr. Logan said he apologized but he will miss the meeting two weeks from tonight as it just worked out that he will be in Las Vegas to visit his grandson whom he has never seen. Mr. Logan also thanked Ms. Ramirez for stepping in as an Alternate for his last absence.

Ms. Berges stated that she was sorry to say that she also will not be at the next Charter Review meeting.

b) MEMBERS OF THE GENERAL PUBLIC

There were no comments from the General Public

ADJOURN: 7:52 p.m.

A motion was made by Mr. Gault and seconded by Mr. Gemelas to adjourn the meeting of the Charter Review Commission and the vote was: Ms. Ashley, "yes"; Ms. Berges, "yes"; Ms. Damstra, "yes"; Mr. Gault, "yes"; Mr. Gemelas, "yes"; Mr. Glick, "yes"; Mr. Logan, "yes"; Mr. Mylen, "yes: Mr. Weigman, "yes".

The vote was unanimous in favor and the Chairman declared the motion passed.

Respectfully submitted by:

Gail Hayden, Assistant Clerk of Council