

**MINUTES OF THE CHARTER REVIEW COMMISSION OF THE CITY OF AVON, OHIO
HELD THURSDAY, FEBRUARY 2, 2017, AT 7:30 P.M. IN THE COUNCIL CHAMBERS OF
THE MUNICIPAL BUILDING, LOCATED AT 36080 CHESTER ROAD**

Law Director, John Gasior, called the meeting to order at 7:30 p.m.

ROLL CALL

COMMISSION MEMBERS PRESENT:

Pat Jankowski; Mark Principe; James Smith; Bruce Klingshirn; Anthony Moore; Marcel Mylen; Greg Dziak; Jeff Lindsay, Frank Root, Jr.; Alternate A Patricia Ashley and Alternate B Eugene Rouse

ALSO PRESENT:

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

ABSENT:

None

RECORD OF OATHS

Mr. Gasior administered the Oaths of Office to each member including the alternates simultaneously.

INTRODUCTION OF MEMBERS

Mr. Gasior acknowledged that not all of the Commission members may know each other and he suggested that each person give a brief introduction.

Frank Root, Jr. stated he has lived in Avon all of his life. He previously owned a small business and is a retired Fire Chief for the City of Avon. Mr. Root has served for Avon's Charter Review Commission several times in the past.

Jeff Lindsay has been a citizen of Avon since 1994 and has two children, a senior in High School and a sixth grader and along with his wife they live on Summer Hill Drive. This is Mr. Lindsay's first time to serve on the Charter Review Commission.

Greg Dziak stated he served on the last Charter Review Commission and he has lived in Avon since 1999. He has two High School aged children. Mr. Dziak has served as a member of the Avon Little League Board for the last 9 years.

Marcel Mylen said he served on the Charter Review Commission the last time and has lived in Avon for 11 years. His wife and two of his grandchildren were in attendance for this first meeting.

Anthony Moore advised he has lived in Avon eight years and he has two children ages 6 and 8. This is his first time on the Charter Review Commission. He and his family live on Kensington Drive.

Bruce Klingshirn has lived in Avon his entire life. He has served on the Zoning Board of Appeals for the last 10 plus years and lives on Nagel Road. He has not served on the Charter Review Commission previously.

James Smith stated he was the Mayor of Avon for 20 years. He served on the School Board, City Council, Parks and Recreation Board and as City Council President and School Board President. Mr. Smith commended Mr. Root and said he is the best Fire Chief he has ever worked with even though his great uncle was the first Fire Chief of Avon. He said his grandfather was the last Marshal to ride a horse and his grandfather's picture is on the wall in the Police Station. Mr. Smith indicated his family has been in Avon for generations. As Mayor, he saw the Fire Department go from a part time Fire Chief to a full time Fire Chief and he thanked him and commended him for all of his work during that time.

Mark Principe has lived in Avon for 12 years. He and his wife have one son, who is ten years old. This is his first time to serve on the Charter Review Commission.

Pat Jankowski said she moved to Avon in 2004 and lives in Pin Oak Preserve. She stated she attends most all of the Council Meetings on Monday evenings and is disappointed they are not better attended by the citizens. This is her first time to serve on the Charter Review Commission. Previously she worked for the City of Lakewood for many years, as their Public Information Officer, and she hopes to make a valuable contribution to this body.

Patricia Ashley has lived in Avon for 6 years and she works in Lorain. Her first taste of volunteering in Avon was with the initial Citizen's Academy class and she would love to see that program grow in the City as it was a wonderful opportunity. This is her first time to serve on a Charter Review Commission and she is eager to see what all is involved and what she can learn.

Eugene Rouse has lived in Avon for approximately 9 years. This is his second time to serve on the Charter Review Commission. He is currently a school bus driver for the Avon schools and has been in that position for about 13 years. Mr. Rouse stated previously he served on the Sheffield Lake Fire Department for 30 years and Fire Chief for 19 of those years. He said he is looking forward to serving on this body and is happy to contribute. He feels Avon is doing a great job in their continued growth and has a promising future.

John Gasior stated he is the City of Avon's Law Director and has been in that position for the past 15 years.

Barbara Brooks serves as the City of Avon's Clerk of Council and the Secretary to this Commission.

ELECTION OF CHAIR

Mr. Gasior noted the floor was open to any nominations for Chairman of this Commission.

Mr. Klingshirn nominated Mr. Smith, who accepted the nomination and as there were no further nominations, Mr. Gasior declared Mr. Smith Chairman of the 2017 Charter Review Commission.

ELECTION OF VICE CHAIR

Mr. Smith asked for nominations for the position of Vice Chairman of the Commission.

Mr. Dziak nominated Mr. Klingshirn, who accepted the nomination and as there were no further nominations, Mr. Smith declared Mr. Klingshirn Vice Chairman of the 2017 Charter Review Commission.

ESTABLISHMENT OF MEETINGS

Mr. Gasior briefly outlined the available meeting nights as either Tuesday evenings or Thursday evenings since City Council meetings are held on Monday evenings and Building and Zoning Appeals meet on the first Wednesday of the month and the Planning Commission meets on the third Wednesday of the month. Mr. Gasior noted per the Charter, the Commission shall meet and give their recommendations to City Council for a period not to exceed 150 days.

After a brief discussion amongst the Commission members they were in agreement to hold the meetings on the second and fourth Thursday of each month at 7:00 p.m. in Council Chambers. It was noted the meetings can increase or decrease their frequency depending whether the Commission felt it necessary in order to fulfill their obligation.

A motion was made by Ms. Jankowski and seconded by Mr. Klingshirn to set the meeting day and time as the second and fourth Thursday of each month at 7:00 p.m. in Council Chambers, with the next meeting being Thursday, February 23, 2017 at 7:00 p.m. and the vote was unanimous in favor and the motion was carried.

ADOPTION OF RULES OF THE COMMISSION

Mr. Gasior advised the rules are provided in the packet and these are the same rules that were adopted back in 2012 and they served us well at that time. He stated these rules basically say that we are going to have these regular meetings, although special meetings could be called, and these rules allow this body that right. Mr. Gasior indicated they are general rules for keeping order at the meeting.

Mr. Smith indicated the rules can always be amended if something is found not to be working well.

A motion was made by Mr. Mylen and seconded by Mr. Principe to adopt the rules of the 2017 Charter Review Commission as provided and the vote was unanimous in favor and the motion was carried.

NEW BUSINESS

SUBMISSION OF SUGGESTIONS FOR AMENDMENTS TO THE CHARTER

Mr. Gasior advised the Charter is the City's constitution and City Council adopts the Ordinances and Resolutions that govern the day to day operation of the City and they are a part of the Codified Ordinances of the City of Avon. He stated it is the Charter that gives the City Council the authority to adopt the laws and they can be unique to the City of Avon. Mr. Gasior noted, the Charter supersedes the Ohio Revised Code; if it is written in the Charter it does not have to follow the Ohio Revised Code. For instance, he said we could change penalties on certain crimes although there are limitations. Mr. Gasior said we have the authority under Home Rule to make those unique regulations. The Charter decides such things as the Mayor's power and authority and Council's power and authority. He stated the Charter is a general body of principles and it is not designed to specifically determine laws, but how the operations of the city government are to be conducted.

Mr. Smith advised everyone has a different background and he felt the best thing to do was look over the Charter and come back with what they think is an issue and bring their questions before this body and it can be discussed. He stated per the Charter it is required the Charter be reviewed every five years. He noted that while the Charter seems small it is very comprehensive and covers a lot of territory and was established in 1961. Mr. Smith said as the City grows this is a living, breathing document and sometimes changes are necessary because the City of Avon is different than it was when this Charter was first established.

Mr. Gasior stated not every city's Charter is reviewed every five years as some Charters are reviewed in other communities every seven or ten years. He suggested this body may want to look at that section of the Charter and discuss whether that five year period is still appropriate. Mr. Gasior advised reviewing a Charter and having the citizen's vote on its approval is a great civics lesson on how the government operates at a local level. He added it is great for those who serve on a Charter Review Commission to lend some understanding to their neighbors for how things operate so people do not have misconceptions about how government operates.

Mr. Gasior advised another item that the Commission may want to consider is Council's pay. He said previously Council terms were all concurrent and expired every two years. Mr. Gasior stated at the last Charter Review the voters approved for Council's terms to be staggered and expire every four years. This year the four Ward Council Members terms expire and two years later the At-Large Council Members terms expire. It used to be simple to vote a pay raise for the next term of Council Members since their terms all expired at the same time. Council, by Ordinance, has to authorize a pay increase for their position, but it cannot occur while they are in-term unless it is designated in the Charter. Mr. Gasior stated previously, in advance of the filing deadline to run for election or re-election in November for the office of Council Member to be seated in January, City Council passed an Ordinance to set the pay for the next Council, so they were never technically voting a pay increase for themselves, although they could be re-elected. Mr. Gasior felt the Commission needed to look at that section of the Charter and decide if a change should be made. If Council passes a pay increase for the position of Council Member it would become effective for four Council Members two years ahead of the remaining three members. He said this will create a situation where some Council Members will be paid a higher rate of

pay for two years while the other Council Members have to wait. Mr. Gasior suggested this is something the Commission can address and decide if they want to make a change.

Mr. Gasior advised there may be issues that need to be addressed in the Charter regarding the competitive bidding process and their thresholds. He suggested the Commission look through the Charter over the next couple of weeks before the next meeting and to contact him with any questions that may arise.

Mr. Smith suggested they go through each section of the Charter and see if there are any questions on any given topic and the direction could be determined by the questions that come before this body. He said all the dates each change was enacted are listed in the Charter. He noted the reason the terms of Council are now staggered is because theoretically you could have all new Council Members seated after a single election and the last Charter Review Commission felt staggered terms allowed for better continuity.

Mr. Dziak confirmed Mr. Smith's statement about the staggered terms and added that they changed the terms from two years to four years as well because previously City Council had to run for re-election every other year and a four year term just made better sense.

Mr. Smith stated the voters in the City of Avon are very sharp. He said others might be surprised by how informed the voters are even though very few may attend the Council Meetings. He said it is amazing how aware of everything that goes on people are and it has been that way for a long time. Mr. Smith indicated that when attendance is low at a Council Meeting it means they are happy with how the City is operating. He said when going through the Charter by sections they can determine what sections are working well and do not need to be amended and find out which ones need to be changed.

Mr. Dziak said he wanted to point out that if the Detroit Road Preservation stipulation is considered for amendment people will show up to the meetings.

Mr. Gasior stated there was one situation with a Special Use Permit, which is a use outside the permitted use in a specific district such as golf courses or churches or cemeteries in residential districts, where a golf course wanted to install tennis courts and there was a lengthy discussion and Council approved the Special Use Permit to allow the tennis courts. He advised the residents who opposed the tennis courts filed suit against City Council's decision. Mr. Gasior said when that case went to court there were questions as to whether or not the residents needed to file an appeal with the Board of Zoning Appeals. He stated the argument he made, on behalf of the City, to the Common Pleas Court was any action taken by City Council on a Special Use Permit such as that should not be reviewed by the Board of Zoning Appeals because the Charter seems to spell out that the BZA cannot grant a Special Use Permit in a situation such as that. He said the Judge did not agree with the City and he would like to look at that section again with this Charter Review Commission and clearly spell out that when a Special Use is enacted by City Council you cannot appeal to the BZA, but rather directly to court. Mr. Gasior advised the Board of Zoning Appeals Members are appointed by the Mayor and there is not even a Council Representative on that Board. He continued in this instance City Council passed an Ordinance and yet a judge ordered the Board of Zoning Appeals to review and could overturn something that seven elected members agreed upon. Mr. Gasior felt that does not seem right to him, as the Board of Zoning Appeals is better suited to decide a challenge of action taken by the Planning Commission. The Planning Commission is also a body appointed by the Mayor with advice and consent from Council. He felt the court misread the intent of the Charter. In the end, it did not matter to the City because the complainant never filed an appeal with the Board of Zoning Appeals per the judgment from the court.

Mr. Smith suggested they try to keep the meeting length at one hour to one and a half hours. He also suggested they try to stay on topic and try to avoid getting sidetracked. No opposition was voiced.

Mr. Gasior stated they can discuss topics for amendments as they look at the Charter and once they agree and vote on the language then they could move on to the next topic.

Ms. Jankowski inquired as to the next step after this Commission decides what to amend in the Charter.

Mr. Gasior advised the Charter Review Commission Members vote on the proposed changes to be placed on the ballot. He stated those proposed Charter changes go to City Council in Ordinance form and City Council simply adopts what the Charter Review Commission recommends be changed. It was noted, City Council has no authority to change any of the Charter Review Commissions recommended changes to the Charter. Then the Board of Elections prepares the language for placement on the ballot and the voters decide if they agree with these Charter changes at the ballot box at the General Election in November.

ADJOURN: 8:20 p.m.

A motion was made by Mr. Mylen and seconded by Mr. Lindsay to adjourn the meeting of the Charter Review Commission, and the vote was unanimous in favor.

Respectfully submitted by:

The Clerk of Council
Secretary to the Charter Review Commission
Barbara Brooks