

Oath of Office – The Oath of Office was administered by John Gasior, Law Director, to Melissa Ramirez prior to the start of the meeting.

**MINUTES OF THE MEETING OF THE CHARTER REVIEW COMMISSION OF THE CITY OF AVON, OHIO
HELD THURSDAY, FEBRUARY 24, 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; Marcel Mylen, Ward 2; John Weigman, Ward 1; Alternate A Melissa Ramirez, Ward 3; Alternate B Bruce Klingshirn, Ward 4

ABSENT:

William Logan, Ward 4

ALSO PRESENT:

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

EXPLANATION OF SEATING OF ALTERNATES

Mr. Gasior read the following: Article XIII, Section 7(a) of the Charter explains that: “One (1) Alternate shall be designated ‘Alternate A’ and the other as ‘Alternate B’. These alternates shall not be voting members of the Charter Review Commission unless called upon to fill in for an absent regular member. When such absence occurs causing a temporary vacancy to exist on the Commission, the Chairman will designate one (1) of the Alternates to fill in as a full voting member for that meeting only. The Chairman will rotate among the two (2) Alternates, beginning with ‘Alternate A’, each time there is a temporary absence. When a permanent vacancy exists on the Commission, an Alternate, beginning with ‘Alternate A’, will be designated to permanently fill the vacancy. If membership on the Charter Review Commission falls below seven (7) members after the installation of the two (2) Alternates, the Commission is deemed dissolved. Any items approved by the Commission prior to the dissolution will be submitted to City Council for presentation to the electors as hereinafter set forth in subsection (b).”

Mr. Gasior stated, so with Mr. Logan being absent tonight, the Chair would want to move forward to designate Alternate A. He said that just before the meeting, he swore in Melissa Ramirez so she is ready to proceed. Mr. Weigman thanked Mr. Gasior and asked if Ms. Ramirez should move her seating to the dais in Mr. Logan’s place. Mr. Gasior said that she can stay seated where she is and will be filling in for Mr. Logan tonight. If there is any voting, she would be a voting member.

INTRODUCTION OF MEMBER

The Chairman asked Ms. Ramirez to give a brief introduction of herself since she was absent at the last meeting.

Ms. Ramirez stated that she has lived in Avon for about 10 years and has two children, ages 12 and 14, at the Middle School. She said that she is a fund raiser for a national women’s organization. Mr. Weigman thanked her and welcomed her.

APPROVAL OF THE MINUTES OF THE FEBRUARY 10, 2022, ORGANIZATIONAL MEETING

Mr. Gemelas noted that he had a correction to the minutes. Under "Introduction of Members", it should state that he has a son and a daughter, not two daughters. Ms. Brooks apologized for the error and said that she would make that amendment.

A motion was made by Mr. Gemelas and seconded by Mr. Gault to dispense with the reading of the minutes of the Organizational Meeting of the 2022 Charter Review Commission, held Thursday, February 10, 2022, and to adopt said minutes as amended. The vote was: Ms. Ashley, "yes"; Ms. Berges, "yes"; Ms. Damstra, "yes"; Mr. Gault, "yes"; Mr. Gemelas, "yes"; Mr. Glick, "yes"; Mr. Mylen, "yes"; Ms. Ramirez, "yes"; Mr. Weigman, "yes".

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

DISCUSSION OF THE FIRST FOUR ARTICLES OF THE CHARTER OF THE CITY OF AVON

a) ARTICLE I – NAME AND BOUNDARIES

There was no discussion on Article I

b) ARTICLE II – MUNICIPAL POWERS

There was no discussion on Article II

c) ARTICLE III – THE MAYOR

Mr. Glick stated that it surprised him that you had to be a resident for only two years in order to run for Mayor. He said he did not know if that is standard for typical City Charters but it seems to him that it should be longer than just two years.

Mr. Gasior said that he does not think it is unusual. What he noticed about that was that if you had to be an elector for two years, you probably had to be at least 20 years old, whereas on City Council, you could be 18 years old. We had that situation back in 2003. But he has not seen many people come forward and try to run for Mayor in any community if they have not been residents of the community for a fairly long time. It is just hard to get to know people and to build a base of support in two years. If the Commission wants to look at this and consider a longer period of time, that is something they could propose to Council.

Mr. Gemelas stated that the only issue he thought about with the two years is that typically if you are a resident even in Lorain County for a year, you can run for just about any office that you want so having that second year is probably redundant. He just thought that the residency requirement being in excess of two years would probably be problematic.

Mr. Gasior said that the other thing that he noticed about this is that when you get to the second sentence, it says that "the Mayor shall not serve on continuous active military service in excess of sixty-one (61) days, either State or National, nor shall the Mayor hold any other elected public office or Municipal employment in this Municipality" and that can be problematic because if you consider the Mayor sitting on Planning Commission, he or she is being compensated for that and that would be considered municipal employment. The only exceptions are for "... notary public or member of the State Militia, etc." Now this is different from what is in Article IV when you talk about City Council members. There is a similar provision in Article IV and what it says in Article IV is that "a Council member shall not hold any other Municipal office or Municipal employment in this Municipality except as otherwise provided in this Charter." Mr. Gasior said he thought that that language probably is better. Perhaps the Commission might want to consider changing Article III to be

consistent with Article IV. The Charter specifically calls out that the Mayor and a member of Council can sit on Planning Commission.

Mr. Gemelas asked, when the Mayor is seated at Planning Commission, is his role as the Mayor or as another member of Planning? Mr. Gasior said he is entitled to be paid as a member of the Commission which was something that we talked about last time we met where you cannot increase the pay of a Council member or Mayor during their term. If Council votes to give a 3% pay increase to all the members of Planning Commission in the year 2022, we have to skip over the Mayor and the Council representative because they would be increasing the pay during their term. What has been happening over the years is these individuals have just foregone the pay raise. But eventually we are going to have to catch up with that and come up with some language to correct that sort of problem. Mr. Gasior added that he just wanted to point out that section, Article III, Section 2, and the Commission might want to highlight it.

Mr. Weigman asked Mr. Gasior if, in his opinion, we are violating the Charter right now in order for the Mayor to be on Planning Commission. Mr. Gasior responded that he did not want to say that we are violating the Charter right now. He just wanted to say that we should probably address it and make it clearer. He said that, for as long as he has been around, the Mayor or the Mayor's designee, has sat on Planning Commission. He can say that none of them took a pay increase that was passed by Council during their term. We can leave this alone and rely on past practice or the Commission can consider clarifying the language to enable the raises to be accepted.

Mr. Gault asked, why are we micro-managing this? Why does it matter? If a person is fulfilling their duties and they have a multiple office, whatever that may be, if they were not doing their job, they would not be reelected. Mr. Gasior said he thought that what we are trying to do is make sure that somebody does not call out the fact that someone is receiving pay in violation of the Charter. He felt that the phrase "except as otherwise provided in the Charter" is a much better phrase than the one that is used for Mayor in Article III. It might be better to amend the Charter to make it consistent with what is done for Council members.

Mr. Glick said he thought that there are two issues to Mr. Gasior's point. One being that there should be segregation between the two compensated roles and secondly the appearance of overcompensating through multiple roles for the Chief Executive of the City.

Mr. Gasior stated that when Council puts their designee on Planning Commission, they vote on it. The Mayor just decides on his own to become a member of Planning Commission and not select a designee. Years ago someone did sit for the Mayor and they got paid. It is just one of those little things that we may want to clean up. Council just voted pay raises for Planning Commission for 2021 and then again in 2022. Prior to that pay for Commission members only increased once every four or five years. Council clearly intends to address the pay for Commission and Board members every year going forward. The compensation is not significant but Council wanted to make sure that those serving on these panels got pay raises that everybody else received.

Mr. Gault said if the Mayor does not have an obligation to be on the Planning Commission but chooses to be on it, then he is taking a separate role from what he has to do and Mr. Gault thought it is a big benefit to have the Mayor involved as he knows more than most people, of things that are going on in the City. So one question is, should he be able to put himself in that role? Mr. Gault said he thought if it is not an obligation that the Mayor has to do it but if he chooses to do it to help out, why wouldn't he be compensated for it just like anybody else?

Mr. Gemelas said he thought that there could be a conflict of interest here and that is probably what they are afraid of at this point. The Mayor is still doing the business of the City whether or not he is sitting on Planning or another committee. But the fact that he is being compensated twice could run afoul of some of the people's opinions of why are we paying the Mayor for multiple roles for essentially the same job.

Mr. Gault asked what do other cities do? Mr. Gasior said that he knows that a few cities do not compensate anyone for service on these Boards. We are in a minority in that regard. We compensate for service on Civil Service, Board of Zoning, and Planning Commission. He just thought it would be good to clean that language up. Look at Article VII, Section 2. It says "A Planning Commission shall be created and shall consist of the Mayor or a person appointed by the Mayor.....; one (1) member of Council to be selected by the President of Council..." and so on. In Council's case, that additional appointment to a municipal employment would be covered because of the language of "unless otherwise specified". Mr. Gasior just thought that wherever the Mayor is allowed to take on employment in the City, it should not have any bearing on his regular salary. The obvious intent of the Charter provision was to prevent a Mayor from boosting the pay of the position two months away from the election, especially if he were to be unopposed. That was the whole intent. The language does not necessarily comport with what has actually been happening. So one of the things you want to try to do in Charter Review is to at least make your Charter reflect what your actual practices are.

Mr. Weigman asked, what is the recommended language? Mr. Gasior said that he does not have it for them tonight but he will have it next week. If the Commission is interested in trying to address that, he will be happy to draw something up.

Mr. Weigman said that, if we believe that right now the Charter is not matching what we are currently doing, should we follow what the Charter says in the meantime? Mr. Gasior said City Council has decided to vote to increase pay for members of Planning Commission. The Mayor and the Council rep are not taking these pay increases. That is why this topic is being discussed.

Mr. Mylen asked if Council could approve the Mayor if he chooses to be on Planning and Mr. Gasior said he did not think so. The Mayor can absolutely appoint himself; the Charter says that he or his designee is a member. It is just that there is conflicting language here. Mr. Mylen stated that he could be an unpaid member. Mr. Gasior responded that back in the 60's or 70's when Council decided to pay these positions, they set the pay and left it alone. Ever since Mr. Gasior has been around, whoever sat in that position received whatever the pay was at the time of their appointment. They never received an increase in pay during their term. Up until 2021, pay raises were discussed infrequently and it rarely interfered with a Mayor or Councilor's term in office.

Mr. Glick asked if Planning Commission was the one single exception that we are talking about? Mr. Gasior said that he believed that it is. Mr. Glick then said, why don't we just state that as the exception in the Charter and Mr. Gasior said he was going to try to write something up to clarify it. Do we really want to start trying to figure out how far back we should go to recoup money? Sometimes you just have to leave things as they were and just make it better going forward. It is not a lot of money and that is what it comes down to in the big picture.

Mr. Weigman asked if it would be simpler for Council just to put the appropriate pay on the Mayor. Mr. Gasior said he guessed you could say that but then they would have to remember to set that pay every four years. Ms. Damstra asked what if he decides not to be a member? Doesn't it say he can appoint someone else? Mr. Gasior said, yes, he can appoint someone else which he has done in the past. Then what would that person's pay be? Ms. Damstra asked if his pay matches the other members' pay and Mr. Gasior said, yes. The only person who gets paid over and above the other members is the Chairman of each Board or Commission.

Mr. Gasior noted that the other thing that came up in that Section was a typo. At the top of page 3 a line was repeated. We will just strike that out. It is not a Charter amendment. We handle that with the codifier. Mr. Gasior added there was a typo in one of the words: The word should be "Director" and not "Direction". Ms. Brooks stated that was in Section 4, the 2nd paragraph.

Mr. Gasior stated that there is another interesting thing in Section 4 concerning the existence of a vacancy in the office of Mayor and it gives the order of succession in the event of a vacancy. That order is the Director of Finance, Director of Public Service, Director of Public Safety, Director of Law, "provided, however, that such person is a resident of the City of Avon. No Director appointed by an Acting Mayor may serve as Acting Mayor. In the event no Director is willing or able to serve as Acting Mayor, Council shall appoint the Acting Mayor by majority vote." Now the question becomes, does the Acting Mayor that Council appoints have to be a resident? It is not clear. Mr. Gasior said he thought you can assume that it would have to be but it does not say that. Consider this: What if we have four Directors that are all living outside of Avon and no one is able to serve as acting Mayor. Council steps up and appoints the Finance Director who is not a resident. Is that going to be a valid appointment?

Mr. Klingshirn asked why don't we just say that they appoint a resident as the Acting Mayor? Mr. Gasior said that we could make that change if they wanted to. Mr. Klingshirn noted that would be clearer. Ms. Damstra asked, doesn't it mean it would have to be a resident because that is a qualification of the Mayor? Mr. Gemelas said, plus two years. Mr. Gasior said that is a great argument for saying that they have to be a resident at least for two years but the way it is worded, sometimes people can reach other conclusions. You could say, "Council shall appoint an Acting Mayor by a majority vote pursuant to Section 2, Qualifications." Mr. Gemelas said they would have to abide by that; otherwise it would not make any sense. Ms. Damstra asked which Directors does the Mayor appoints? Mr. Gasior said that he appoints all of them, with the consent of Council. Council has to consent by 2/3 vote in his appointments. Ms. Damstra asked, so how could any of those Directors be in succession if they are already appointed by the Mayor because doesn't it say that no Director appointed by the Acting Mayor may serve as Acting Mayor? Mr. Gasior said let's just say they are all residents and the order of succession is Finance Director first and so on. What if the Finance Director gets sick and cannot serve? Can he appoint the Director of Public Service to act as Mayor? After reading that sentence, the answer is no.

Mr. Glick stated if the Director of Public Service is appointed by the prior Mayor and not the Acting Mayor, then the Acting Mayor absolutely can appoint that person. Mr. Gasior said that is a good way to look at it. They are all appointed by the Mayor and therefore they are just stepping in line. Mr. Glick said if somebody in the succession chain prior is appointed by the Acting Mayor, say the Director of Finance takes it over, that replacement cannot become the Acting Mayor. Mr. Gasior said that he agreed. The chances of any of that happening are so slim but we probably should make it clearer that Council shall appoint the Acting Mayor by majority vote pursuant to qualifications in Section 2.

Mr. Gasior stated that some of the things we discuss are not necessarily going to be things that you would recommend to Council. We just should go through the Charter and see which are significant and try to pull out three to five items. You do not want to have too many Charter amendments. Voters do not want to read through a lengthy ballot. Thinking back, the most amendments we've had in recent years has been around five.

Mr. Glick asked: if there is a grammatical error that makes the statement untrue, does that also have to go on to the ballot? He said that under "Qualifications", the last sentence can be interpreted to mean that the Mayor who was elected in November of 1997 should still be a full-time employee of the City. It says that "The Mayor shall be a full-time employee of the Municipality as of January 1, 1998." It confuses the individual who is elected to the position of Mayor vs the position of Mayor itself. Mr. Gasior asked how would you word that? Perhaps "the Mayor shall be a full time employee during their term of office." Mr. Gemeles said that in Section 4 it says if the "office of Mayor" becomes vacant, so, yes, it should be of the office of Mayor. Mr. Gasior will look into that. He asked if there was anything else?

Mr. Gemelas stated that Under Article I, Name and Boundaries, it says "the City of Avon, Ohio,shall continue to be a body politic and corporate under the same name and with the same boundaries". Is it "incorporated" as opposed to "corporate"? Mr. Gasior said that he will have to look at that.

Mr. Gasior stated that before we get to Article IV, The Council, he just wanted to point out that in Article III, Section 5, it says that “The Mayor shall be the chief conservator of the peace within the Municipality...” That was the provision that was used by most Mayors back in March of 2020 to invoke emergency powers to keep people from contracting COVID 19.

d) ARTICLE IV - THE COUNCIL

Ms. Damstra asked about jurisdiction and how they are decided for the Ward members. She said she did not see anything in that Section about redistricting based on the growth of the City. Mr. Gasior said it is up to Council to establish the Ward boundaries and the last time they set Ward boundaries was in 2002. We talked about that with the Board of Elections and they said basically to wait until four years from now to start thinking about it because there are no elections that will take place in the City that will be impacted by the current Ward boundaries. In two years, you are going to have Council-at-Large running and obviously they are not impacted by Ward boundaries. Council should definitely consider some drawing of new boundaries because Ward 1 is huge and it needs to be pared down. That is something we will probably start doing two or three years from now to make sure that we get it to the Board of Elections before the 2025 election. Ms. Damstra said that she noticed that Avon Lake’s Charter has a whole Section on that subject. Mr. Gemelas stated that it is a legislative act to redistrict areas; typically, it is not in a Charter and he finds it hard to believe that it was in the Charter of Avon Lake. Mr. Gasior said he thought that they probably just want to make sure that their Council is reviewing the boundaries, even if it is just every 10 years. Mr. Gasior said if that is something the Commission wants to put into the Charter, they certainly could do that like Avon Lake. Mr. Gemelas said that he guessed the concern might be that if Council is going to be affected by the fact that they are going to be redistricting in their areas, then they are voting to keep themselves in that position vs. diluting the voting. It might not be a bad idea to have the redistricting scheduled every so often to compare with the census.

Mr. Gasior said that he would review the Charter for Avon Lake and give them his thoughts on it at the next meeting. Ms. Berges stated that she thought that the City of Elyria just recently had something with their Charter that requires them to look at their districts every 10 years. Mr. Gasior said he would take a look at both Charters and see if we can come up with a provision. If that is something the Commission feels we should do, we’ll do it. Mr. Gasior noted that it takes time for the census data to be published. If you’re looking at reviewing the Wards every ten years, you might want that to begin in 2022 or 2023.

Ms. Damstra asked why can only the At-Large Council members be the President of Council? Mr. Gasior stated that prior to 2007, the At-Large Council Member with the most votes (in the election) became Council President. There was some discussion after the election of 2003 when an inexperienced young man won a seat as a Councilor-at-Large. He automatically became Council President. It is not that Council didn’t want a young person to run for office. Council just believed that the highest vote getter might not necessarily be the best person to lead Council. At the next Charter Review Commission in 2007, an amendment was placed on the ballot to eliminate the “automatic” provision but retain the requirement that the person still be an At-Large Councilor. So the At-Large requirement remains and all of Council decides who among the three At-Large members should be the Council President.

Mr. Weigman clarified, to answer the question, and Mr. Gasior did mention it, the Council President is elected by the entire City rather than the Wards. Ms. Berges said, and just to add that the other thing in regard to the position of Council President, besides youth, is the lack of experience. If you have someone who has never been on Council before and they are the highest vote-getter and they end up being the President of Council, there is definitely a learning curve to being on Council so it is asking a lot to have someone who has never done it before, to all of a sudden preside over the body. So that was also part of the decision to have Council elect the Council President because they would know better than anybody who would be the best person. Mr. Klingshirn agreed that experience must be a big part of it.

Mr. Klingshirn noted the requirement under Section 12 about the posting of legislation, etc. He said that we make copies and the Police are running around the City delivering them and he does not know if anybody even knows where they are delivered. He felt that they should be posted on the website, and copies placed here at City Hall and be done with it. Mr. Weigman said that was a great point. He thought that for the School Board meetings, the notices are posted three places. He asked Ms. Brooks what the minimum requirement was for posting the notices and Ms. Brooks said that we post the enacted legislation in five locations according to Charter in Article IV, Section 12. Mr. Gasior stated that we have an Ordinance on right now to replace the posting place of Buck's Hardware with the Library as Buck's Hardware is closing. Mr. Klingshirn said that most people are going to look on the website. Mr. Weigman said that he can find out where the School Board is posting notices and bring that back to our next meeting.

Mr. Gasior pointed out that in Section 7, Salaries and Bonds, is where all of this ties in to what we talked about initially with salaries and getting compensation over and above what Council has set the salary at so when you are thinking about the Mayor's compensation on the Planning Commission, read it in light of Section VII.

Ms. Damstra stated that in Section 15, about the Zoning Ordinance and Regulations, it says "notice of such public hearing shall be published in a newspaper of general circulation in the Municipality" and she asked how we know which newspaper that is? Mr. Gemelas stated that there are only two now; probably the Journal or the Chronicle. Ms. Damstra said she thought that should be updated even if it is just on the website and maybe it already is on the website but not noted. She said that no one probably ever actually reads these notices but the issue came up for her where she lives with some zoning and it was sort of hard to track down until they sent a notice to some of her neighbors. Her property was not adjacent, adjoining or abutting. As such, she did not receive the letter that some of her neighbors received. She wondered if maybe we could update that to be something more technology-based.

Mr. Weigman asked Ms. Brooks whether this is posted on the City Website. Ms. Brooks said that the agendas and the minutes are on the website. She does not handle any of the zoning but you can always check agendas and you can ask to be notified and provided copies of the agendas through email.

Mr. Weigman suggested that for the next meeting we might reach out to other communities and see what they are doing, what their approach is so folks are notified. Ms. Brooks added that, as far as the newspaper, she would guess that it is either the Chronicle or the Morning Journal; it would probably be in a legal ad in either one of those newspapers. Mr. Gasior stated that he thought it would be nice to just post it on the City website as so many people have access to that now. It might not be a bad idea to consider that in the Charter.

Mr. Weighman asked if there were any additional comments on Article IV – The Council, and Mr. Gasior noted that Mr. Logan wanted to discuss the Public Bidding and Sale of Property and we will look at that later.

ADDITIONAL COMMENTS – MEMBERS OF THE COMMISSION

Mr. Gameles asked if they were able to put things on the agenda as they are coming up because there are some things he would like to know some history of and see if there are any minutes of former meetings. Having information ahead of time would be nice. It is great to have Mr. Gasior here because he has been around long enough to know a lot about these things. If we have any submissions prior to the agenda being published, we can just address those. Ms. Brooks said to just email that to her or give her a call at least a couple days before the packet goes out; the more days the better.

Mr. Weigman asked how many Articles they wanted to cover in the next meeting and Mr. Gasior suggested V, VI, and VIII, skipping VII, and going to VIII – Finances – as Mr. Logan will be present. Mr. Weigman announced that for next meeting, they would address Articles V, VI, and VIII if everybody was agreeable with that. All the Commission members agreed.

ADJOURN: 8:09 p.m.

A motion was made by Mr. Gemelas and seconded by Mr. Glick 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. Mylen, "yes"; Ms. Ramirez, "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