

**City of Maple Heights
Charter Review Commission Meeting Minutes**

Via Video/Teleconference

March 25, 2021

Chairwoman Katurah Johnson called the City of Maple Heights 2021 Charter Review Commission Meeting to order at 6:04 p.m. with the following Charter Review Commission members present via video/teleconference: Ms. Katurah Johnson, Ms. Michele Rudolph Ms. Almeida Dye, Ms. Daphne Coleman, Ms. Linda Mitchem, Ms. Angela Oglesby, Mr. Herb Wilborn, Ms. Jackie Albers and Ms. Lois Poole. Ms. Rikki Brown arrived at 6:07 p.m. Ms. Lakiesha Nevels was absent and excused. Also present were Law Director Frank Consolo and Clerk of Council Leonette Cicirella Johnson.

Ms. Johnson asked if there were any corrections to the minutes of the February 25, 2021 CRC Meeting. There were no changes or corrections.

MINUTES: Ms. Dye, made a motion, seconded by Ms. Oglesby, to approve the Minutes of the February 25, 2021 Meeting.

ROLL CALL: Ms. Johnson: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Coleman: Yes; Ms. Mitchem: Yes; Ms. Oglesby: Yes; Mr. Wilborn: Yes. The motion passed by the vote of seven (7) ayes to zero (0) nays.

Ms. Johnson said at tonight's meeting the Commission would review Charter Articles I through VII to Section 8 with an emphasis on Articles III, V, and VI and asked Mr. Consolo to begin this discussion.

Mr. Consolo said Article I could not be changed since it described the name and boundaries of the City. He said Article II defined the powers to be exercised by the City in accordance with the Constitution and laws of Ohio and described how these powers will be exercised. Mr. Consolo said the Charter is what was looked to to run the City. He said if the City did not have a Charter, the City would look to the Ohio Revised Code which has a specific section to instruct a City without a Charter how to operate. Mr. Consolo said most Cities do have Charters to use their powers to govern.

Mr. Consolo said the Charter was also important to give the City "home rule" to decide how the City wanted to govern most issues. He said under this policy certain powers of a Charter City could conflict with certain sections of Ohio law. Mr. Consolo said the Charter was approved by the electors when the City was established in 1931. He said the founding provisions of Article I was updated in 1955 and Article II was updated in 1964.

Mr. Consolo said Article III Section 1 regarding Qualifications of Elective Officers was last updated in 1986 with changes to this Section approved by the voters during the election of 1986.

Ms. Johnson asked if there were any suggestions for changes to Articles I and II. There were no changes suggested by the Commission members.

Ms. Johnson said Article III regarding Elective Officers described how the Mayor, Council President and members of Council were elected. She said Section 2 of this Article described the Terms of Office for the respective elected officials. Ms. Johnson said this Section was changed in 2016 to change Council from two (2) year-terms to four (4) year staggered terms. She said the rationale for this change by the 2016 CRC was to prevent a possible situation in which all of Council would be newly elected.

Ms. Johnson said members of Council must live in their respective districts and must have resided continuously in their districts for two (2) years prior to the election. She said the residency requirement for the Mayor and Council President was three (3) consecutive years immediately preceding their election.

Ms. Johnson said there had been an inquiry regarding a return to the two (2) year non-staggered terms for Council and asked if anyone had any questions or comments regarding this issue.

Mr. Wilborn said it was important to have some council members with experience during each term.

Ms. Mitchem said she concurred with Mr. Wilborn.

Ms. Johnson asked Mr. Consolo if the Commission needed to vote after each discussion to which Mr. Consolo responded in the negative.

Ms. Dye asked if the change that had been suggested concerned Council's staggered terms or the length of their terms.

In response Ms. Johnson said the Commission was discussing both the two (2) year as opposed to four (4) year terms and that the terms were staggered.

Ms. Dye said the Commission should keep the current system.

Ms. Mitchem said he concurred that the length of terms and the staggered terms stayed the same.

Ms. Oglesby asked for clarification regarding these issues being the same as the 2016 changes to which Ms. Johnson responded in the affirmative.

Ms. Johnson asked if the terms for the Mayor and Council President should remain the same. It was the consensus of the Commission that these would not be changed.

Ms. Johnson said Section 3 of this Article concerned the Absences of Elective Officers and Forfeiture of Office. She said the time-frame for this was three (3) months.

Moving to Section 4, Ms. Johnson said this section involved Activities Restricted and Conflicts of Interest. She said the Charter allowed Council members to hold non-elected public employment outside the City of Maple Heights which did not conflict with their duties.

Mr. Wilborn asked what would be an example of a conflict with their duties.

In response, Mr. Consolo said that Council Meetings were scheduled for the first and third Wednesday evenings so a Council person who worked a night shift would be in conflict with Council duties.

Ms. Mitchem asked if a Maple Heights Council person could serve as an elected official in another City to which Mr. Consolo responded in the negative.

Mr. Consolo said another example of a conflict for a council person would be if they worked out of town and only came home on the weekends.

Ms. Johnson said Article IV concerned Council's power to set the Salaries of all employees whether elected or appointed and their authority to authorize reimbursement of expenses.

Mr. Consolo said this Article fixed a particular time for the salaries of elected officials which was at least 120 days prior to the next election. He said the November 2, 2021 election will be for Council Districts 1, 3, 5 and 7 so if Council decided to change Council's salary, the legislation needed to be passed by August 2, 2021 (120 days prior to the November 2 election). He said the salary change would not be effective until January 1, 2022. Mr. Consolo said Council cannot change salaries once they were elected per the Ohio Revised Code and Ohio Ethics Commission. He said there was a practical reason for this timing because if someone was running for elective office they would want to know what was the salary. Mr. Consolo said this was a standard provision found in most Charters.

Councilwoman Jones asked if Council passed legislation to increase the salary of Council before this election would only Districts 1, 3, 5 and 7 benefit and would Districts 2, 4 and 6 need to wait for their next term. She said this was a staggered term issue and asked if this could be updated.

Mr. Consolo said an increase in Council salary for all these elected officials would be changed at some point so that District 2, 4 and 6 would "catch-up." He said to try and change all the salaries at the same time would be a conflict with the ORC and Ohio Ethics Commission that may not be able to be overcome. He said a sitting Council could not change the salaries of Districts 2, 4, and 6 or the Mayor because they are in office at this time. Mr. Consolo said at the time of the election for Districts 2, 4 and 6 and the Mayor the salaries were set. Mr. Consolo said he will research this issue for the next meeting though.

Ms. Oglesby said that under the current system the pay increase could never be at the same time and at any point some would be making less. She said it would be good if Mr. Consolo could check this for the Commission.

Mr. Consolo said he had the same experience when he was on Council in University Heights. He said it was not permitted to change council's salary during their term.

Ms. Dye asked if this could be changed if Council went to one (1) term to which Mr. Consolo responded in the affirmative.

Mr. Wilborn asked who determined the salary of Council or changes to it. Mr. Consolo said a majority of Council by legislation determine the salaries.

Mr. Wilborn asked what were the salaries based upon. Mr. Consolo said Council compared neighboring cities and whether Council was part-time or full-time.

Ms. Brown said it was not fair that the districts not up for election had to wait for their salary change.

Ms. Dye asked if the pay was back-dated to which Mr. Consolo responded in the negative. Ms. Dye said another consideration was what if the Council member did not get reelected.

Ms. Johnson said the Commission should remember that this was not Council's day job and concurred with Ms. Dye that Council members up for reelection do run the risk of not being reelected.

Ms. Dye said waiting the two (2) years still was not fair.

Ms. Johnson said the Council members knew how their salaries were set and were well-aware how it worked.

Ms. Mitchem said that the responsibilities of each District Council member were the same though.

Ms. Johnson concurred with Ms. Mitchem but said that not every Council person was doing the same job.

In response, Ms. Jones said each Councilperson did their job to the best of their abilities but that each person was different and each District had different needs to be served.

Ms. Mitchem concurred with Ms. Jones and said each Councilperson had a different agenda based upon their District.

Councilman Shenett said he concurred with Ms. Jones and said that it was up to each individual Councilperson and depended on their Districts. He said there were different challenges in each District. He said Councilpersons all attend meetings but the work in their District was unique to them. Mr. Shenett said the previous Council and Mayor made more money than the current Council and Mayor. He said there were some things that you just cannot get around.

Mayor Blackwell said the Council set the salaries and that based upon the City's prior finances the salaries for Council and Mayor were cut. She said the change to staggered terms was made to keep experience on Council. The Mayor said prior terms did not give Council time to get used to their job before they would have to run for office again. She said this was a complex issue and asked the Commission to take its time with this issue.

Ms. Dye suggested that the Commission discuss this issue with all of Council available.

Ms. Rudolph said Mr. Consolo will be researching this issue to see what can be done regarding the staggered terms.

Mr. Wilborn said there was no need to include Council to the meeting unless needed after Mr. Consolo completed his research.

Ms. Johnson concurred with Mr. Wilborn to wait until Mr. Consolo completed his research.

Ms. Dye said the Commission needed to include Council.

Ms. Mitchem said the Commission needed to know the law first and then discuss this issue.

Ms. Dye said that out of courtesy Council should be included since this Article affects Council as a whole.

In response, Ms. Johnson said Council had always been welcomed to sit in on CRC meetings and welcomed to speak with the representatives.

Moving to Article V, the Executive, Ms. Johnson said the Mayor was the CEO of the City and Section 2 was self-explanatory.

Mr. Consolo said in Section 3 the Mayor shall be the Director of Safety which was the same as the Safety Director for the City. He said the duties of the Director of Safety were conferred by the Charter, the ordinances of the City and the laws of the State of Ohio.

Mayor Blackwell said there was confusion about the duties of Safety Director and that in this position the Mayor did not manage or dictate the City's response to crime but rather to keep the City and residents "safe" from health issues such as the pandemic, etc. She said the Police Chief consulted with the Mayor and kept her informed of what was happening in the City and in the Police Department.

Mr. Consolo said he wanted to go back and point out to the Commission Article III, Section 4 regarding that "no elective officer shall be interested in the profits or emoluments of any contract, work or service for the Municipality." He said this was important because in Garfield Heights there was a conflict between the Mayor and Council whether or not it was appropriate for the Mayor to assume the duties of the Safety Director. He said their Charter did not have the Director of Safety provision that our Charter included. Mr. Consolo said the language of Article V, Section 3 guaranteed that the Mayor as Safety Director was not a conflict of interest.

Ms. Johnson said Article V, Section 4 concerned the Mayor's Appointing Powers regarding the City Directors with Council approval. She asked if there were any questions regarding this Section.

Ms. Oglesby asked if there had been any changes to this Section regarding the Mayor's ability to appoint, remove or suspend the Directors of Finance, Service and Law to which Mr. Consolo responded in the negative. He said there had been some suggestions made by Council but those did not go forward.

Ms. Johnson said Article V, Section 5 regarding the Mayor's Duties was self-explanatory and asked if there were any questions. There were no questions.

Ms. Johnson said Section 6 was straight-forward but said she was confused about the ending of that Section.

Mr. Consolo said this provision regarding “cause for contempt” was similar to a provision for Council. He said if there was something to investigate the Mayor had the power to conduct such an investigation including witnesses, produce papers, etc. Mr. Consolo said if a witness failed to appear or failed to produce documents they would be “held in contempt.” He said this was a unique provision in our Charter and probably never used. He said if someone did not appear he was not sure how it would be enforced and would have to investigate this.

Ms. Johnson said Section 7 discussed the Absence/Vacancy of the Mayor and described the succession of Council President for temporary absences. She asked if there was any discussion. There was no discussion.

Ms. Johnson said Section 8 described the Location of the (Mayor’s) Office at City Hall.

Mr. Consolo said the last clause of this Section required that the (the Mayor) “shall hold no other public or private employment.” He said this Section had been debated at least three (3) times and indirectly said that the Mayor’s position was a full-time job. Mr. Consolo said this was hidden under “Location of Office” and would be important to justify the salary of this position. He said in some other communities it was not clear whether the Mayor was full-time or part-time. Mr. Consolo said in this Section Maple Heights wanted a Mayor who was full-time.

Ms. Brown asked if this could be moved to another Section.

Ms. Dye said she concurred with Ms. Brown.

In response, Mr. Consolo said it would be appropriate to move it to Section 5 the Duties of Mayor.

Ms. Johnson asked if there was a conflict between this provision and the Mayor as Safety Director.

Mr. Wilborn concurred and asked if the Safety Director was public or private employment.

Mr. Consolo said in the Charter of Woodmere it said that the Mayor was Safety Director and received one (1) salary. Mr. Consolo said he would suggest that the Commission make this language clearer. He said under the Duties of Mayor it could be drafted to say no other employment, except the Mayor shall be the Safety Director...

Ms. Rudolph asked why the Mayor could not have private employment.

Mr. Consolo said it would not be illegal for the Mayor to hold other employment but it would be up to the CRC to make this recommendation to the voters. He said this was not a legal issue and that smaller cities do permit the Mayor to hold other employment.

Ms. Mitchem asked what if the Mayor wanted to have their own business.

Mayor Blackwell said that was the case with her family and that it did have an event center. She said the Mayor cannot do other jobs, run a business or do consulting work but the individual made the decision to run for Mayor. The Mayor said this was a difficult job and needed to attract

a specific skill set. She said the talent pool was also limited based upon the salary of the Mayor's position.

Mr. Wilborn said the job should not handcuff the Mayor but what about neglect of office if the Mayor had other employment. He said the Commission should investigate this and make changes.

Ms. Johnson said the Commission can only make a recommendation to the Law Director to change this Section who will draft it in legal terms for Council to send down to the Board of Elections to be voted by the electorate.

Ms. Rudolph said language would need to be added similar to Council's language that "it does not interfere with the duties of ..."

Mr. Consolo said Ms. Rudolph was referencing Article III, Section 4 and suggested using that same language.

Ms. Oglesby asked who would make the determination that the Mayor's employment was interfering with their duties.

Mr. Consolo said that was something the CRC would have to decide. He said if this change was made to allow private employment as long as no conflict occurred, the Commission would have to interpret what was a conflict. He said something could be added to the Removal Section regarding spending too much time in private employment. Mr. Consolo said Charter Review was not so simple because one (1) change will require other Sections to be looked at

Ms. Johnson asked if the Commission wanted to table this issue.

Ms. Mitchem asked how the Mayor felt about this issue.

In response, Mayor Blackwell said it was not about her but for future Mayors and that the current Charter limited the talent pool for the position. The Mayor said she was ok without outside employment.

Ms. Mitchem said it was not fair to restrict the Mayor regarding employment.

Councilwoman Madden asked Mr. Consolo if this change would be made would this go for the next Mayor's term and not affect the current term, to which Mr. Consolo responded in the affirmative. He said any changes made would be for the November 2021 election but the current Mayor would be grandfathered in. He said it would be in effect for the next Mayor's race in 2023.

Ms. Johnson said the Commission needed to consider all points and would need to have careful wording. She said the City needed to maintain checks and balances.

Ms. Oglesby asked Mr. Consolo if the Commission could vote on this issue.

Mr. Consolo said the Commission could vote on the concept of this change and then he would prepare a draft for the next meeting. Mr. Consolo said he would suggest that the Commission

vote on two (2) separate changes with the first one being that the restriction on private employment be removed and second, that the place for this change be moved to put it in the Charter under the “Duties of Mayor” instead of “Location of Office,”

Ms. Dye made a Motion, seconded by Ms. Mitchem, to amend Article V, Section 8 to allow the Mayor to hold private employment.

ROLL CALL on the Motion to approve: Ms. Johnson: Yes; Ms. Brown: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Coleman: Yes; Ms. Mitchem: Yes; Ms. Oglesby: Yes; Mr. Wilborn: Yes. The motion requiring passage by 2/3 of the members or six (6) affirmative votes passed by the vote of eight (8) ayes to zero (0) nays.

Mr. Consolo said he will prepare the language for this change.

Ms. Dye, made a Motion, seconded by Ms. Oglesby, to move this language to Section 5 “Duties of Mayor” to state that the Mayor was permitted to hold private employment with the restriction that such private employment did not conflict with the duties of Mayor.

ROLL CALL on the Motion to approve: Ms. Johnson: Yes; Ms. Brown: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Coleman: Yes; Ms. Mitchem: Yes; Ms. Oglesby: Yes; Mr. Wilborn: Yes. The motion requiring passage by 2/3 of the members or six (6) affirmative votes passed by the vote of eight (8) ayes to zero (0) nays.

Mr. Wilborn asked who would determine these restrictions.

Mr. Consolo said since private employment had not been permitted there was nothing in the current Charter that covered this. He said it could be included in the Recall provisions.

Mr. Wilborn asked if language could be included to give fair warning regarding removal from office.

Mr. Consolo said it was not the job of the Law Director to interpret the removal from office due to a conflict in duties. He said other cities do have language for removal of office.

Council President Jackson said the Commission could review the wording in the Section regarding Council investigations to perhaps use for this issue.

Ms. Johnson said Mr. Consolo will get the wording for this change so she suggested that the Commission hold off on the motion approving the restrictive language.

Ms. Johnson said Article V, Section 9 regarding Rights of Mayor and Directors in Council was straight-forward and asked if there were any questions. There were no questions.

Ms. Johnson said Article VI concerned Judicial Powers.

Mr. Consolo said this was a very standard, long-running provision and that the Mayor did not actually act as a Judge or exercise judicial powers. He said this was designated to a Magistrate for the City. Mr. Consolo said the City did have a Mayor’s Court that was not presided over by

the Mayor but rather by a Magistrate. Mr. Consolo said the operation of the Mayor's Court was mandated by the Ohio Supreme Court Rules that governed the various Courts in the State.

Mr. Consolo said on behalf of the Law Department he would advise that the Commission not make any changes in this Article since Mayor's Courts were always under scrutiny by the Ohio Supreme Court. He said the City had a very fair and just Magistrate in Mr. George Simon who did a terrific job.

Ms. Johnson suggested that the Commission start Article VII at the Commission's next meeting.

Mr. Consolo said he would suggest that the Commission do all of Article VII at that time and invite Council to this meeting.

The Clerk of Council asked Ms. Johnson if Finance Director Tillman could also be invited to the next meeting since included in Article VII was a discussion of some of the City's financial matters. Mr. Consolo concurred with the Clerk and also suggested that Council's Finance Committee members also attend.

There being no further business, Ms. Johnson adjourned the meeting at 7:58 p.m.

Passed: April 22, 2021

ATTEST:

S/S Leonette Cicirella Johnson, Clerk of Council