

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

Via Video/Teleconference

May 27, 2021

Chairwoman Katurah Johnson called the City of Maple Heights 2021 Charter Review Commission Meeting to order at 6:14 p.m. with the following Charter Review Commission members present via video/teleconference: Ms. Katurah Johnson, Ms. Rikki Brown, Ms. Michele Rudolph, Ms. Almeida Dye, Ms. Daphne Coleman, Ms. Jackie Albers and Ms. Lois Poole. Ms. Lakiesha Nevels arrived at 6:20 p.m. Ms. Linda Mitchem, Ms. Angela Oglesby and Mr. Herb Wilborn were absent and excused. Also present were Law Director Frank Consolo, Clerk of Council Leonette Cicirella Johnson, Mayor Annette Blackwell, Council President Ron Jackson, Finance Director Tinita Tillman, Council Members Shenett, Madden and Agee Ms. Johnson said there was a quorum present to proceed with tonight's meeting.

MINUTES: The Minutes of the April 22, 2021 Meeting were postponed for review at a later Meeting.

Ms. Johnson said there were some items of Old Business for the Commission to consider and asked Mr. Consolo to discuss each of them as listed on the agenda.

Mr. Consolo apologized to the Commission Members for the delay in sending out his memo regarding the recommendations by the Commission to amend Article VIII, Section 3 to take into account the times when the swearing-in day for newly elected officials fell on a legal holiday and to expand the notice procedures for Special Meetings to include electronic transmission as well as the current use of personal service. See copy of Law Director Memo dated May 27, 2021 attached hereto and incorporated by reference.)

Mr. Consolo said that as discussed in his memo, he would recommend that the first change be effected by the addition of the following clause after the words "Board of Elections of Cuyahoga County," "or as soon as practicable thereafter if the first Wednesday is a legal holiday,"....

Mr. Consolo said he would recommend that the change to include electronic transmission as a method of distributing the notices for Special Meetings be made with the addition of the language ""by electric transmission or" inserted between the words "upon written notice served" and "personally upon each member...."

Mr. Consolo said there was an additional discussion at the April Meeting regarding the continued ability of Council to meet electronically and to vote electronically. Mr. Consolo said cities were still waiting for the General Assembly to make this determination. He said the Ohio Legislature may be back-tracking on this now, so it would be premature for the Commission to make any changes in this area.

Ms. Johnson said the Commission heard Mr. Consolo's discussion and asked if there were any questions or discussion on these changes to Article VII, Section 3.

There being no questions or additional discussion, Ms. Dye made a motion, seconded by Ms. Coleman, to accept the amendments to Article VII, Section 3 as presented in the Law Director's Memo dated May 27, 2021.

ROLL CALL on the Motion to approve the Amendments to Article VII, Section 3: Ms. Johnson: Yes; Ms. Brown: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Nevels: Yes; Ms. Coleman: Yes; The motion requiring passage by 2/3 of the members or six (6) affirmative votes passed by the vote of six (6) ayes to zero (0) nays.

Ms. Johnson asked Mr. Consolo to discuss the next item of Old Business regarding Article VII, Section 9 - Estimate of Expense; Appropriation Ordinance. In response, Mr. Consolo said there were no recommended changes to this Section on behalf of the Administration nor were there any requested changes by Council.

Ms. Johnson asked Mr. Consolo if the Commission should change the wording to "December 31" instead of "March 31 of each year..." Mr. Consolo said that municipalities must pass a budget by March 31st but most cities do it by the end of the previous year. He said the City's fiscal year began January 1 so even though State budget law requires the budget by March 31st the City approved its budget well in advance of this deadline. Mr. Consolo said the Administration gets its upcoming annual budget to Council by the end of November with the goal that it will be passed by Council before December 31st. He said there was no reason to change this Section.

Ms. Johnson asked if the Commission agreed with Mr. Consolo. The Commission concurred with the Law Director that no changes were required to Section 9.

Moving to Article VII, Section 13 – Bonds Required as listed under Old Business, Ms. Johnson asked Mr. Consolo to discuss this Section.

Mr. Consolo said the City worked with insurance providers and that it belonged to a consortium with other cities called NORMA (Northern Ohio Risk Management Association). Mr. Consolo said he talked with the Director of NORMA who confirmed that the City had a \$1,000,000.00 liability insurance policy in place that covered all City employees and elected officials from criminal and/or improper behavior. Mr. Consolo said this insurance coverage was comparable to the bond requirement in Section 13. He said the Director of NORMA suggested that the City keep this Section in the Charter however in case it was ever needed so that would also be his recommendation.

Ms. Johnson said the next Item of Old Business on the agenda was Section 17 – Manner of Making Public Improvements and asked Mr. Consolo to discuss this Section also.

Mr. Consolo said that this was an old provision from the original Charter since there were no amendment dates listed. He said this Section followed the State law at the time that imposed a number of duties on city Service Departments and Service Directors. Mr. Consolo said that under current procedures the Service Director and Service Department were not responsible to make some of the public improvements. He said the City relied on the City Engineer who worked with the Service Director, the Finance Director and the Law Director to get funding and

to award contracts to private contractors to make public improvements. Mr. Consolo said the contracts for these improvements were now done in the name of the Mayor.

Mr. Consolo said he would recommend elimination of the words "Department of Service" in the first sentence.

Ms. Johnson said she concurred with Mr. Consolo and asked if there were any questions or other discussion on this Section.

Ms. Dye said she did not see any reason to change just one (1) part of a sentence.

Ms. Johnson asked what if these projects were not done by the Department of Service.

Mr. Consolo said there was some public improvement work that the Service Department still performed such as pothole repair and sidewalks, but that most of the large infrastructure projects were done through the City Engineer to bid out the projects for the work to be performed by private contractors. Mr. Consolo reiterated that it was an antiquated section of the Charter.

Ms. Rudolph asked if it would be most appropriate to update this Section by eliminating only the one (1) sentence, or references to the Director of Service or to eliminate the Section completely,

In response, Ms. Dye said the Department of Service still performed some of this work though.

Mr. Consolo said this section did not need to stay in the Charter for the Service Department to continue to do its work. He said this Section did not affect the current work of the Service Director or the Service Department and it did not affect the current work of the City Engineer. Mr. Consolo said that if the Commission recommended to change this Section it should recommend that it be removed.

Ms. Johnson asked if the Commission would need to add anything in its place to which Mr. Consolo responded in the negative. He said the City Finance Department had fiscal policies and procedures that had been approved by Council and there were State law requirements for competitive bidding for projects and exceptions to these rules so this Section could be removed.

Mr. Consolo said the recommendation would be to "repeal Section 17 in its entirety and reserve for future Charter provisions" if the voters would decide to approve this Charter Amendment.

Ms. Johnson said she approved of this wording for the amendment regarding Section 17.

Ms. Dye made a motion, seconded by Ms. Johnson, to repeal Article VII, Section 17 and reserve it for future Charter provisions.

ROLL CALL on the Motion to approve the recommendation to repeal Article VII, Section 17:
Ms. Johnson: Yes; Ms. Brown: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Nevels: Yes; Ms. Coleman: Yes; The motion requiring passage by 2/3 of the members or six (6) affirmative votes passed by the vote of six (6) ayes to zero (0) nays.

Moving on to Article VII, Section 18 regarding Contract Signature, Ms. Johnson asked Mr. Consolo to discuss this section.

Mr. Consolo said this was also an older provision and said that it was the recommendation of the Law Department that this section be changed to include language to add “or signature of Mayor’s Designee...” Mr. Consolo said sometimes the Mayor was not always available, but could designate another Director to sign a particular contract. He said this Section as currently written was not practicable.

Ms. Rudolph asked if this was part of Section 17 that was recommended to be removed.

Mr. Consolo said this was the next Section regarding the Mayor’s signature on all contracts and that it was recommended that the Mayor be able to designate a particular Director to be their Designee. He said the language to be included would be “or Mayor’s Designee.”

Ms. Johnson asked if there was any other discussion on this Section.

There being no further discussion, Ms. Dye made a motion, seconded by Ms. Rudolph, to recommend that Section 18 be changed to add the language “or Mayor’s Designee.”

ROLL CALL on the Motion to approve the recommendation to amend Article VII, Section 18: Ms. Johnson: Yes; Ms. Brown: Yes; Ms. Rudolph: Yes; Ms. Dye: Yes; Ms. Nevels: Yes; Ms. Coleman: Yes; The motion requiring passage by 2/3 of the members or six (6) affirmative votes passed by the vote of six (6) ayes to zero (0) nays.

Ms. Johnson said the last item for discussion under Old Business was Article VII, Section 20 regarding Limitation on Taxation.

Mr. Consolo said he could give the Commission some context for subsection (b) that granted residents a tax credit of 100 per cent (100%.) He said that in Maple Heights the city income tax rate was presently 2.5%. Mr. Consolo said that if a resident worked in a City such as Garfield Heights with a municipal tax rate of 3%, the resident would get the 100% tax credit and since the resident paid the higher rate to Garfield Heights, they would not pay 2.5% to Maple Heights. Mr. Consolo gave another example if a resident worked in the City of Cleveland that also had a municipal income tax rate of 2.5%. He said with a 100% tax credit, this resident would also not pay any income tax to Maple Heights.

Mr. Consolo said that the current Charter provision was a unique one since the tax credit percentage may not be decreased or increased by Council “without having obtained the approval for such decrease or increase by a majority of the electors voting on the question at a general election.”

Mr. Consolo advised the Commission that it was the suggestion of the Administration to change this Charter provision to allow the Mayor and Council to make changes in this tax credit. He said this Charter change was made in 2007 and in subsequent years when the City went into fiscal emergency, the suggested change could have averted the fiscal crisis.

Mr. Consolo said the suggested amendment would still allow Council to make provision for granting the residents a tax credit of the amount of income tax paid on taxable income subject to tax in another municipality.

Ms. Johnson asked if a resident lived in Maple Heights and paid \$2,000.00 to Cleveland for example, the resident could still be taxed in Maple Heights to which Mr. Consolo responded in the affirmative based upon the percentage of the credit given by the City.

Mr. Consolo said some municipalities allowed an 80% credit so in this case the resident would then pay 20% to their city of residence. He said if the Commission recommended to change this section to allow the Administration and Council to change the credit and they changed it to 80%, residents would owe Maple Heights 20%.

Ms. Johnson said that residents have already paid taxes to the municipality where they worked or were employed and that people have limited resources. Ms. Johnson said she realized however that the City relied on income tax revenue to run the City and that the majority of property taxes paid went to the school system.

Mr. Consolo said the tax credit issue did not apply to senior citizens but only to those with earned income who were wage earners.

Councilman Shenett said that the City had been in the position of being in financial emergency and had no other way to get income. He said other cities could go to their residents for an increase in taxes.

Ms. Johnson said the City cannot control other employees who do not live in Maple Heights but employees who live in Maple Heights get the credit. She said employees that lived in other cities pay taxes to their cities also.

Mr. Consolo said the City was at a disadvantage because of the number of businesses in the City. He said the City needed to keep the businesses we have and add businesses. He said the City did not have as many wage earners as other cities that made this an extra burden.

Mayor Blackwell said H.B. 197 being discussed by the Ohio legislature was the result of the Covid 19 crisis and raised the issue that employees who worked from home should pay income tax to their city of residence rather than the money should follow where the employees' place of employment was located. The Mayor said that if this bill passed, it would be an additional burden on the City. She said that in the latest income tax report from RITA the City's largest employer was the City School Board and the second largest was Sherwood Foods.

With regards to property tax revenue, the Mayor said that the City only received about 25% of these taxes with most going to the School District and the County Libraries. She said another problem was the significant property tax delinquency in the City. Mayor Blackwell said that since 2008 the City had been challenged by the foreclosure crisis and the issue of reduced property valuations. She said the City has had to rely on grants in addition to property tax and income tax collections.

Ms. Johnson asked if there was any other discussion regarding this Section or the change in the credit from 100% to 80%.

Ms. Consolo said that from the Administration's perspective, a proposed amendment to put in any percentage figure would not work. He said it was the suggestion of the Administration that the City's elected officials – the Mayor and Council -- should have the flexibility to establish the tax credit percentage. He said once a percentage was put in the Charter it would be locked in. Mr. Consolo said it was his recommendation that Section 20, Subsection (b) be amended to remove the tax credit percentage.

In response, Ms. Dye said that with this suggested wording the Mayor and Council could change the credit every year or every other year and asked if language could be added that a change could only be made under an emergency.

Mr. Consolo said this would not make it flexible and that there were different levels of fiscal crises from fiscal watch to fiscal emergency where the State will come in and take over the City finances. He said another consideration was determining what the triggering point would be.

Ms. Johnson asked about just removing the 100 per cent (100%).

The Clerk of Council said that the change in this Section in 2007 to include the 100% tax credit occurred when the City increased the income tax rate to 2.5%.

Mr. Consolo said the suggested change would be unworkable. He said this was not adding a tax for the residents. Mr. Consolo said the income tax already existed and that what this provision made mandatory was that residents were given a 100% tax credit. He said for the Mayor and Council this was very limiting to the City.

Mr. Consolo said if residents would be concerned about Council and the elimination of the credit they could go to the Council Meetings and voice their concerns. He said the voters could use their power to vote the Councilperson and the Mayor out of office.

Ms. Johnson asked about the Police and Fire levies for the City.

Mr. Consolo said these levies only covered a certain amount of these departments' expenses and that they did not totally fund these departments.

Mayor Blackwell said given the City's financial situation it has had to borrow equipment because it did not have \$300,000.00 for a new fire truck. She said things have gotten donated to the City. The Mayor said the Service Department needed new salt trucks. She said the success of the City depended upon its residents. The Mayor said the City needed to be competitive with salaries and that the Fire Department recently lost a Firefighter to North Randall. Mayor Blackwell stressed to the Commission Members that they had been chosen by the Council Members and the Mayor to share in reviewing the Charter for what was happening here and now. She said the Commission needed to trust the elected officials.

Mr. Shenett said he wanted to add to what the Mayor said and that the Commission should take the handcuffs off of the City's elected officials to be able to make the necessary decisions. He said City Council Members were also regular working people too and would not want to pay anything extra if they did not need to. Mr. Shenett said Council and the Administration must make wise decisions regarding the City's finances. He said they looked carefully at the budget and the finances. Using as an example of the salary range legislation, Mr. Shenett said Council looked at what would be fair wages for the employees that would also be affordable to the City. He said Council always tried to make sure it was being responsible with the City funds. Mr. Shenett said the City being in fiscal emergency status showed Council and the Administration how to be responsible.

Ms. Johnson said she understood the Mayor and Council but was just looking out for the everyday people. Ms. Johnson said she realized that the residents needed to pay for the City services. Ms. Johnson said her only concern was that she would hate to see Council take away the residents' money.

Ms. Johnson asked if there were any other questions.

Ms. Rudolph asked Mr. Consolo if the suggested change would be the language that was highlighted to which Mr. Consolo responded in the affirmative. He said that would be his suggestion to the Commission. Mr. Consolo said that if the voters agreed to this amendment Council would by ordinance provide a tax credit.

Ms. Johnson asked if the amendment would remove the wording "100 per cent (100%)."

Mr. Consolo said his suggestion was what was highlighted.

Ms. Nevels said the voters would have to have confidence in the elected officials.

Ms. Brown asked if the change needed to be done now could it be changed again in the next Charter Review. Mr. Consolo said it could be changed again. He said there was also the provision that citizens can put together a petition to be submitted to the voters or could ask Council to amend the Charter.

Ms. Nevels said if the Commission voted to recommend this change the City would need to be committed to get literature out to the voters.

The Clerk of Council advised the Commission that her Office was required to advertise all legislation from Charter Review Commission Amendments in a local publication within a specified period of time before the election. She said this legislation would also include the ballot language. The Clerk said copies of this legislation will also be posted on the City website.

Ms. Johnson asked if there was any further discussion on this Section.

There being no further discussion, Ms. Brown made a motion, seconded by Ms. Rudolph, to recommend that Article VII, Section 20, Subsection (b) be changed to read "When the taxable income of a resident of the City is subject to a municipal income tax in another municipality on

the same income taxable by the City, Council may make provision for granting the resident a credit...”

ROLL CALL on the Motion to approve the recommendation to amend Article VII, Section 20, Subsection (b): Ms. Johnson: Yes; Ms. Brown: Yes; Ms. Rudolph: Yes; Ms. Dye: No; Ms. Nevels: Yes; Ms. Coleman: No. The motion requiring passage by 2/3 of the members or six (6) affirmative votes failed by the vote of four (4) ayes to two (2) nays.

Ms. Johnson asked if there was any New Business for this evening’s meeting to which Mr. Consolo responded in the negative.

Ms. Johnson asked how long was the term for the Charter Review Commission.

Mr. Consolo said the work of the Commission was to be completed within six (6) months of their appointment in February so by August they would be finished.

Ms. Rudolph suggested that the Commission perhaps meet twice a month to which Ms. Johnson said she concurred with Ms. Rudolph.

Mr. Consolo said that going along with the City guidelines which were based upon State guidelines for public meetings, the City fully expected to be holding public meetings in person starting July 1st. He said the Commission could meet in the Senior Center and provision would be made for the public to be able to attend.

Ms. Johnson said that perhaps the Commission could meet twice in June and twice in July. She asked if the second week of June would be possible on June 10th and then the June 24th meeting could be in person at the Senior Center. It was the consensus of the Commission to meet on June 10, 2021 at 6:00 p.m. via teleconference.

Mayor Blackwell said that the Senior Center still needed to be cleaned.

Mr. Consolo said he would suggest that the Commission keep both June meetings via teleconference. He said the restrictions for City Buildings such as having to wear masks will be lifted after June 2nd.

Mr. Consolo asked Ms. Johnson what Charter provisions should be placed on the Agenda for the June 10, 2021 Meeting. He suggested that the Commission review Article VIII – Departments; Article IX – Department of Law; Article X – Engineer; Article XI – Finance and perhaps start Article XIII – Initiative, Referendum and Recall. Mr. Consolo said Article XII – Treasurer would not need to be reviewed since it was repealed in 1996.

Ms. Johnson concurred with Mr. Consolo and said the motion that did not pass regarding Article VII, Section 20 could be added to the agenda for reconsideration. Ms. Rudolph concurred with Ms. Johnson since there were a number of members who missed this meeting.

There being no further business, Ms. Johnson adjourned the meeting at 7:43 p.m.

Passed: June 24, 2021

ATTEST:

S/S Leonette Cicirella Johnson, Clerk of Council