

CHARTER REVIEW COMMITTEE

Minutes for Charter Members Meeting Thursday, March 8, 2007 7:30 a.m.

Charter Member Meeting started at 7:30 am

Purpose: To Review Charter every 7 years.

Session:

Council Chambers Conference Room

Roll Call: Sign -In sheet was sufficient.

- 1) Dorothy Stratton
- 2) Ev DeVaul
- 3) Ron Baker
- 4) Ken Seidner
- 5) Dennis VanScoy
- 6) Bernard Sargent
- 7) Richard Wolfe, II, Law Director
- 8) Elizabeth Hipp
- 9) Kay Conrad
- 10) William Benz
- 11) Police Chief, William Miracle
- 12) Law Director, Richard Wolfe, II
- 13) Cherie Helterbridle
- 14) Ruth Detrow

Howard Scanlan was absent

Cherie Helterbridle, Director of HR, Administrative Secretary for the Civil Service and Police Chief, William Miracle were present.

Cherie: When the Civil Service is putting together classification specifications, that is happening in my office, I am putting them together, but as representative of the Civil Service, then I take my Civil Service hat off at times and then I am strictly HR. This morning, the Mayor and as I understand it, City Council agree to the fact that there is a need to look at Section 52 in the Charter and that is the section that refers to how the Fire Chief and the Police Chief are employed by

the Mayor. Currently the way it works is the position of Fire Chief or Police Chief are truly promotional from within and because that can be changed through the Civil Service. Civil Service can determine how we promote but because our Charter ties us fairly strictly to State Law and the State Civil Service, according to our Attorneys, we have the right to change the wording in our Charter that gives us more home rule, liberty to allow the Civil Services to make the changes. So it is kind of that process. The Charter empowers the Civil Service to make the changes. What we are looking at, and I am going to have the Chief speak on this, because certainly he is the person who has been strongly the favorite this week. We looked at the beginning of this process and the last Charter Revision and I am not sure what happened, it did not make it this far, but certainly we considered this for a number of years. Promotion from within has its benefits. We think that if there could be a process of candidates outside making application and there be a screening process and come to the point where the Mayor perhaps submits two candidates from outside, or three candidates from outside and then they have to go through the very same internal processes so people will be promoted within, that it gives a little more incentive to people inside and it just opens it up to the city to have the best possible candidate. Chief Miracle, would you like to talk on that?

Police Chief, William Miracle: Obviously I am getting up there so in another 3 years or so I am looking to retiring and also Fire Chief Mark Burgess of the Fire Department is looking to retire probably in the next 2-3 years. So we thought looking ahead here a little bit, the city wants to look at the process whereby they want to change the selection process of Chief, we should be looking at that now instead of when we are right up against the issue. So it is the ideal time right now to make a proposed change as we are going into this and talking to Chief Burgess and studying some other places, I think it is important to have the option. The Mayor would might like to look outside the Department to head up the Agencies. This is enabling language to be changed in the current city charter to a level of the playing field for those candidates both inside the department and allow the Mayor to appoint or insert candidates from outside the department to do the same testing process. I and I believe Chief Burgess is in no way supportive of taking the Chief's position out of Civil Service within the City. I think it is important that the Chief's both have some protection within the Civil Service process within the City. Political winds change from time to time, we all know that and we need some Civil Service Protection within the Civil Service laws of the City, but I do think it is important that we give it an option. But does the City have that option to insert candidates.

Cherie: All Division Directors are appointed by the Mayor, except for Police and Fire and those and those positions move up by Civil Service promotion process and so if the top candidate, the person that tests the highest.

- (a) Assessments and Evaluations.
- (b) The highest score.
- (c) Civil Service Protection.
- (d) Commission Review.

On original appointments, people get Military credit, promotional appointment they do not get Military credit. So one of the things, certainly the civil service would be careful about crafting this process. Be certain about if an outside person, if they were going to get military credit, would get it at the point they are coming to the screening process with the Mayor and not at the point that they come into the process against interior people so that it would not be unfairly balanced.

Bill Benz: Any reason for the second sentence, added to the Charter? The appointment?

It seems that all you would really need is the first sentence.

Jim Budzik, Attorney for us out of Cleveland, Ohio put this together for us and he does all of the union negotiations and represents the city.

Ron Baker: Section 52 says that the Civil Service commission is authorized to adopt local rules and regulations in the testing process.

Cherie: The first part gives the Civil Service Commission the authority to create rules that are different than or varied from the Ohio Revised Code. The second part is actually clarifying the fact that you can appoint within or from without or outside. My opinion, it seems to me that both paragraphs were complete as written. To be able to make rules that vary from the Ohio Revised Code is empowering but to say that one of the things we want to do is definitely give ourselves the opportunity to appoint from outside as well as from the inside.

Ken Seidner: If we decide we want to proceed with this, we will make a recommendation to Council.

Ron Baker: Take the recommendations from the last time and add the following to it and the candidates from outside the Police and Fire Divisions may apply and be considered if they meet the required qualifications for appointment. I spoke briefly last night to Glen Stewart about this and I know that he wants to talk with us, it probably won't be now until the first of next month because he will be gone, but I read this to him.

Chief Miracle: I think if the Mayor decides he wants to look outside for applications, then post it outside the city ranks and do the same thing there and just take applications and then go through the testing process on an equal basis and whoever wins, wins. I am sure you are aware Ron that testing alone does not always necessarily prove the best person.

Ron Baker: I mentioned to Glen Stewart last evening, all we need to recommend is that it can be done outside, from that point on, I told Glen it is up to Civil Service to set down and take care of the qualifications and the procedures and I said that may very well be a part of a public hearing. I do believe that this must stay within the Civil Service protection.

Ev DeVaul: On the Organizational Chart, Who do you report to. Are you evaluated by the Mayor?

Chief William Miracle: The Mayor: I am the Division Director just like every other Division Director of the City. The only difference with me and the Fire Chief is that we have Civil Service protection. All Division Directors are appointed by the Mayor and serve him. I am answerable to the same person; the Mayor.

Ev DeVaul: So when you take the test to become the chief; what are the qualifications? Can anyone in the Police Department take that test.

Chief Miracle: Under current Civil Service rules and only it has to be a competitive test and only with the rank underneath, which would be Captains. Well, the Civil Services rules are fairly antiquated at this point because we only have one Captain right now and you have to be able to have a competitive test; we used to have two Captains. So the competitive test, the two Captains could take the test and who ever won had to be Police Chief. Currently, since we only have one Captain in the organizational chart, it can't be a competitive test to himself so we have to open to the next lower rank; so that would make four Lieutenants in order to be able to take the test also, if they meet the requirements, 2 years. Right now we could have upwards of 5 total people taking the test for Police Chief at some point.

Ev DeVaul: Under Civil Service, say that we make this recommendation, City Council approves it, can they Grandfather that until your retirement.

Cherie Helterbridle: We wouldn't post the position or due process until he chose to retire.

Ev DeVaul: But I guess that is my question; I think you have to have some language in there or under Civil Service for that protection. I just think it is important for people to realize.

Cherie Helterbridle: Since the position is his, even though the new wording changed in the Charter and in the Civil Service; no action would be taken to use it until he was ready to retire. It is just the process would be in place and when he was ready to retire, then we would have the process already established in its place and that's how we would move to fill his position, but would have no effect on him in his current position.

Chief Miracle: It is probably important, to put together a set of qualifications; and it will take some research on the City's part, of what they want in the Rank, how the other cities do it and things like that and design a process and to get them where they want to be. You are not going to be able to do that in 3 months. It is important again now that we are within the time frame right now that this is especially important right now. It is not theoretically, did not change it at this point in time because of the limitations of the Civil Service rules. You are still tied in to depend on and basically a test and the top winner of the test within

the 4-5 areas may or may not take the test. You are limiting yourself quite a bit. I have benefited from it, and I have enjoyed my tenure here with the city and continue to enjoy it, but do I think it is the best way to pick a chief? No, not really.

Cherie: Fire Chief Burgess had every intention of being here, but could not be here, but he definitely feels the same way.

Ken Seidner: The notes from Glen, What about the Finance Director? Is that something from your position to consider?

Cherie: Giving the Mayor the ability to appoint that Finance Director; My personal opinion is in talking with the attorney who works with exclusively with cities all over the state, that is how it is generally done, that in most communities it is a very unusual situation in this day and age for a Finance Director to be a separate elected official, that in fact those people are appointed by the Mayor and I see the benefit of that. I think certainly it would be something you would want to consider. I am not sure this Mayor in these circumstances, I am not sure he is pressing for that but he certainly sees the wisdom in it as far as being something that would be valuable in the future. I certainly think it is a step toward bringing some line in what's considered to be wisdom in the communities.

Ev DeVaul: Just out of curiosity Bill, what other communities our size that you know of are appointed by the Mayor? I would think we are pretty unique or is that reasonable.

Bill Miracle: I think newer communities that you find a lot of the Chief's were appointed by the Mayor, A lot of those Chiefs you see appointed in this type of situations are basically what I call traveling Chiefs. We have several of those from around the state that will work 2-3 years in one position and then go to another position, work there for 3 years. You can call them headhunters, you can call them whatever, a lot of it is meant to shake up the departments. I was never much of a supporter for those types of situations. Most of the larger cities are appointed Chiefs. I don't think that is the best way to go.

Ev DeVaul: No I am talking about like Wooster, Galion.

Bill Miracle: Those are Civil Service.

Ev DeVaul: But I am saying, are they appointed by the Mayor then?

Cherie: Yes. They are appointed by the Mayor and have Civil Service Protection. I cannot speak personally to how many of those have people allowed to come in from the outside into the process.

Elizabeth Hipp: This would also include if they live in Ashland.

Cherie: The State did away with the residency clause so right at the most recent battle still they lost with regard to residency so right now residency is not in the Fire contract, Police or Fire. We don't have residency at this point, but what we do have in the Fire contract and they passed and agreed with this was that if they are going to be on call, they have to be in what was the established residency's area to take an on-call. They don't have to live there, they just have to reside inside that during their on-call so they can be efficient. When the Mayor can make an appointment, certainly there is a screening process to begin with and he ends up choosing maybe 2 or 3 candidates to throw into the mix. Certainly his criteria for choosing candidates is open, it is his criteria. So it may not be a written law, be he has to consider that.

Chief Miracle: I think it is probably important in the long run for a Chief, to be a requirement for testing that you reside within the community that you are serving within a certain period of time of being selected. It is fairly normal.

Ken Seidner: Ruth Detrow, I assume you would like to talk to us.

Ruth Detrow: I haven't really prepared to speak to you, But one thing I would like to share with you is the really proud history of this commission. I served on it, not last time, but the time before and in that commission we changed the way the whole city government is set up. Before that, the Mayor was President of Council , it was all up to him. We made the change that said, it will be like Federal Government, Executive and Legislative branches and that was a tremendous change. We also when I was on this commission, we also put in the requirements that it meet every 7 years, before that it was just whenever someone felt like it and almost never. It was a commission many years ago, instead of Council being elected to serve this Ward, but it did not matter where they lived, they had to live within their Ward and I think that was very important so you really take your job seriously but it is major. Mansfield, for example has term limits. My own personal suggestions, I really think it is important that the Finance Director and Law Director be appointed by either the Mayor or in most cases, these very important positions are appointed by Council which would increase the power of Council and maybe you do not want to do that, it is all a balancing act. I think those two things should happen. The Law Director and Finance Director should be responsible to someone besides the electorate because working with them is a much different situation than sitting at home and reading the paper and saying Oh well. They require a great deal of technical ability and there is a tremendous community trust in them too.

Dorothy Stratton: You just mentioned kind of by the way "Term Limits" in other communities, would you be in favor of term limits?

Ruth Detrow: I am divided on that, on the State level, I think term limits have come into disrepute because we are losing some really good people and there is no choice. I noticed in the paper that Mansfield is going to lose their Mayor, Lydia Reid, and if you think she is a good Mayor again there is no choice. I guess I am balanced I would say it is an interesting concept and I am not sure if I were

sitting on this committee, I would favor it. Because we are a small community and sometimes we have to really hunt to find really good people.

Elizabeth Hipp: But you are suggesting they not be elected positions, but appointed positions? You are talking about Law Director and Finance Director.

Ruth Detrow: That is my suggestion, if they appointed, it should be a very rigorous appointment by Council.

William Benz: At the present, when the Mayor makes some of these appointments, does he consult with Council in any way regarding them?

Ruth Detrow: I don't think so.

William Benz: You could put up a system by which the Council would be consulted and give their advice but not have the decision themselves but be involved with the process.

Ruth Detrow: Yes. Appointed by the Mayor and approved by Council.

Dorothy Stratton: I guess one impression that I have gotten here this morning is that there is a lot of power in the Mayor's position with all the appointments that have been discussed. You know one thing that does come up in my mind is if the Mayor is appointing most and then the Council some. Should there be balance between appointments by the Mayor and appointments by Council? Right now it seems that the Mayor is appointing just about everybody. I don't know how that works politically.

Ken Seidner: The only thing I would add is if you look back of the history of the City, even though the Mayor has had the ability to appoint these people, when was the last time the Mayor has actually replaced someone, that didn't voluntary retire. Maybe there is something I missed somewhere along the line, but I don't think so. I think Bill has still got the same Department Heads that were there unless they retired during his tenure. I think we go back before that, even Doug Cellar, I don't even remembering him replacing anyone. They do have the power to replace them once somebody retires but in my memory I cannot remember the last time a department head in the City was replaced.

Ruth Detrow: It makes a difference if he does have the power. I hope you do strongly revisit the City Manager type of government. It is possible to have a Mayor and a City Manager. I tried to talk to the municipal league which is an organization of Cities and I have to admit, the guy I talked to there spent a great deal of time saying absolutely nothing and so I cannot really come away with any kind of conclusion from that but I know there is a league of City Managers that are on the internet. And that would be a good way to inform yourselves about that. It would even give more power to Council. With more power to Council, at least there are 5 and they all have their own opinions, it is not like one

person. Right now our Mayor is pushing forward with a great many things and they are things he has been sitting and watching happen in the city for a long Time and decided it needed to be changed. For example, our attitude toward county government and for example our strong interest we now have in development. These are things that would not have happened with other Mayors, I don't believe and he has done a fine, fine job which does not make him perfect and He and I disagree strongly sometimes and sometimes that is a good way to have our situation.

Richard Wolfe, Law Director:

- Talked to Barry Keefe, concerning assessment provisions. He was looking at them with a view toward getting rid of them. He felt that there are no significant changes between his balances then and circumstances now. But In some ways our Charter provisions are more restrictive and he says if you do anything you ought to just get rid of the whole thing and just function under State Laws.

Ruth Detrow: I do not know if this is accurate or not but it seems to me that I have heard some concern about the fact the last commission had 10 things they thought should be changed and City Council knocked it down to 3. That is in the chart. You could not change it for this time but you could change it for the rest of the time? 10 changes are quite a few that also would put that added extreme burden on all of you in the next edition of the charter because you wouldn't want something that is frivolous or the opinion of one person to go on the ballot. It is in the Charter that Council will put things on the Ballot. It states all issues brought by the Charter Commission, shall be on the ballot.

Richard Wolfe: Still available is the initiative process and there is no requirement of the Charter Review Process has to only be every 7 years, it should be more often, it just cannot be less than 7 years. I don't think it would be appropriate to in effect replace Council's authority by this committee or any committee. Using proper delegation and legislative authority. The fact that the Mayor appoints a certain number of people is an executive prerogative and there are some positions that do require the approval of Council . This aspect of it has worked very well and really doesn't need change unless there is a particular issue or point.

Kay Conrad: I think in a community where we have trouble filling up a ballot, the people who want to run, we need to consider other options.

Ken Seidner: Did everyone get what Glen Stewart gave us? I believe we will wait until he can come in to talk to us about this.

Also from Bob Valentine Ward 1, that maybe we should consider combining the City and County Health Department or a recommendation along that line. I think that is something to consider, I do not have a problem with that. Any comments?

Everett DeVaul: Does the County pay half the salary and the City pay ½ ?

Elizabeth Hipp: Are they just normally County Health Department?

Richard P. Wolfe, II: It varies according to size of the county. I don't think we utilize changes without working with the Commissioners. There is a City Board of Health and there is a County Board of Health. The two agencies are combined in one as a practical and cost saving venture but there is funding that comes from both entities and there are some divisions of responsibilities and that is one of those things working adequately and probably isn't something that is crying out and needing changed. If you want to consider that, as far as how the Health board operates you probably ought to have Al Sanders over here and explain to him. I do not know what counties are this way, size makes a difference in terms of population.

Ken Seidner: A lot of this to me and I appreciate the input from Councilman on some of this stuff, but again all this group can do is review the Charter as we see it now, come up with recommendations and take them back to Council and 7 years ago at the meeting it was on that one, and we are doing it again now. This stuff is fully within the power of City Council right now and if there is some crying need that they see, they can go in there and make that adjustment and put it on the ballot and change it at anytime they want. They do not really need us to do that. The things in my mind are we need to look at the Charter as it is presently structured and come back with some recommendations. I appreciate the input on this.

Ev Devaul: You are totally right and I hope you serve again in 7 years.

William Benz: I would agree, I do not think it is necessary to call Al Sanders here, by what you said, this is a City Council decision that is not part of the Charter.

Elizabeth Hipp: And everything we are doing here will be a City Council decision, right?

Ken Seidner: Yes, Right. But will this affect the Charter?

Elizabeth Hipp: I mean we are all open to suggestions. Does it work? If it works, don't change it.

Dorothy Stratton: I guess I am feeling that I am pretty uninformed about the way a lot of this is operating, I don't know what I would want to recommend if I were better informed. Should we be trying to get fully informed about the way city government is operating under this Charter, or if we should be trying to get fully informed about the way City government is operating under this Charter or if we presume that because someone does not come to us with something very specific that we then let it lie for another 7 years. How big is our responsibility.

Ken Seidner: No constraints.

William Benz: We can look at the recommendations made last time that were not accepted by Council and resubmit them. Some of them still have credibility.

Dorothy Stratton: Since Rick Wolfe is here, we might ask is there any further clarification on what would be needed to change the gender stuff and wording of the Charter? Can that be made by just going through it now, or does it have to go on the ballot?

Ron Baker: From this point out, it refers much like is in the ordinances.

Richard Wolfe, II : If that is something you are wanting to change, just go through it make your changes and we will identify them and document them.

Ken Seidner: Between now and the next meeting, make your changes and we will bring that back up and look at them for change.

Old Business:

- (a) Regarding gender change in the Charter

New Business

- (a) Council to work on the Health Department issue along with Al Sanders. We do not believe it should be for us to decide.

- (b) Dates for next month: Thursday mornings on 4/5/07 and 4/19/07 in the Economic Development Conference Room at 7:30 am. Send out Calendars. Glen Stewart is available on 4/5/07 at 7:30 am.

Adjournment at 8:30 am.

Submitted by
Valarie Bishoff
Clerk of City Council