

**CITY OF HIGHLAND HEIGHTS
CHARTER REVIEW COMMITTEE MINUTES
May 4, 2022**

Mr. Tripi called the meeting to order at 7:00 P.M.

Roll Call:

Present: Michael Barber, Lisa Benedetti, Nick D'Angelo, Sr., Kenny Godnavec, Phil Piccus, René Polin, Phillip Tripi, Mike Zernic.

Absent: Tammy Cappadonna-Kloss.

Also present: Mayor Chuck Brunello, Law Director Tim Paluf, Assistant Law Director Michael Lograsso, Council President Ann D'Amico and Brent Lawler from the Cuyahoga County Board of Elections.

Mr. Barber, seconded by Mr. Piccus, moved to approve the minutes of April 20, 2022 as written. All in favor, motion carried.

Mr. Tripi stated he updated the lettered lists of items leaving all that have been considered on the list, but noted their status. Everyone was sent a copy. Mr. Tripi introduced Brent Lawler, who is a resident of the city, and is Manager of Candidate & Petition Services for the Cuyahoga County Board of Elections (BOE). He sent some suggestions for amendments to the Charter on behalf of the BOE and was here to explain them. They are listed as Letters T through AA on the list.

Mr. Lawler distributed for reference a table of all municipalities in Cuyahoga County with total registered voters and total votes cast for general elections from 2014 through 2021, cost estimates to the municipality for a special election (August 2022) and municipalities that require run off elections for 2022 with when those would be held, along with suggested amendments highlighted in the Charter. He stated he and his assistant review charters for election related items and raise concerns if they see something for election management or interpretation issues. The BOE does not give legal advice or interpret the Charter. They speak with a municipality's law director to determine interpretations, if needed. It is up to the Charter Committee if it wants to change anything raised, this is not a demand for change. Mr. Lawler stated he can work with the Law Director to get items on the ballot as one item, if they are related, rather than separate items. He then reviewed each item.

Article IV The Council and Article V The Mayor
Section 4.08 Vacancies of Council and Section 5.08 Vacancy

Mr. Lawler questioned the rationale for requiring a vacancy to have occurred more than 120 days prior to a regular municipal election, if the unexpired term is more than one year after the regular municipal election, which requires the electors to fill the vacancy. He asked if the 120 days is not already part of the vacancy occurring more than one year from the election and thinks it is unnecessary language.

Article VII Nominations and Elections

Section 7.01 Procedures

Mr. Lawler stated the BOE has allowed write-ins in the past for Highland Heights. The language states nominations shall be made only by petitions. This indicates write-in candidates are not included, since there is no petition for write-ins. Mr. Paluf agreed with that interpretation. Mr. Tripi clarified that Mr. Lawler stated there have been write-ins, but Mr. Lawler stated he does not know there have been write-ins, it is just that internally, the BOE shows that they are permitted in Highland Heights under the Ohio Revised Code, so there is a discrepancy. Other cities have had this issue too. Mr. Tripi asked if these other cities are now allowing write-ins and Mr. Lawler said no they are not. Ms. Benedetti clarified that the Ohio Revised Code allows write-ins. Mr. Lawler stated yes, but because the City is a Charter municipality, the Charter prevails. The only thing that would override charter provisions is the state constitution.

Article VIII Initiative-Referendum-Recall

Section 8.01 Initiative and Section 8.02 Referendum

Mr. Lawler stated 90 days for the filing of an initiative or referendum petition could be too tight to meet some federal and state regulations. Specifically, military and overseas ballots have to be mailed 45 days before an election and absentee ballots have to be ready 28 days before an election. There is a lot of back and forth in preparing ballot language and getting approval from the state, as well as then having the language translated to Spanish. The ballot department has to put it into the ballot, it has to be proofed and then the ballot has to be tested. This could delay the ballot for Highland Heights. Mr. Paluf noted this would be for worse case scenarios. Mr. Lawler concurred, but stated they are seeing more and more worse case scenarios with many activists out there. He stated the BOE is trying to move all the municipalities back to the Ohio Revised Code and the federal laws. Mr. Tripi asked if these both could be put on as one item and Mr. Lawler said yes.

Section 8.02.02 (5) This is part of referendums and requires submittal of an ordinance or resolution subject to approval of the voters for certain zoning and building criteria to only be submitted 60 days prior to an election. This again is really not enough time for the same reasons stated above.

Section 8.03 Recall

Mr. Lawler stated the requirement having council set a date for a recall election to be held no less than 30 days nor more than 45 days cannot be done. There would be no absentee ballots, only an election day. Again, the reasons have been stated previously. There are a lot of these out there and they have been changed. He strongly urged this section be changed.

Mr. Zernic stated then, that with all these timing issues, there have been new things put in place that are causing this. He thought that with all the advances with technology, it would be easier to accomplish what needs to be done. Mr. Lawler replied it is not. Mr. Tripi clarified absentee ballots are a big timing issue and if everything is not done in time, it could hold up the whole ballot for the city. Mr. Lawler said yes. There is also the fact that the post office is not as reliable anymore in guaranteeing ballots would be returned in time. There are a lot of different

angles coming at the BOE and he wanted the city to be aware of it. Also, some ballots could be affected by other cities depending on the ballot item in question. Mr. Tripi clarified that if we fix this, we could still be affected by other cities that do not correct it and Mr. Lawler said yes, but they are working to get them corrected.

Article XII Amendments to Charter
Section 12.01 Amendments to Charter

Mr. Lawler stated the current requirement for a petition to have 10 percent of the registered voters has been invalidated by the courts. The recommendation is to use 10 percentage of votes cast. The tendency is to use the votes cast in the last governor's race, as that is the higher number, but some cities use the last mayor's race. Mr. Tripi inquired if the BOE tells the City it is wrong. Mr. Lawler stated no, they would reach out to the law director to say they do not agree and he would make a decision.

Mr. Zernic commented he noticed on the table which was distributed, that the City of Parma is not a charter city. Mr. Lawler replied they have tried, but cannot get a charter adopted. It is run under the Ohio Revised Code and everyone is elected, such as the Finance and Law Directors. It is also a partisan municipality, which means there are primary elections so the candidates run on a party ticket.

Mr. Tripi suggested the Committee let Mr. Paluf review these suggestions and get back to the Committee with his recommendations for the City at the May 18, 2022 meeting. Mr. Lawler added the language for any amendment has to be written as transparent as possible. The BOE reviews any language that was adopted by the city and may rewrite it. This has to be done by law to have neutral language presented. He added that many communities send the BOE the language before it is adopted so it can be reviewed and suggestions made for the language that goes on the ballot.

Mr. Tripi stated Letters T through AA would be tabled until the meeting of May 18, 2022.

Mr. Lawler left the meeting at 7:45 P.M.

Review of prior items still under consideration:

Letter I -

Article X Franchises

Section 10.01 Franchises

Mr. Tripi stated this was to provide notice to affected abutting owners of new franchises. Mr. Paluf stated this affects franchises and utilities, which are governed by federal and state law. The resident who brought it up may not be interested in pursuing it. Mayor Brunello stated that was his perception of it with a conversation with her. Mr. Tripi asked if when the city is renewing or granting a new franchise, can't something be done? Mr. Paluf stated he does not think this needs to be a charter amendment and the city does notify residents when utility work is being done. Mayor Brunello concurred that the City asks the utilities, when possible, to let residents in the area where work is being done to be notified ahead of time. Mr. Lograsso pointed out there is a difference between utility work and franchises bringing in cable. Utility

work would not be part of this section. Mr. D'Angelo did not think it could be put in the Charter, although it would be nice to be notified.

Mr. Barber, seconded by Mr. D'Angelo, moved to remove Letter I from further consideration. All in favor, motion carried.

Letter M –

Article XI Tax Limitation

Section 11.01(c) Tax limitation

Mr. Tripi stated this was to determine if there was a need to increase the ceiling pertaining to .6 mills for police and fire pension accrued liabilities. Mayor Brunello stated both he and Mr. Paluf spoke with the finance director. He wants to prepare something showing actual amounts. Mr. Paluf added the pension percentages the city pays will be increasing over the next several years, so the finance director wanted to show amounts. Mr. Tripi asked if this would go to the voters asking for a tax increase, if the millage needs to be increased. Mr. Paluf responded residents would be voting on the increase in the millage, which is a tax increase. The Mayor added the finance director will show what is the increase to each homeowner for each increase in millage. State law determines what the city owes. Mr. Zernic commented he thought this would be asking for the city to have the flexibility in any given year to set the millage, but not asking for an increase. Mr. Paluf replied it would increase. Mayor Brunello noted the city has the ability to go up to 12 mills overall and it is only at 4 right now. Mr. Zernic still thought it was an up to whatever millage was listed. Mr. Paluf stated the .6 mills is the amount being collected for the pensions, but the costs are much more. The Mayor stated the city is paying out more than .6 mills for pensions now. Mr. Tripi clarified then, that is eroding the city's ability for a surplus in the budget. The Mayor stated it is. Mr. Zernic pointed out that if this were to go from .6 to 1 mills, it is not guaranteeing a tax increase. Mr. Paluf replied correct, it just gives the ability to the city to do so.

Mr. Tripi stated Item M would be tabled until the meeting of May 18, 2022.

Item N –

Article IV The Council

Section 4.11 – President of Council

Mr. Tripi stated this pertains to the request to provide for a Council President Pro Tem. The Committee was to determine if this should be by charter or ordinance. Mr. Paluf stated he looked at surrounding communities and some on the west side. Most have similar sections for the council president in the charter, but the pro tem was handled by ordinance in the administrative section for council rules and regulations and he believes that is the way to handle this. Council President D'Amico reiterated her preference would be for it to be in the Charter. Mr. Tripi mentioned he had created sample language for a charter amendment combining our existing language with another community's language as a starting point for discussion. Mr. Barber thought it should go to the ordinance. Mr. Zernic mentioned that if it was done by ordinance, there was some concern of the potential for a 3-3 vote, which could cause issues. By putting it in the charter, it would be clear there was no debate. Mr. Tripi noted this would only come about if there was a vacancy in the Council President position, leaving only 6 members to vote. Mr. Zernic asked if the other cities have the same makeup as ours and Mr. Paluf said yes. Mr. D'Angelo asked if there was the risk, if it was not in the charter, of council getting tied up

with the ordinance. Mr. Paluf explained council would put in the ordinance that a council pro tem would be elected at the same time a council president was elected. Then if the council president was not available, the pro tem would take over with no further vote needed. Mr. Polin asked if there was a benefit to having one or the other. Mr. Paluf stated it was easier for council to adopt an ordinance than going through a charter amendment. Mr. Lograsso added South Euclid has had it in the administrative section of its code since 1954 with no issues. Council President D'Amico noted it looks like she will then be looking for an ordinance to be prepared..

Mr. Tripi asked for a straw vote of the members on this issue. It was tied at 4-4. Mr. Godnavec mentioned it seemed the Council President was okay with an ordinance and that is the way the Law Director prefers. Council President D'Amico stated her goal is trying to protect the integrity of the City. She asked if there needs to be any reference in the Charter that there will be a council president pro tem or whatever title it is. Mr. Paluf did not believe it was necessary. The Charter states council can make its own rules. She prefers the Charter option as being more secure, but would go with an ordinance to get it done. Mr. Paluf noted, if adopted, council would be able to elect a pro tem right away and not wait for the next organizational meeting. He further added that if this is done by ordinance, it could go into effect sooner than by putting it on the ballot. Another straw vote was taken with 6 members for the ordinance, so it was determined it did not need to be a Charter amendment. Ms. Benedetti commented that the Committee can revisit this if it does not move through council in a timely manner. Discussion was held on whether to table this until then or remove it from consideration. Council President D'Amico suggested the matter be placed on the Committee of the Whole meeting next week to get the process started and Mr. Paluf agreed.

Mr. Barber, seconded by Mr. Godnavec, moved to remove Item N from further consideration. All in favor, motion carried.

Items O, P, Q –

Article VI Administrative Departments, Boards and Commissions

Sections 6.04, 6.05 and 6.06 - These were requested by Mayor Brunello and pertain to the appointment of secretaries to the Planning and Zoning Commission, Civil Service Commission and Board of Building and Zoning Appeals be consistent and with the mayor making the appointments.

Mr. Paluf stated he would talk with Mr. Lawler about putting all three on as one issue before he prepares language. Mr. Tripi stated he prepared some sample language for starters. He asked Mr. Paluf to get back by the next meeting with some language for the Committee to review.

Mr. Tripi stated Items O, P and Q would be tabled until the May 18, 2022 meeting.

Mr. Tripi stated Mr. Piccus had a question about elected officials not being city employees. Mr. Piccus asked for clarification if an independent contractor, who is not an employee, but does work for the City, could run for office, or would they be considered an employee. Mr. Lograsso noted that Section 4.03 and 5.02 Qualifications specifically states that an elected official cannot be directly or indirectly interested in the profits or emoluments of any contract. Therefore, they could not hold both positions at the same time.

Mr. Tripi stated four issues are still open for further consideration, Items M, O, P, and Q, as well as the eight new issues Mr. Lawler brought up.


Mr. Godnavec stated as he has listened over the last few years to what goes on in the City, there is so much knowledge he has learned, and he believes the mayor should be a full time position. Taxes are being lost due to the loss of economic opportunities, as the mayor is not in the office all the time. He really does not know how Mayor Brunello does it with having a full time job elsewhere. Mr. Tripi replied there would be a lot of considerations to be taken into account, such as compensation, health care, etc. before deciding this matter. He will add it to the list for discussion at the next meeting.

Mr. Tripi stated the next meeting would be May 18, 2022.

Scheduled meetings, if needed, with all meetings beginning at 7:00 P.M.:
May 18, June 1, 15 and 29.

Mr. D'Angelo, seconded by Mr. Zernic, moved to adjourn the meeting. All in favor. The meeting was adjourned at 8:40 P.M.

Approved:


Phillip Tripi
Chair

Submitted by:


Lisa Benedetti
Secretary

Attachment:

HIGHLAND HEIGHTS CHARTER REVIEW COMMITTEE LIST OF PROPOSED CHARTER REVISIONS:

May 4, 2022: The status of each of the issues considered by the end of our last meeting is listed as OPEN (pending), WITHDRAWN, or REJECTED. Prior to the start of today's charter committee meeting, we received additional suggested proposals for revisions to the Charter from the Board of Elections. Those NEW proposals have been added to this list, starting at letter T.

Ltr. Section Description of Issue Raised

- A. 3.04 Removal of employees following conviction for economic/moral turpitude crimes and disqualification from office—REJECTED 4-20-2022
- B. 4.03 Disqualification of Council candidates for economic/moral turpitude crimes and permanent disqualification from office—REJECTED 4-20-2022
- C. 4.09C Publication of ordinances and resolutions by digital means—REJECTED 4-20-2022
- D. 4.12 Suspension of member of Council for economic/moral turpitude crimes with review of member's participation in enacting ordinances—REJECTED 4-20-2022
- E. 5.02 Disqualification of Mayoral candidates for certain criminal convictions—REJECTED 4-20-2022
- F. 4.03/5.02 Clarification that Mayor and council members cannot hold simultaneous employment with the City—REJECTED 4-20-2022
- G. 5.09 Removal of Mayor for certain crimes and review of Mayor's actions—REJECTED 4-20-2022
- H. 6.02 Suspension of Board members for certain crimes and review of actions—REJECTED 4-20-2022
- I. 10.1 Notice to affected abutting property owners of all new franchises--OPEN
- J. 7.01 Is council satisfied with current requirements for number of signatures on nominating petition filed by candidates—REJECTED 4-20-2022 AS COUNCIL IS SATISFIED WITH CURRENT PROCESS
- K. 8.03 Clarification of when a recalled elected official's removal occurs—REJECTED 4-20-2022 AS ISSUE IS CLEAR THAT CERTIFICATION BY BOE IS EFFECTIVE DATE
- L. 4.07 Clean up language regarding the Clerk Treasurer position—REJECTED 4-20-2022 AS PRIOR POSITION IS HISTORICAL REFERENCE ONLY

<u>Ltr.</u>	<u>Section</u>	<u>Description of Issue Raised</u>
M.	11.01C	Sufficiency of the Police and fire pension costs ceiling of .6 mills--OPEN
N.	4.11	Create position of President Pro Tem of Council—OPEN
O.	6.04	Appointment of Planning and Zoning Commission Secretary--OPEN
P.	6.05	Appointment of Civil Service Commission Secretary--OPEN
Q.	6.06	Appointment of Board of Building and Zoning Secretary--OPEN
R.	4.07	Provision for Acting Clerk of Council—WITHDRAWN 4-20-2022
S.	13.01	Proposal for Secretary to Charter Review Committee—WITHDRAWN 4-20-2022
T.	4.08	Rationale of 120-day limitation on elections to fill Council vacancies--NEW
U.	5.08	Rationale of 120-day limitation on elections to fill Mayoral vacancy--NEW
V.	7.01	Consideration of write-in candidacies for elective offices--NEW
W.	8.01	Timeline increase to 120 days for Initiative--NEW
X.	8.02	Timeline increase to 120 days for Referendum--NEW
Y.	8.02.02-5	Timeline increase to 90 days for submitting ordinances to the voters--NEW
Z.	8.03	Timeline increases for Recall--NEW
AA.	12.01	Change Petition requirements to amend the Charter—NEW