

**MINUTES OF THE MEETING OF THE CHARTER REVIEW COMMISSION OF THE CITY OF AVON, OHIO
HELD THURSDAY, FEBRUARY 10, 2022, AT 7:00 P.M. IN THE COUNCIL CHAMBERS OF
THE MUNICIPAL BUILDING, LOCATED AT 36080 CHESTER ROAD**

Law Director, John Gasior, 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; William Logan, Ward 4; Marcel Mylen, Ward 2; John Weigman, Ward 1; Alternate B Bruce Klingshirn, Ward 4

ABSENT:

Alternate A Melissa Ramirez, Ward 3

ALSO PRESENT:

Law Director, John Gasior; Secretary to the Commission, Barbara Brooks
Mayor Bryan K. Jensen; Council Member Jennifer Demaline; Council Member Tony Moore

RECORD OF OATHS

Mr. Gasior simultaneously administered the Oaths of Office to each member present including the alternate B.

INTRODUCTION OF MEMBERS

Mr. Gasior acknowledged that not all of the Commission members may know each other and he suggested that each person give a brief introduction.

John Weigman stated he has been in Avon for almost his entire life and while he lived in St. Louis for ten years, he was born here and grew up here and was in the Avon High School Class of 1983. He said he is the Vice President of the Avon School Board and is in his thirteenth year of serving on the Avon School Board. Mr. Weigman advised he served on the Charter Review Commission ten years ago and he likes to be active in the community and he has enjoyed the growth that has happened in Avon. He and his wife have raised two daughters and they are both at Ohio State University and he lives on Hunters Trail behind the High School.

Marcel Mylen said he and his wife moved to Avon in 2006 and he was involved in the community of Rocky River when they resided there and he chose to get involved in Avon because he believes it is a good community and it is worth being involved and knowing what is going on and making contributions. He stated he is now retired, but he was a manufacturer's representative and his wife recently retired and they have time on their hands but they are taking classes and other interests that keep them busy.

William Logan stated he is the current Finance Director for the City of Avon and he has been working for the City almost 14 years and has lived in the City approximately 33 years. He said he has a wife, three grown children, four grandchildren two of which live in Vegas and he is headed there in a couple of weeks to see them. Mr. Logan advised he is looking forward to his retirement which is not that far down the road. He said he worked in the private sector prior to working for the government.

Joseph Glick said he has been in Avon with his wife and son for approximately ten years after moving back from overseas. He said he works in strategy and governance for an investment bank and he also lives on Hunters Trail near the High School

and has witnessed the growth of the City over the past decade and all that comes with that growth. Mr. Glick stated he is very much looking forward to getting involved and helping to shape what the next five years will look like. His wife was in attendance for this first meeting.

James Gemelas said has lived in Avon since 1994 and his wife and her family have been here for many years. He advised he is a partner at the Law Firm he owns, Gemelas, Wilson, Merrill & Fritz Co LPA. Mr. Gemelas stated in the past, he has served on Avon's Board of Zoning and Building Appeals. His law practice is primarily domestic relations and civil litigation. Mr. Gemelas advised he is happy to help out by serving on this Charter Review Commission when he was asked. He and his wife live in Avon and his two daughters are grown; one daughter is living in Spain and the other is at Miami University so they are empty nesters at this point.

Clint Gault advised he is far from an empty nester as he has a 12, 10, 8 and 5 year old at home with him and his wife. He said has been in Avon about 15 years and serves on the Landmarks Preservation Commission and he is President of the French Creek Foundation in Avon. Mr. Gault stated overall he just loves Avon and is very blessed to be here. He advised life is all about perspective and gratitude and trying to help and serve others so anywhere they can help out, they always appreciate the opportunity to do so and he is proud and glad to be here to help out.

Elizabeth Damstra stated she goes by Liz and she and her family have been living in Avon for the last five years when she and her husband relocated here to Ohio from Michigan in 2009. She said her husband works in construction and the 2008, 2009 era was slim pickings in the construction field in Michigan, so they moved to Ohio and prior to living in Avon they were living in the Canton area. Ms. Damstra advised she lives on Jaycox Road and they have been working on a fixer upper for the last five years and she is a stay-at-home mom with her four children ages 10, 8, 5 and 2 so this is a good time for her to get out and help. She said she spends a lot of her days at home with the children and she is happy to be here and maybe provide a different perspective.

Mary Berges said she has lived in Avon with her husband since 2003. She stated she became interested in the City shortly after she moved here as she just wanted to find out what Avon was about and she started attending Council Meetings and she served on the Charter Review Commission in 2012 and then part of the Selection Committee as a Member of Council for the 2017 Charter Review Commission. She said she served on City Council from 2012 to 2017 and also served as the Council Representative to the Planning Commission and also has been a part of the Landmarks Preservation Commission. Ms. Berges advised she shares everyone else's sentiments about Avon and what a wonderful City it is and a great community with very caring people and generous people including those here tonight who are willing to give their time to help shape Avon for the next five years.

Patricia Ashley said she has lived in Avon since 2010. She stated that she works in commercial banking. Ms. Ashley advised this is her second tour of duty with the Charter Review Commission as she also served in 2017.

Bruce Klingshirn said he is a lifelong Avon resident, and he has three grown children. He stated he served on the Charter Review Commission in 2017 and he is currently still serving on the Board of Zoning and Building Appeals, and he has been serving on the BZA about 12-14 years. He is a 1971 graduate of Avon High School.

It should be noted that:

John Gasior is the City of Avon's Law Director and has been in that position for the past 20 years.

Barbara Brooks serves as the City of Avon's Clerk of Council since May 2016 and is the Secretary to this Commission.

ELECTION OF CHAIR

Mr. Gasior noted the floor was open to any nominations for Chairman of this Commission.

Ms. Berges nominated Mr. Weigman to serve as Chairman.

Mr. Weigman nominated Mr. Gault to serve as Chairman.

Mr. Gasior called for a vote to elect John Weigman as Chairman. There were seven members, by a show of hands, who voted in favor of electing Mr. Weigman as Chairman of the Charter Review Commission. With that being a majority of the membership, Mr. Weigman was declared to be the Chairman of the 2022 Charter Review Commission.

ELECTION OF VICE CHAIR

Mr. Weigman asked for nominations for the position of Vice Chairman of the Charter Review Commission.

Mr. Weigman nominated Mr. Gault, who accepted the nomination and as there were no further nominations, Mr. Weigman asked the Clerk to cast a unanimous ballot for Clint Gault to serve as Vice Chairman of this Commission.

ESTABLISHMENT OF MEETINGS

Article XIII, Section 7(b) of the Charter states that the Charter Review Commission and Alternates A and B, shall be seated by January 31 and meet the first Thursday in February, for a period not to exceed one hundred fifty days. It should be noted that the Organizational Meeting of the 2022 Charter Review Commission was originally scheduled for Thursday, February 3, 2022, per the Charter requirement, but there was a large snowstorm that impacted the ability of the members to meet on that night and the meeting had to be rescheduled for tonight, Thursday, February 10, 2022.

Mr. Gasior briefly outlined the available meeting nights as either Tuesday evenings or Thursday evenings since City Council meetings are held on Monday evenings and Building and Zoning Appeals meet on the first Wednesday of the month and the Tree Commission meets on the second Wednesday of the month and the Planning Commission meets on the third Wednesday of the month. Mr. Gasior noted per the Charter, the Commission shall meet and give their recommendations to City Council for a period not to exceed 150 days.

Mr. Logan noted he would not be available to meet on Thursday, February 24, 2022 and on Thursday, March 24, 2022.

Mr. Weigman advised the Avon School Board meetings are on the third Tuesday of each month, but sometimes that moves to a different Tuesday evening. After a brief discussion amongst the Commission Members, they were in agreement to hold the meetings on the second and fourth Thursday of each month at 7:00 p.m. in Council Chambers. It was noted the meetings can increase or decrease their frequency depending on whether the Commission felt it necessary in order to fulfill their obligation.

Mr. Gemelas asked if there only needs to be a quorum in order for business to be conducted for a meeting if someone cannot attend a meeting for any particular reason, unforeseen or otherwise.

Mr. Gasior advised yes, but if one of the regular members should miss a meeting, the alternate is seated. He said it would be rather unusual to not have a quorum.

A motion was made by Mr. Gault and seconded by Ms. Berges to set the meeting day and time as the second and fourth Thursday of each month at 7:00 p.m. in Council Chambers, with the next meeting being Thursday, February 24, 2022 at 7:00 p.m. and the vote was unanimous in favor and the motion was carried.

Article XIII, Section 7(b) states, "During this period, the Commission may recommend to Council such alterations; revisions and amendments, if any, to this Charter, as in its judgment are desirable. The Council shall submit to the electors not later than the next succeeding November election each such proposed alterations, revisions or amendments."

A majority vote of the Commission members for an amendment to the Charter is a submission of the proposed amendment to Council for placement on the November ballot. The actual Charter is amended if a majority of the electors vote for the Commission's recommendations during the November election.

BRIEF EXPLANATION OF THE PURPOSE OF THE CHARTER REVIEW COMMISSION BY THE LAW DIRECTOR

Mr. Gasior advised the purpose of the Charter Review Commission is to review the City Charter. The City Charter is the City's constitution. There is nothing in the Charter, with the exception of the width of Detroit Road, that spells out specific guidelines for legislation. He said for example the speed limit for Jaycox Road is not set in the Charter. But the Charter does spell out how the City operates generally. The Charter covers public meetings, public records and it covers competitive bidding and the thresholds for competitive bidding. The Charter talks about emergency legislation, what can and cannot pass by emergency. It talks about how the City can grant tax abatements and tax incentives to businesses. Certain tax levies have to go on the ballot and there is a process by which the City has to move forward.

Mr. Gasior advised one Review Commission talked about the terms on Council as they all used to be 2-year terms elected at the same time. He said that was changed to 4-year terms and the At-Large and the Ward Council Members were staggered terms and that was probably done in the last 10 years. He said in doing that it complicated one thing and that was that the Charter specifies that an elected official cannot vote to increase their pay during their term, which makes sense, and an elected official is restricted to vote to increase the pay for their position well before the filing deadline for the next term. Mr. Gasior explained that when the terms were staggered terms it created some confusion because the Ward Council Members might be 4 years away from their term ending and the At-Large Council Members may want to vote an increase for their next term, which is only 2 years away, but that would impact the Ward Council Members because they are still in office. He said it gets even more complicated when you consider that certain members of Council will sit on a Commission that provides a stipend for that extra position. The City will periodically increase the pay for anyone who serves on said Commission, but then that elected official cannot accept that pay increase as it would be a voted pay increase during the middle of their term. Mr. Gasior advised that topic may be a possible discussion item for this Charter Review Commission because it came up again this year when pay increases were being voted on for such bodies as the Planning Commission Members and there is a Council Member who is a designee on the Planning Commission, and they cannot take advantage of the pay increase because it would be within their term. He added that the Mayor is also a designated member of the Planning Commission, and he also could not receive a small pay increase. Mr. Gasior said they were not talking about a lot of money, but the Charter is clear on increasing one's pay during their term.

Mr. Gasior advised that the other thing that has come up and he is waiting to see if anything is going to be changed at the State level, but the City's competitive bidding threshold of \$50,000 is going to become a little obsolete as prices continue to increase. He said he is waiting to see if the State is going to increase the threshold to \$75,000. Mr. Gasior said just looking at the period of time between those two, it is pretty much overdue for that amount to be increased. He said it becomes a problem when the City tries to do small projects and the City has to go through the process of bidding and it is a cumbersome and time consuming process and there are times when the City needs to get work done such as hiring a contractor to mow the grass and they are required to go through these major bid proposals that have to be prepared by the engineering department and an Ordinance has to be prepared and they have to have a public bid opening. Mr. Gasior advised they lose the opportunity to have small contractors bid on some of these projects because they simply cannot meet all the bid requirements, like providing a bid bond and things of that nature. He said that is another thing he thinks this Commission should review as the City Charter is tied to State Code regarding competitive bidding requirements, but there is nothing that says that number cannot be set independently by the City.

Mr. Gasior said some may ask as to the distinction between the State Code and the City Ordinances. He explained that the unique thing about Avon and other Charter cities, as not every city in Ohio is a Charter City as some are statutory. When you are a Charter City, you do not have to follow State law in specific instances outlined in a Charter, as you have what is called, under the Ohio Constitution, Home Rule. Home Rule is an important thing when talking about something such as a competitive bid threshold or things of that sort because the Charter gives them the authority to do that. Mr. Gasior advised something that is going to come up to Council in the next couple of months is going to be a Home Rule piece of legislation to deal with fireworks because the State of Ohio passed a very liberal law regarding the use of fireworks, but they left Home Rule alone on this issue and that allows municipalities, villages and other entities governed by Charters to make their own law. He said City Council will probably be looking at cutting back on some of the liberties that people have under the State law to try to keep the peace in neighborhoods during certain times of the year. He stated that is an example of where a municipality with a Charter can create its own legislation to govern its own people the way they see fit.

Mr. Gasior advised the purpose of the Charter is to give some guidance and he felt that a good thing to do for the Commission Members was to read through the Charter and when they meet again in 2 weeks, they could have some ideas brought forth. He said what they generally do is try to identify 3-5 things that the Commission feels need to be addressed and come to the meeting prepared to discuss one or two topics. Hopefully this Commission can wrap up the business of reviewing the Charter in a relatively short period of time and get recommendations to City Council and then City Council passes legislation to place those items on the ballot in November for the Avon voters to decide if those changes should be incorporated into the City Charter. He stated the process is more discussion than anything else and he tries to provide guidance to explain how something operates within the City and whether he felt it was a worthwhile change to consider.

Mr. Gasior advised he may bring some ideas to the table to discuss because of some things that have happened over the last five years that he felt the Charter could have helped the City if they would have had a little more clarity in the Charter. He mentioned that sometimes there are no amendments to recommend to the voters. He clarified there is nothing in the Charter that says they have to make an amendment every five years, it just says they have to get together and review it every five years. Mr. Gasior said if this Commission feels there is nothing that needs to be changed then there is no law against not proposing changes to City Council, but there will most likely be a couple of amendments proposed. He said if this Commission can get all of their business taken care of by sometime in April, they do not have to meet all the way through the 150 days.

Mr. Gasior advised there was an interesting case that came up a few years ago out of Lakewood. He said there was an argument over whether Council was required to put the Charter Review recommendations on the ballot or simply ignore them. He said in the City of Avon, it has always been that whatever the Commission puts forth to Council that Council will put on the ballot.

ADOPTION OF RULES OF THE COMMISSION

Mr. Gasior advised the rules are provided in the packet and these are the same rules that were adopted back in 2017 and they served us well at that time. He stated these rules basically say that we are going to have these regular meetings, although special meetings could be called, and these rules allow this body that right. Mr. Gasior indicated they are general rules for keeping order at the meeting and they are the ones adopted by most all of the City's governing bodies. He made a point of stating that each member when casting a vote should say, Yeah or Nay and that they cannot abstain simply because they do not want to vote on a particular issue unless there is a valid reason to abstain because there is an ethical conflict of some sort, but that rarely comes into play. Mr. Gasior noted that for this Commission 5 members of the 9 member commission constitutes a quorum.

A motion was made by Mr. Gemelas and seconded by Mr. Logan to adopt the rules of the 2022 Charter Review Commission as provided and the vote was unanimous in favor and the motion was carried.

SUBMISSION OF SUGGESTIONS FOR AMENDMENTS TO THE CHARTER

Mr. Gasior advised there are two reasons to serve on the Commission with one being to try to come up with amendments to the Charter to make it a better Charter, and he suggested that the members each familiarize themselves with the Charter between now and the next meeting on February 24, 2022. He said they could think about each Article in the Charter and ask questions and if any members have thoughts about what they might want to change, they could discuss it and possibly consider making a change. Mr. Gasior explained that Article II, Municipal Powers, became very important when the pandemic struck because under Article II there is power vested in the City and in the Mayor to make emergency orders. Many Charters have a similar provision and there were a lot of discussions in municipal publications and seminars regarding that issue. He felt Avon's Charter was in good shape to allow the Mayor to make the decisions that he needed to make about requiring masks or limiting access to City Hall as there was a lot of uncertainty in March of 2020. Mr. Gasior advised there are no emergency situations currently, but they do not know what type of situation could occur and they certainly want the Mayor to be in a position to do something immediately and respond without having to call a Special Meeting of Council. In Article IV, Section 7 is where they would find the language that they cannot raise pay during the Council Members term and that might need to be considered for amendment as he explained earlier. He reminded the Commission that this section of the Charter was written when all of Council was on a 2 year term consecutively and this issue has not been addressed since going to the staggered terms and maybe it should be addressed to have some clarity.

Mr. Gasior recommended the Commission Members read through the first four Articles of the Charter and come to the meeting with their questions and he would be happy to answer those. He said over the next week or so he will speak with the Mayor and maybe some Members of Council to see if they had any thoughts on the Charter and what they might like to see changed.

Mr. Glick inquired if there was an order for the sections to be reviewed at the meetings.

Mr. Gasior said he alluded to that and past Charter Review Commissions have not done that, but he felt it could be a good educational exercise into what the Charter really is if they all could come to a meeting having prepared for discussion. He stated for this next meeting, if he was going to assign anything to the Commission Members, he would assign the first four Articles of the Charter. Mr. Gasior advised those first four Articles are really the important ones. He said when they get to Article V, they get into the Administrative Officers and Departments and they could discuss those at a subsequent meeting and they could include Civil Service and the Board of Zoning and Building Appeals and the Planning Commission and then Finance and so forth.

Mr. Gemelas asked for clarification that they, as the Commission, can either adopt, modify or recommend terminating certain provisions of the Charter without reservation.

Mr. Gasior advised yes, and he believes that the last time the Charter Review Commission met in 2017, they recommended eliminating the Park Director position and the Parks and Recreation Commission from the Charter. He said those amendments gave Council the ability to create some new Administrative positions to run those departments directly under the authority of the Mayor.

Mr. Weigman suggested the first four Articles of the Charter be discussed at the meeting in 2 weeks.

No opposition was voiced.

MEMBERS OF THE COMMISSION COMMENTS

Mr. Mylen had no further comments.

Mr. Logan advised Mr. Gasior is on the right track with the municipal bidding threshold. He said he would like that to be addressed at some point during this review process.

Mr. Glick, Mr. Gemelas, Mr. Gault, Ms. Damstra, Ms. Berges, Ms. Ashley and Mr. Weigman had no further comments.

AUDIENCE COMMENTS

Council Member Tony Moore of 3653 Kensington Drive said he wanted to welcome everyone, and he thanked the Commission Members for volunteering their time to serve in this capacity.

ADJOURN: 7:40 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 unanimous in favor.

Respectfully submitted by:

Barbara Brooks
Avon Clerk of Council, Secretary to the Charter Review Commission