

# DEFIANCE CITY CHARTER REVIEW COMMISSION MINUTES

## MAY 18<sup>th</sup>, 2009

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The fourth meeting of the Charter Review Commission met in regular session in the Front Conference Room of the Municipal Annex.

The meeting was attended by: Chairperson Beard, Pete Lundberg, Marc Warncke, Bob Lawson, Mike McCann, David Williams and Lisa Elders, Clerk

Others in attendance were: Todd Helberg

The meeting was called to order by Chairperson Beard at 6:38 p.m.

Chairman Beard called for a motion to approve the minutes of April 20<sup>th</sup>, 2009 as written, Mr. Lundberg moved and Mr. McCann seconded; Voice vote, Motion carried.

### ➤ **Article V**

#### ❖ **INITIATIVE, REFERENDUM AND RECALL**

##### • **No discussion Sections:**

- 5.01, 5.02 (THE COMMITTEE DOESN'T HAVE THE AUTHORITY; THE CONSTITUTION REQUIRES IT TO PRESERVE INITIATIVE AND RECALL).

#### ✓ **Section 5.03: Referral by Council to the Electors**

- Mr. Warncke asked if Section 5.03 ever happen. Mr. Williams stated yes, when the General Obligation Bonds for the Water Plant was done, this was referred to the electors.

#### ✓ **Section 5.04: Removal from Office and Recall**

- Mr. McCann asked if the "Special Election" by referendum, either have it at the primary or general election so there isn't a "Special Election", just for cost reasons. Mr. Warncke stated there is legislation on when the petition gets filed. Mr. Williams stated there are State Laws that regulate it.
- Mr. McCann referred to the Council Clerk Lisa Elders if within ten days after the day on which such petition shall have been filed, the Clerk shall determine whether or not it meets the requirements thereof. Council Clerk does not handle that job. Chairman Beard believes that is the Board of Elections.
- Mr. McCann stated if the election takes place there is no requirement for this to be published in the newspaper. Mr. McCann thinks if there is a recall of a politician there should be some obligation of the newspaper to publish it exactly has it is on the ballot. Mr. Helberg stated normally the newspaper doesn't do word for word from the ballot. It is usually paraphrased. Mr. McCann believes if a individual is going to be recalled from Council, Mr. McCann thinks that the person deserves to have published exactly "verbatim" why the recall. Mr. Lundberg asked if that was the Board of Election issue. Mr. Williams stated yes. Mr. Williams supposes the entire petition be printed somewhere, however the Charter can't require the Board of Elections to print it on the ballot. Mr. McCann stated to require it to be provided to the Board of Elections and

then the Board of Elections can choose in some other fashion. Mr. Williams stated a 200 word "grounds for removal" statement is submitted to the Board of Elections, by Federal Law, also the petition is a matter of public record approximately 2 ½ months before election.

- Mr. Williams will check to see if it is the Council Clerks position in the petition for recall, also Mr. Williams will check into the publication of the recall.
- This section will be revisited.

➤ **Article VI**

❖ **DEPARTMENTS AND DIVISIONS**

• **No discussion Sections:**

- **6.06**

✓ **Section 6.01: Creation of Departments**

- Mr. McCann would like the Department of Service and Safety, which is Mr. Leonard's position say City Administrator. Mr. Lundberg agrees with Mr. McCann.
- Chairman Beard stated there has been talk about the Law Director an elected office, rather than an appointed position.
- Mr. Warncke stated before moving on, there is a paragraph in Section 6.05, that states the City Administrator shall direct the Department of Service and Safety. Mr. Lawson stated the Service and Safety is a Department and the City Administrator is a position that directs the Service and Safety. Mr. Warncke is looking at in from the BOC aspect, Department of Finance, Department of Law has paragraphs and there is no Administrator paragraph. Mr. Lawson stated because the City Administrator is over Service and Safety.
- Chairman Beard asked the Committee if they wanted any changes in 6.01. Mr. Williams stated the Department of Service and Safety cannot be changed to Administrator. Mr. Lundberg stated it is cleared up in Section 6.05, just not in order. Chairman Beard stated if there isn't any changes for the Departments, then how about the process of appointment; the initial two year contract, then recommended annual. Mr. Warncke asked what the logic was for the one year recommendation. Mr. Lawson says it makes it a performance bound position. Mr. McCann asked Mr. Williams if this should be changed. Mr. Williams stated no.
- Chairman Beard stated there was talk about the residents living within the City Limits. If not a resident at the time of appointment, he or she must become a resident and elector within six months after taking office. Chairman Beard asked the Committee if this was an issue. Mr. McCann wouldn't want to lose the best candidate if they lived in Christi Meadows, for example, that area is close to the city limits. It has been difficult to find a home in Defiance. Mr. Williams stated there have been two incidents where this issue has caused a problem. Chairman Beard asked Mr. Williams if the Ohio Supreme Court ruled the requirement valid. Mr. Williams's thinks in the Supreme Court it is still pending, in the court of appeals there has been four cases. Mr. Williams stated the position that is being discussed is an elected position. Mr. Lawson stated that was the spirit it was written in, taken from an elected position. Mr. Williams also said the political sense of the community is they want residency requirements.

◇ **Residency requirements for Law Director, Finance Director and City Administrator in Charter Sections 6.03, 6.04 and 6.05(a) to be relaxed to allow for an additional 6 month extension with a majority of council's consent.**

- With a little more discussion, the consensus is to leave Section 6.03 alone. However, Mr. McCann would like to see "Residency requirements for Law Director, Finance Director and City Administrator in Charter Sections 6.03, 6.04 and 6.05 (a), to be relaxed to allow for an additional six month extension upon recommendation from Mayor and approval with a majority of Council's consent", Mr. Warncke also agrees.
- All members were in consensus for allowing an extension approved by the Mayor and Council.

✓ **Section 6.04: Department of Finance**

- Mr. Warncke thinks full-time should be defined. Mr. Williams stated in his contract he is not permitted to engage in Private Practice of law, subject to certain very limited exceptions and Mr. Williams has to denote his time for that.

✓ **Section 6.05: Department of Service and Safety**

- Mr. McCann asked to add the word Administrator to Section 6.05, so it is understood that the Administrator is the Director of Service and Safety. Mr. Lawson stated the heading is different, then what the body talks about. Mr. Williams stated if you read the two provisions together, it is clear who the City Administrator is, and if any clarifying language would require considerable redrafting, that possibly could confuse voters.

➤ **Discussion for Next Meeting will be Article VII and Revisiting Sections ( 1.06, 1.11, 2.04, 2.11, 5.04)**

Next meeting June 15<sup>th</sup> at 6:30 p.m. in the Charles D. Beard Community Room.

Meeting was adjourned at 8:08 p.m. motion made by Mr. Lundberg, seconded by Mr. Warncke; Voice Vote, Motion carried.

Respectfully submitted,

Lisa Elders

Approved: \_\_\_\_\_ 2009

Attest: \_\_\_\_\_ Chairman Charlie Beard

Attest: \_\_\_\_\_ Clerk, Lisa Elders