



**MINUTES OF PUBLIC MEETING
BRECKSVILLE CHARTER REVIEW COMMISSION
BRECKSVILLE CITY HALL
DECEMBER 7, 2022**

The Charter Review Commission was **CALLED TO ORDER** by Chairperson Skaljac at 6:30pm.

Following the **PLEDGE OF ALLEGIANCE**, Commission Members answered to **ROLL CALL** as follows:

- Present:** Bartos, Bender, Berlin, Gawlik, Lesh, Mansfield, Schirch, Skaljac, Vida-Clough
Absent: None
Others: Commission Alternate Holub, Law Director Matty, Council President Laura Redinger, Council Representative Beth Savage

ARTICLE VII; NOMINATIONS AND ELECTIONS:

Chairperson Skaljac stated this evening on the agenda, the Commission is planning to go through the remaining articles of the charter which is Articles seven through twelve. He said they will begin the evening with Article 7, which touches on the procedures for nominations and elections here in the city. It was last amended and updated in May of 2011, to coincide with some of the changes in the State of Ohio's election laws regarding timing and dates from when petitions have to be filed prior to an election. He asked the Commission if anyone had comments or questions regarding Article 7, nominations and elections. Hearing none, Chairperson Skaljac said basically what this section goes through is the requirement to have 2% of the prior election as far as number of signatures on a petition to run for office. He said it also says that there's no primary elections and that it is nonpartisan. He said there is the day requirements for when things have to be completed and turned into the Board of Elections. Hearing no other questions or comments, the Commission moved on to Article 8.

ARTICLE VIII; INITIATIVE, REFERENDUM AND RECALL:

Chairperson Skaljac said Article 8, Section 1, basically lays out the initiative portion and the rights of electors of the City. He said it reads they have the power to propose by initiative petition, any Ordinances, or other measures that can be added to the City. He asked if anyone had questions or comments that section. Mr. Schirch asked as far as the requirements to actually make this happen, it doesn't say anything about numbers, like numbers of electors that have to get the petition going. He said he noticed that other cities do have those specifics in their documents. Law Director Matty said the initiative percentage is in the State law and he believe the City's section refers to the exercise of such a petition or such an initiative right under the provisions of the laws of the state of Ohio, so, it is not needed in the Charter. Mr. Schirch gave examples of Broadview Heights having two different percentages for both the initiative and referendum, and then another city had the total voter population, and in another city they had the voters in the most recent election. Law Director Matty stated Brecksville uses State law. Mr. Schirch asked what that is. Law Director Matty said he thinks it is 10% of total voters, however he will look it up. Mr. Bender asked out of curiosity what that process looks like. Law Director Matty said the Ward issue is an



example and Democracy Day is an example. He said petitions are filed with the City and then circulated by individuals who certify that the number of signatures they got are a valid voters and they are filed with the Board of Elections and if they reach a certain number the issue goes on the ballot.

Chairperson Skaljac moved on to Section 2 titled Referendum where the electors have the right and the power to approve or reject Ordinances the Council has put in place. He asked Law Director Matty if this is under the same process as an Initiative. Law Director Matty responded yes, and it must be done within 30 days and then that issue that is in the Ordinance would go to a vote of the people. He said the one exception is if the ordinance has an emergency clause in it and has an emergency nature which means it needs to take effect immediately, the referendum cannot prevent that from going forward. Mr. Schirch asked if he was saying that a referendum cannot be held on an Ordinance that's been in in effect for a period of time. Law Director Matty responded no, it can't, and cannot be used against an ordinance that is enacted on an emergency basis. Mrs. Gawlik asked what the reference to the 30 days was. Law Director Matty clarified saying, 30 days is the time frame where the petitions to defeat that ordinance and go to the ballot have to be filed. So somebody has to take up that action quickly, get the requisite number of signatures, file them with the city and the Board of Elections and then that issue goes to the ballot. Mrs. Gawlik said this means she cannot go look at the Ordinances right now, decide she doesn't like one and try to get a referendum. Law Director Matty said that is correct. If there is an issue on an old Ordinance and it's a subject matter that someone objects to or disagrees with, they would have to file an initiative petition to try to overturn the concept, not the Ordinance, but the concept, and he does not know if the City has had one of those. Chairperson Skaljac asked if this too was following State law. Law Director Matty said yes.

Hearing no other questions the Commission moved on to Section 3 titled Recall. Chairperson Skaljac stated this section spells out the recall provisions and process for if the electors want to remove someone from office by a recall election. He said it walks you through the process, and asked if anyone had questions or comments on any of that. He asked Law Director Matty if that has ever been done. Director Matty said not in his time.

Chairperson Skaljac asked if there were any questions on Section 3, hearing none he moved on to Section 4 titled Petitions. He asked the Commission if there were any questions or comments on this section. Again hearing none, the Commission moved on the Article 9.

ARTICLE IX; FRANCHISES:

Chairperson Skaljac asked if Law Director Matty could give a background and context to Article 9, titled Franchises. Law Director Matty said in the past, although it is somewhat nullified now by state law, the City would have non-exclusive franchise agreements with cable companies, in fact, the City has a cable commission called Telecommunication Commission. He said at one point in time it was very necessary to have legislation, which usually had agreements tied to it, which gave the city a percentage of the revenues from the cable companies. He said now State law takes care of that avenue and that type of franchise. He said the other issue that would be in here would be concerning some of the public utilities that are on or across our properties and those would be the ones that you normally would be familiar with such as electric, gas, etcetera. He said this is actually a section that is in place, does work, and never had an issue as it relates to those kind of commodities. Mr. Berlin said he does not quite understand, he thinks of a franchise as McDonalds or a company such as that. Law Director Matty explained the word Franchise here refers only to



those businesses that have, or desire to have, an operation or use of our public streets or public rightaways or public real estate to conduct a business. So, it's a limited type of franchise. Mr. Berlin asked if this Article were removed would it cause a problem with public utilities and access to people's property. Law Director Matty said no, because the City could do the same under legislation but it's in the charter for the reason that it's a necessity. Mr. Bender asked if there is significance to the 25 year period, is that the same as other cities, and given the changes in technology, is that relevant. Law Director Matty said he is unsure. Chairperson Skaljac asked if there were any additional questions for this section. With no more comments from the Commission, they moved on to Article 10.

ARTICLE X; AMENDMENTS TO CHARTER:

Chairperson Skaljac said Article 10, titled Amendments to the Charter, spells out how the process whether it be by Council or whether it be by the registered electors 10%, go about proposing amendments to the Charter. He said the ward system was the most recent amendment brought forth by the electors. He asked if there were any comments or questions on this section. He pointed out Council must have an affirmative vote of five or more members so it is not just a simple majority for council to promote a Charter amendment, and then for the residents or the electors to do that it's a 10% of the registered electors have to have the petition signed to qualify. Mr. Schirch asked if the signatures get verified and by who. Law Director Matty responded yes, and by the Board of Elections, and explained the process. He reverted back to Mr. Schirch's early question and answered Section 7 31 28 of the Ohio Revised Code says, an initiative petition must contain the signatures of not less than 10 percent of the numbers of electors who voted for governor at the most recent general election for the office of governor in the municipal corporation.

Chairperson Skaljac asked if the members had any further questions regarding Article 10. Hearing none, the Commission moved on to Article 11.

ARTICLE XI; CHARTER REVIEW COMMISSION:

Chairperson Skaljac reminded the Commission members the Mayor Hruby spoke to the changes that were made to this section during the last Charter Review. They moved the timing of appointing members back to give the Commission more time due to new timing for items to be submitted to the Board of Elections. It also discusses how the members are chosen and an alternate. He asked if any of the members had any questions regarding this section and how the Commission is set up. Mr. Schirch said the Commission frequently talks about the ten year time frame. He mentioned that other cities have shorter time frames and shorter intervals between Charter Reviews. He suggested the Commission discuss this. Chairperson Skaljac said one thing the Commission has to remember is that if there is something that is pressing or pertinent, the Council always has the opportunity to bring an item or change an item on the Charter, add it, delete it, etcetera, and certainly the public has that option at all times. He continued saying by making the Charter Review Commission, and having it every ten years, makes it official that the Charter will be reviewed in its entirety. Council President Redinger stated in her almost 12 years in Council, there has not been anything so pressing that there was a need to put it out to the voters, but know that if that need arises, Council does have the ability to do so. She said this subject is certainly something that can be discussed, however, she just wanted to inform the Commission that it has not impeded Council from taking action or doing anything necessary. Mr. Schirch made comment about how the speed of life goes much faster now and thought the Commission might want to look



at this. Chairperson Skaljac asked the Commission for thoughts on adding this topic to the list. Mr. Bender commented he wasn't here last week when there was a lot of conversation. He did watch the streaming afterwards to get caught up. He said there was a lot of conversation about that \$3,000 spending limit and that's when he thought needing less time between reviews, but then reading past minutes and to Greg's point, Council can make a change on something like that if there is record inflation for example. He said he thinks that 10 years seems to work. Mrs. Gawlik said she does not feel strongly one way or another but it might be interesting to see what other communities are doing. Mr. Schirch said some are as little as 4 years and a lot at five years such as Middleburg, Avon, Strongsville, Solon, Chagrin Falls, North Olmsted. He said Willoughby, Rocky River, Broadview Heights are all six years and Orange Village seems to be the only one at eight years. Mr. Berlin stated it would be interesting to see if those cities are more operational charter or ordinance based cities. He said he feels Brecksville is more Ordinance based where the Charter only provides the framework. He said he does not feel strongly either way on this either, but feels ten years is working. Mr. Bender said if they did make the time between reviews shorter he would not like to see anything less than six years. Mr. Holub stated he also thinks ten years is a good amount of time, if anything needs to be changed between Council has that process they can take, but also then to give an overall review of the framework every ten years works. Chairperson Skaljac said he tends to agree with that too. He said it is good to have a commission in place that every 10 years will be reviewing everything and again, Council and or the people can propose something at any time. He said there is not big issues such as change of structure, they are more fine tuning items such as dollar amounts. Mrs. Bartos looked to see if anything was brought up or recommended outside of the ten years and could not find any example other than the ward issue. She said that shows her that the ten year span is sufficient.

Law Director Matty stated Mrs. Bartos raises a point and he wanted to clarify something. Article two, which is municipal powers in the Charter sets forth that if there is an item in the Charter, it controls. If there's an item that is not in the Charter, the Council, by Ordinance can address it and if it's not in the charter and Council does not address it, state law controls it. There are certain items at our state law that are what's called covering a subject of statewide concern. Those kind of items we can't control either by a Charter or by Ordinance. And there's case law to define what those are. But basically the charter is for local self-government purposes. The other community charters in our area have the same kind of articles that we have. The difference is some will give the charter, in those sections, a great deal of authority to a Mayor, some will be middle of the road. He gave an example of a mayor can't make an appointment without confirmation of Council. Some other charters don't have that, he said the mayor makes the appointment and that's it. The Charter covers what Council can do, they cover meetings, legislations, and then they cover the various departments and the administrative bodies that we have such as Planning Commission, BZA. He said some communities have, in their charter, a Planning Commission which is also the BZA. They only have one body to cover two situations. We have a Planning Commission and a separate BZA. He said he just wanted to make sure everyone understands.

Chairperson Skaljac asked if anyone else had any comments on the Charter Review Commission. He said he will add the time between reviews to the list to discuss.

ARTICLE XII; MISCELLANEOUS PROVISIONS:

Chairperson Skaljac explained this section as general items and listed the sections as the effective date of the Charter, saving clause, effect of the Charter upon existing laws and rights,



interpretation of the Charter, and gender neutral designations. He asked Law Director Matty as it relates to the gender neutral designations, they had talked earlier in this Commission about some sample languages if they were going to consider a thing that would kind of fix all of the existing gender-neutral things that are in the Charter, punctuation, and so on and so forth. He asked if the Commission were to consider something along those lines, would there have to be changes to section 5 as it is or could it be deleted. Law Director Matty said he might suggest adding a sentence or two to this section that would also say that the City would have authority to change any gender neutral matter and clean up any change punctuation that's necessary. He said he believes other cities have given that authority to either the Clerk of Council or the Law Director, and with legislation passed by City Council approving those types of changes. He informed the Commission the City has a codifier that takes the laws that are passed on an annual basis and produces supplements which are pages that change some of the pages that we have in that Ordinance book and in our Charter. He said they would be picked up in that manner. So, this would be the section, section 5, that you would amend if you want to do some, what he calls, house cleaning. Chairperson Skaljac explained to the Commission that section 5 altered anything passed after 1993, they would be passing language to change everything prior to gender neutral, punctuation, typos, and etcetera. Mrs. Gawlik told the Commission Broadview Heights just passed an almost identical amendment.

Chairperson Skaljac asked if anyone had any additional questions or comments for Article 12 or any of the sections. There were none.

CHAIRPERSON COMMENTS:

Chairperson Skaljac stated they have now completed the initial review of all of the articles of the Charter and thanked the other members and those who provided comments and interviews. He reaffirmed that they are going to meet Wednesday January 4th at 6:30 PM and then Saturday, January 28th at 10:00 am in the morning. He said their discussions will begin reviewing all the topics that they have been listing of items to circle back on and further discuss.

Council Member Savage stated the Mayor had a conflict and was not able to be here today but asked that she pass along his gratitude and congratulations on completing the initial review of the charter. He was really impressed with the progress and the discussion.

Mr. Schirch said last week he had brought up other cities having Human Resources in their charter but discovered that when you do a keyword search within the charter, it actually takes you outside the charter, so, consequently, the Human Resources are covered not in the charters but typically in the ordinances.

PUBLIC DISCUSSION AND COMMENTS:

Hearing no other requests for PUBLIC DISCUSSION & COMMENT, motion by Skaljac, seconded by Gawlik to close the meeting at 7:15 p.m.

ROLL CALL:

Ayes: Bartos, Bender, Berlin, Gawlik, Lesh, Mansfield, Schirch, Skaljac, Vida-Clough.

Nays: None

MOTION CARRIED

Meeting recorded by Kristen Kouri