

**CITY OF DELAWARE
2016 CHARTER REVIEW COMMISSION
COUNCIL CHAMBERS
1 SOUTH SANDUSKY STREET
APRIL 28, 2016
6:00 P.M.**

AGENDA

1. Roll Call
2. Approval of the Motion Summary for the meeting held April 14, 2016, as recorded and transcribed.
3. Review of Submissions from the Public
4. Review drafts of Commission requested changes to Articles 3 and 4
5. Review of Delaware City Charter, Articles 7-15
6. Next Meeting Date: May 12, 2016
7. Adjournment

NOTE: The report would need to be completed by July 5 as the Commission is charged with reporting to City Council by July 11, 2016.

**2016 CHARTER REVIEW COMMISSION
MOTION SUMMARY
April 14, 2016**

ITEM 1. Roll Call

Vice-Chairman Bennington called the 2016 Charter Review Commission Meeting to order at 6:02 p.m.

Members Present: Jack Hilborn, Stephanie Steinbeck, Cathy Falter, Charlotte Joseph, Mayor Carolyn Kay Riggle, and Vice-Chairman Dan Bennington

Members Absent: Megan Cochran, Jeremy Byers and Chairwoman Mary Jane Santos

Staff Present: Darren Shulman, City Attorney and David Moser, Assistant City Attorney

Motion to Excuse: Mayor Riggle moved to excuse Ms. Cochran, Mr. Byers, and Chairwoman Santos, seconded by Mr. Hillborn. Motion approved by a 6-0 vote.

ITEM 2. Approval of the Motion Summary for the meeting held March 3, 2016, as recorded and transcribed.

Motion: Mr. Hillborn moved to approve the Motion Summary for the meeting held March 3, 2016, as recorded and transcribed, seconded by Mayor Riggle. Motion approved by a 6-0 vote.

ITEM 3. Review of Submissions from the Public

Mr. Shulman indicated that former Councilman Andrew Brush had submitted two suggestions regarding Council Salary and Additional Wards. Mr. Shulman recommended that these items be discussed during Item 5.

Motion: Mr. Hillborn moved to discussed Mr. Brush submission during Item 5, seconded by Ms. Steinbeck. Motion approved by a 6-0 vote.

ITEM 4. Review of Submissions from the Public

Sec. 4A. CITY PROHIBITED FROM USING EMINENT DOMAIN SOLELY FOR ECONOMIC DEVELOPMENT- Commission recommends proceeding with no additional changes.

Sec. 5. INTERGOVERNMENTAL COMMITTEES AND CONTRACTS- Commission recommends proceeding with no additional changes.

Sec 6. INVESTIGATIONS AND AUDITS-Commission recommends to not proceed with 6A.

Sec 7. COMPOSITION; QUALIFICAITONS-Commission recommends proceeding with no additional changes.

Sec. 8. ELECTION FORM WARDS AND AT LARGE; TERMS OF OFFICE-Commission recommends changes with the addition of 12:01 a.m.

Sec. 11. DISCIPLINE AND EXPULSION OF MEMBERS- Commission recommends changes.

Sec. 12. COUNCIL MAY DECLARE SEATS OF MEMBERS VACANT-Commission recommends proceeding with no additional changes.

Sec. 13. MANNER OF FILLING VACANCIES, GENERALLY-Commission recommends changes for addition of public notice.

Sec. 14. MANNER OF RESOLVING THE VOTES OF APPOINTMENTS TO FILL VACANCIES- Commission recommends proceeding with no additional changes.

ALTERNATIVE VOTING SYSTEM- Mr. Shulman recommends to hold discussion when Chairwoman Santos is present. No concerns were voiced by the Commission to table the discussion.

ITEM 5. Review of Delaware City Charter, Articles 3, 4, 5, 6, 7 and 8 (time permitting)

ARTICLE III. CITY COUNCIL

Sec. 15. COMPENSATION

The Commission recommends to remove (\$120). Mr. Shulman will bring forward recommended changes.

A discussion was held regarding the submission requests by former Councilman Andrew Brush.

Sec. 16. MEETINGS

Mr. Shulman is to bring forward recommended changes to notify each member of Council twelve hours in advance of meetings.

Sec. 17 RULES OF ORDER AND JOURNAL OF PROCEEDINGS

Mr. Shulman is to bring forward recommended changes.

Sec. 20. SINGLE SUBJECT; READINGS BEFORE PASSAGE; STYLE

A discussion was held on changes to have ordinances passed after two readings. The Commission recommended that there are no changes to Sec. 20.

Sec. 21. MUNICIPAL CODE AND SUPPLEMENTS

The Commission recommends to remove the wording of “book form” and to make changes to be available to the public. Mr. Shulman will bring forward recommended changes.

Sec. 26. PUBLICATION

A discussion was held to remove wording of newspaper and addition of wording of website. Mr. Shulman will bring forward recommended changes.

ARTICLE IV. INITIATIVE AND REFERENDUM; RECALL

Sec. 36. REFERENDUM; SUSPENSION OF EFFECTIVE DATE OF NONEMERGENCY MEASURES.

The Commission recommends proceeding with no changes.

ARTICLE V. CITY CLERK

Sec. 41. APPOINTMENT; DUTIES GENERALLY; TERM.

The Commission recommends proceeding with no changes.

ITEM 6. Next Meeting Date: April 28

ITEM 7. Adjournment

Motion: Ms. Joseph moved for the 2016 Charter Review Commission meeting to adjourn, seconded by Mr. Hillborn. The meeting adjourned at 8:01 p.m.

Mary Jane Santos, Chairwoman

Elaine McCloskey, Clerk

Tentatively Approved

SEC. 4A. – CITY PROHIBITED FROM USING EMINENT DOMAIN SOLELY FOR ECONOMIC DEVELOPMENT.

It is the intent of the City of Delaware to protect the private property of its citizens. **THE CITY OF DELAWARE HEREBY RECOGNIZES AND ADHERES TO STATE LAW RESTRICTING THE USE OF EMINENT DOMAIN POWERS SOLEY FOR ECONOMIC DEVELOPMENT.** ~~the City is prohibited from using eminent domain to acquire private property for economic development.~~

Economic Development – **FOR PURPOSES OF THIS SECTION 4A**, the term “economic development” means any activity to increase tax revenue, tax base, employment, or general economic health, when that activity does not result in (1) the transfer of land to public ownership; (2) the transfer of land to a private entity that is a common carrier, such as a railroad or utility; or (3) the transfer of property to a private entity when eminent domain will remove a harmful use of the land, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or acquisition of abandoned property.

~~The limitations of this Section 4A shall not apply after November 20, 2008.—~~

SEC. 5. - INTERGOVERNMENTAL COMMITTEES AND CONTRACTS.

City Council may **BY RESOLUTION** authorize or require an officer ~~of~~ **OR** officers of the City to participate with officers of the County of Delaware and of the City School District of the City of Delaware or with other cities, villages, and political subdivisions in committees and organizations for studying or coordinating programs of finance, taxation, public improvements, and other official activities of all such public authorities, for the purpose of improving public services and facilities by them rendered to the public and for the purpose of effecting economies therein. City Council may authorize contracts with other governmental subdivisions in relation to the performance of the functions of the City, as may be authorized by the Constitution and general laws of Ohio. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the United States or any agency thereof or with any one or more states, or subdivisions or agencies thereof.

SEC. 7. - COMPOSITION; QUALIFICATIONS.

Council shall consist of seven electors of the City of Delaware elected under the provisions of Sections 111 to 118, inclusive, of this Charter. No person shall be eligible for election to Council from a ward who is not at the time of his/her nomination and of his/her election a resident of such ward. **RESIDENCY IS DEFINED AS THE PLACE THE PERSON HAS ESTABLISHED HIS OR HER HOME ON OTHER THAN A TEMPORARY OR TRANSIENT BASIS.** Any person elected to Council from a particular ward who at any time after his/her nomination for a particular term shall cease to be a resident of such ward as the same existed at the time of such nomination, shall thereupon be deemed to have forfeited his/her election to or his/her membership in Council.

SEC. 8. - ELECTION FROM WARDS AND AT LARGE; TERMS OF OFFICE.

~~Three members of Council shall be elected from the City at large in the 2009 general municipal election and one Council Member from each of the four wards shall be elected in the 2011 general municipal election.~~

~~All Council Members shall be elected for four year terms commencing on the second Monday in November following their election and ending at 12:01 on the second Monday in November following the general municipal election in the fourth year following his/her election.~~

ALL COUNCIL MEMBERS SHALL BE ELECTED TO FOUR YEAR TERMS COMMENCING ON THE SECOND MONDAY IN NOVEMBER FOLLOWING THEIR ELECTION AND ENDING AT 12:01 a.m. ON THE SECOND MONDAY IN NOVEMBER FOLLOWING THE GENERAL MUNICIPAL ELECTION IN THE FOURTH YEAR FOLLOWING HIS/HER ELECTION.

THREE MEMBERS OF COUNCIL SHALL BE ELECTED FROM THE CITY AT LARGE STARTING WITH THE 2017 GENERAL MUNICIPAL ELECTION AND EVERY FOUR YEARS THEREAFTER AND ONE COUNCIL MEMBER FROM EACH OF THE FOUR WARDS SHALL BE ELECTED STARTING WITH THE 2019 GENERAL MUNICIPAL ELECTION AND EVERY FOUR YEARS THEREAFTER.

SEC. 11. – DISCIPLINE AND EXPULSION OF MEMBERS.

Council may, **WITH THE CONSENT OF AT LEAST FIVE MEMBERS**, ~~punish~~ **DISCIPLINE** its members for ~~violation of its rules or for~~ **DISRUPTIVE AND** disorderly behavior **THAT OBSTRUCTS THE ADMINISTRATION OF COUNCIL BUSINESS, VIOLATIONS OF THE DELAWARE CITY CHARTER OR CODIFIED ORDINANCES, OR ETHICS VIOLATIONS.**

COUNCIL MAY, ~~and,~~ with the consent of at least five members, may expel a member from office ~~therefor~~ **FOR DISRUPTIVE AND DISORDERLY BEHAVIOR THAT REMAINS CONSISTENT OR IS ESPECIALLY DISRUPTIVE, CONVICTION OF A FELONY OR A CRIME INVOLVING AN ETHICS VIOLATION, OR COMMITTING OR ATTEMPTING TO COMMIT A VIOLATION OF SECTION 52 OF THIS CHARTER;** but no member shall be expelled unless he/she **FIRST** be notified **BY COUNCIL IN WRITING** of the grounds of **FOR** such expulsion and be given an opportunity to be heard **BEFORE COUNCIL** thereon **AT THE NEXT REGULAR MEETING OF COUNCIL FOLLOWING THE PROVISION OF NOTICE. AT THE HEARING, A MEMBER FACING EXPULSION MAY BE REPRESENTED BY LEGAL COUNSEL, PRESENT EVIDENCE AND WITNESS TESTIMONY IN HIS/HER FAVOR, AND CROSS-EXAMINE ANY WITNESS TESTIMONY PRESENTED BY COUNCIL BEFORE COUNCIL HOLDS A VOTE ON EXPULSION.**

SEC. 12. - COUNCIL MAY DECLARE SEATS OF MEMBERS VACANT.

Council shall ~~have the power and it shall be its duty to~~ declare vacant the seat of any person elected to Council who during the term for which he/she was elected shall hold any other employment in the service of the City of Delaware ~~except the office of Mayor, Vice Mayor, member of the City Planning Commission, or Trustee of the Police or Firemen's Pension Fund,~~ or who shall cease to possess the qualifications of his/her office, ~~or who shall do or attempt to do anything contrary to the provisions of Section 52 of this Charter,~~ or who shall be convicted of bribery, corruption, or any other crime involving moral turpitude, or who shall be absent from three consecutive regular meetings of Council unless one or more of absences shall have been excused by Council, or who shall forfeit his/her office by the operation of any other provision of this Charter.

The seat of any Council member shall be vacated upon the swearing in of the member to another elected public office.

(Amended 11-7-00)

SEC. 13. – MANNER OF FILLING VACANCIES, GENERALLY.

~~If any member of Council shall die, resign, or be disqualified or expelled or if his/her seat shall be declared vacant,~~ **WHEN THE OFFICE OF ANY MEMBER OF COUNCIL BECOMES VACANT, NOTICE SHALL BE PROVIDED TO THE PUBLIC.** The remaining members of Council shall by the concurrence of at least four votes choose **APPOINT** his/her successor **FROM THE APPLICANTS**, who shall qualify and serve during the remainder of the unexpired term or until a successor shall be **IS** elected under the following provisions of this section. ~~If any such vacancy or vacancies shall happen prior to ninety days preceding the date of the general election after the beginning of the term in which such vacancy or vacancies shall happen, a candidate or candidates may be nominated and elected at the next general municipal election, agreeably to the provisions of Sections 111 to 118, inclusive, of this Charter, to complete the term or terms in which such vacancy or vacancies shall have happened.~~ **IF A VACANCY OCCURS MORE THAN NINETY DAYS BEFORE THE NEXT GENERAL ELECTION FOR COUNCIL MEMBERS, A SUCCESSOR SHALL BE CHOSEN AT THAT ELECTION TO FILL THE UNEXPIRED TERM AGREEABLY TO THE PROVISIONS OF SECTIONS 111 TO 118, INCLUSIVE, OF THIS CHARTER.** Any person so elected to fill any vacancy shall qualify as a member of Council at the first regular or special meeting thereof occurring after the election authorities shall have certified his/her election. He/she shall be notified of any such special meeting, agreeably to the provisions of Section 16 of this Charter. ~~If prior to the time of such qualification the vacancy to which such person shall have been elected shall have been filled by Council, such appointment by Council shall thereupon be deemed to be terminated.~~ **WHEN A SUCCESSOR IS SO ELECTED AND QUALIFIED, THE PRIOR APPOINTMENT BY COUNCIL FOR SUCH VACANCY SHALL THEREUPON BE TERMINATED.** ~~If fewer persons shall be so elected or shall qualify to fill vacancies in terms of members at large of Council than the number of such vacancies which shall have happened prior to such election, the person or persons so elected and qualifying to fill such vacancy or vacancies shall be deemed to have been elected and qualified to fill such vacancy or vacancies which shall have first happened.~~

SEC. 14. - MANNER OF RESOLVING TIE VOTES OF APPOINTMENTS TO FILL VACANCIES.

~~If any vacancy shall happen more than three months before the expiration of the regular term in which it happens and if by reason of the failure of any person to receive as many as four votes it shall not be filled by Council during the first or second meeting of Council at which it might be filled, (not counting meetings after the fourteenth day of June and before the general municipal election in any year in which such vacancy might be filled by election by the people of a member of Council to complete the unexpired term), lots shall be drawn to determine which of the persons who shall have received **THE SAME AND THE HIGHEST NUMBER OF** votes at the last roll call on such appointment shall be deemed to be chosen to fill such vacancy. If two or more persons shall each have received the same and the highest number of votes on such roll call, all other persons shall be excluded from such lot. If not more than one person shall have received the same vote on such roll call, such lot shall be confined to the persons who shall have received the highest and second highest numbers of votes on such roll call. If two or more persons shall each have received the same and second highest number of votes on such roll call, one of such persons shall first be determined by lot, who shall thereupon be deemed to have received the second highest number of such votes for the purpose of the next foregoing provision. All such lots shall be drawn under the supervision of the City Clerk **ATTORNEY**, at the usual place of meeting of Council. Council may direct such lots to be drawn **PRIOR TO THE SECOND MEETING AT WHICH THE VACANCY COULD BE FILLED BY A MAJORITY VOTE.** ~~during its session; otherwise they shall be drawn immediately upon the adjournment of the second session at which Council might have made such choice. Any person eligible to participate in any such lot shall personally draw his/her own lot if he/she be present; otherwise the City Clerk shall appoint another person to draw in behalf of the person who shall be absent. If any person eligible to participate in any such lot shall decline to do so, he/she shall be deemed to have drawn the lower or lowest order therein. Any person deemed to be chosen to be a~~~~

member of Council pursuant to any such lot shall qualify as such member agreeably to the provisions of Section 13 of this Charter relating to the qualification of persons elected by the people to fill vacancies in Council.

DRAFTS BASED ON COMMISSION COMMENTS TO BE REVIEWED AT NEXT MEETING

SEC. 15. - COMPENSATION.

Each member of Council shall receive a salary payable at such times as may be prescribed by ordinance. ~~Until otherwise fixed by ordinance such salary shall be at the rate one hundred and twenty dollars (\$120) per year.~~ No ordinance ~~fixing or changing~~ **increasing** the salaries of members of Council shall be passed as an emergency measure, nor shall any increase ~~or decrease~~ made thereby be put into effect before the first day of January **occurring after the elections held for both the at-large and ward seats** next occurring more than ninety days after the passage of such ordinance.

SEC. 16. - MEETINGS.

The first regular meeting of each regular term of Council shall convene at 7:00 p.m. on the second Monday following the November municipal election. Council shall meet at the usual place for holding meetings of the Council, and shall proceed to elect a Mayor and Vice Mayor as provided in Section 42 of this Charter. Thereafter Council shall meet at such times as may be prescribed by rule of Council or by ordinance, not fewer than twelve times each year. The Mayor or any three members of Council may call special meetings of the Council upon at least twelve hours' ~~written~~ notice to each member of Council, ~~served personally upon each member or left at his/her usual place of residence.~~ Such notice shall state the subjects to be considered at such special meeting and no other subject shall be considered thereat. All meetings of Council or of committees thereof shall be public, except for executive sessions limited to such subjects and subject to such procedures as are now or hereafter provided by the general laws of Ohio.

SEC. 17. - RULES OF ORDER AND JOURNAL OF PROCEEDINGS.

Council shall determine its own rules and order of business and shall keep a journal of its proceedings, **in a form determined by Council**, which shall be open to public inspection at all reasonable times. The journal need only reflect the general subject matter of discussions in executive sessions and the opening and closing time of such sessions.

SEC. 21. - MUNICIPAL CODE AND SUPPLEMENTS.

Any ordinance enacting a complete municipal code or code of ordinances of the City of Delaware, which shall supersede or repeal all general ordinances prior thereto, and any ordinance enacting a complete revision or re-enactment thereof, shall be deemed to be confined to a single subject. All general ordinances enacted after the enactment of any such code or revision thereof shall be enacted as supplements to, amendments of, or as re-enactments or revisions of such code. The ordinance enacting such code and any ordinance enacting a complete revision or re-enactment thereof, shall **be made available to the public in a manner determined by Council**, ~~be published in book form, bearing a certificate of the Mayor and the City Clerk attesting the correctness of such publication, and no other publication thereof shall be required.~~

~~Council may from time to time cause to be published in book or pamphlet form supplements to such code, showing all supplementary, amended, revised, and repealed sections of such code as of the time of~~

~~publishing such supplement; and such supplement shall bear the certificate of the Mayor and the City Clerk attesting its correctness. Such code, and any supplement, so published and certified, shall be received in evidence in any court for the purpose of proving the ordinance or ordinances therein contained or the supplements, amendments, revisions, or repeals therein shown, the same and for the same purposes as the original book, ordinances, minutes, or journals would be received.~~

SEC. 26. - PUBLICATION.

~~Every ordinance and resolution shall upon its final passage or adoption be recorded in a book kept for that purpose, and shall be authenticated therein by the signatures of the Mayor and the City Clerk. Penal and regulatory ordinances, other than those published in the Ohio Revised Code or supplements thereto, shall be published by title with such further statement as may be necessary to indicate the nature of their provisions and penalties if any, and with their respective numbers and dates. Publication shall be made by advertisement in a newspaper of general circulation in the City of Delaware or by posting on the City of Delaware website, and shall state that copies of such ordinances are available in the office of the City Manager.~~

Discussion Tabled Until Chair Returns

ALTERNATIVE VOTING SYSTEMS:

1. **Cumulative voting** (Used in over 50 communities in US): each voter has "the same number of votes as there are seats to vote for and they can distribute their votes in any combination." So, for at large, someone could put 2 or 3 votes on their fav candidate or spread it out 1 for three different people. Would work for at-large.

Cumulative Ballot

You may offer up to 3 votes.			
1	2	3	
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Joe Smith
<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Henry Ford
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Jane Doe
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Fred Rubble
<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Mary Hill

RESULT: 2 votes for Ford 1 vote for Hill

2. **Primary system** (used in Columbus): Council members need 50% or more to be elected. Would require moving this to a primary election to give time for runoff.
3. **Instant runoff/Transferable vote:** (used in Australia, India, Ireland, and Papua New Guinea): Voters rank candidates rather than vote for one. If no candidate is the first choice of more than half of the voters, then all votes cast for the candidate with the lowest number of first choices are recounted and the second choice on those ballots is given votes. Keep proceeding this way until candidates go over 50%
4. Is there any interest in shifting our calendar to match governor/presidential election calendar years?

Rejected

~~SEC. 6A — INVESTIGATIONS AND AUDITS~~

~~COUNCIL MAY MAKE INVESTIGATIONS IN THE AFFAIRS OF THE CITY AND THE CONDUCT OF ANY CITY DEPARTMENT, OFFICE, OR AGENCY AND FOR THIS PURPOSE, MAY SUBPOENA WITNESSES, ADMINISTER OATHS, TAKE TESTIMONY, AND REQUIRE PRODUCTION OF EVIDENCE. FAILURE OR REFUSAL TO OBEY A LAWFUL ORDER ISSUED IN THE EXERCISE OF THESE POWERS SHALL BE AN UNCLASSIFIED MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$1000.~~

~~COUNCIL SHALL PROVIDE FOR AN INDEPENDENT ANNUAL AUDIT OF ALL CITY ACCOUNTS AND MAY PROVIDE FOR MORE FREQUENT AUDITS AS IT DEEMS NECESSARY.~~

~~NOTE: IF we want possible jail time, we should change this to a 4th degree misdemeanor.~~