

CITY OF UNIVERSITY HEIGHTS
MINUTES OF CHARTER REVIEW COMMISSION MEETING
NOVEMBER 11, 2008

Chairman Harvey Morrison called the meeting to order at 7:30 p.m.

A. ROLL CALL

Present: Dr. Roderick H. Adams, Jr. (not at roll call)
Mr. F. Michael Boyle
Mr. Simon A. Carroll
Mr. Luke McConville
Mr. Paul M. Miller
Mr. Harvey S. Morrison
Mrs. Susan Pardee
Mr. Joseph M. Shafran
Mr. Mark N. Wiseman

Absent: Mr. Jason Patrick Ferrante
Mrs. Debra C.S. Fink

Also Present: Law Director Kenneth J. Fisher
Clerk of Council Nancy E. English

MOTION BY MR. McCONVILLE, SECONDED BY MRS. PARDEE to excuse the absence of Mrs. Fink and Mr. Boyle. On roll call, all voted "aye."

B. REVIEW AND APPROVAL OF MEETING MINUTES

The approval of minutes of the previous meetings were suspended until the next meeting.

C. FURTHER DISCUSSION OF ARTICLE 6

Mr. Morrison opened the floor to the Law Director for an opening statement. Law Director Kenneth J. Fisher stated that the threshold issue for the Charter Review Commission, based on discussions of the City Council at a retreat earlier this year, is a possible change in the form of government from a Mayor-Council form to a City Manager form. He noted that a possible change in government would be a pivotal issue upon which other amendments would be considered. He advised that if the majority of the Commission decides there should be a change in the form of government, which Mr. Fisher was not advocating, then it should be decided early on because it will impact the entire charter review process.

Mrs. Pardee proposed that the Council undertake discussion of its entire role in the review process. She suggested that the Commission carry out information gathering activities first, such as touring the City Hall complex, talking to the Council members, City directors, and outside persons, discussing regionalism and other matters in order to make the decisions about amending the articles flow naturally out of that research.

Mr. Shafran stated that he is not prepared to address an issue of structure of City government until he has a better understanding of how the local government works, what the challenges are, and how the City is dealing with those challenges.

Mr. Morrison noted that the City of Cleveland Heights has a City Manager form of government, in which, the Mayor is the president of Council and is a figurehead only, and the City is run by the City Manager. He suggested that a neutral party such as a former mayor of Cleveland Heights address the Commission to explain the ramifications of having a City Manager form of government.

Mr. Fisher stated that he has experience working in both the Mayor-Council form of government and the City Manager form of government (City of Brunswick) and would be able answer questions that the Commission may have.

In addressing Mr. Shafran's comments, Mr. Fisher stated that since it has been 30 years since the last charter review, the names of the departments in Article 6 are definitely outdated and should be changed regardless of a change of government. He commented on the constraint of the facilities on the City Hall complex and the fact that the City has purchased nearby properties for possible future expansion. He noted that the City operates within the budget. Mr. Fisher added that the City functions the way it has for decades, such that, the Council appoints the Clerk of Council and the Law Director and all other directors are appointed by the Mayor and everyone reports to the Mayor. Mr. Shafran stated that the Commission wants the City to be operated in an efficient manner and he just wants a better understanding of how the City functions.

Mr. Morrison mentioned that is why the Commission received an organizational chart and copies of the job descriptions. He noted a discrepancy in the organizational chart such that the chart indicates the Law Director is answerable to the Mayor when the Charter indicates he is accountable to the City Council. He also noted that the Charter establishes four departments: Law, Finance, Public Safety and Public Service and Properties. Mr. Morrison stated that as he reads the Charter, the Service Director is the superior to the Building Commissioner; therefore, this needs clarification. Mr. Fisher noted that under the Charter the Division of Building Engineering and Inspection is under the Department of Public Safety, which the Mayor heads as Safety Director.

Mr. Morrison proposed that the style of Article 6 be changed to break each department down into sub-sections, i.e., A) Department of Law, B) Department of Finance, C) Department of Public Safety, etc. He suggested that there should be another level on the organizational chart because the part-time Aquatics Director and Parks Director should not be directly responsible to the Mayor. He also noted that the Community Coordinator is not even recognized in the Charter as a department. Mr. Carroll stated that the Charter does not indicate which departments exists, but rather it specifies that there shall always be a Law Department, Finance Department, etc. and the other departments Council can establish or abolish by ordinance.

Mr. Wiseman stated that he too believes the form of government is a threshold question for the Commission to decide. However, he would like to hear from the Council members as to why they think the Charter should be reviewed and from the Mayor as to why she vetoed the ordinance. Mr. Wiseman noted that the Commission should be dealing with issues relating to the structure of the government such as how many departments there are, how much power the mayor has, and not issues regarding the size and location of facilities, which is for the Council to decide. He stated that the Commission cannot go forward until the Council and Mayor explains why there needs to be a charter review.

Mr. Morrison pointed out the Commission has not been given any guidance or direction from the Council to consider a change in the form of government. Therefore, he noted that it is the Commission's responsibility to investigate and determine if a change in the form of government is necessary.

Mrs. Pardee inquired as to why the Commission is not doing its investigation first instead of addressing the articles. She also wanted to hear from the Council members as to why they want changes or not.

Mr. McConville stated that the task of the Commission should be to analyze the structure of city government in order to determine what structure would be most effective. But, in order to do that, the Commission must understand how each body within the municipality is being managed and how decisions are made.

Mr. Miller inquired of Mr. Fisher as to how many times the issue of changing the form of government has been brought up in his tenure (11 years). Mr. Fisher replied that it has not been brought up before this point. Mr. Morrison stated that the issue is not the form of government, but rather the issue before the Commission is to review the Charter and make recommendations that would be in the best interest of the City.

Mr. Boyle suggested that a possible change in the form of government and the Mayor's veto be considered before the Commission forges ahead into a review of the articles. He noted that some areas which should be investigated are efficient administration as it relates to the form of government, the lack of appropriate checks and balances with regard to the Mayor's authority, and the accountability of the staff. Mr. Boyle stated that he believes the spirit behind the charter review is to create a form of government with appropriate checks and balances. Mr. Fisher recommended that the Mayor's veto comments be distributed to the Commission members. Mr. Wiseman stated that the Council should have given the Commission members pertinent information in order to make informed decisions.

Mr. Miller questioned why the change in the form of government is being discussed without prior notice. Mr. Morrison responded that the agenda was distributed indicating further discussion of Article 6. He added that at the last meeting the Commission requested copies of job descriptions, appropriate sections of the Administrative Code, an organizational chart and the Law Director's contract. Mr. Morrison stated that currently the Commission is cleaning up Article 6. He added that if it is decided at a later date that there should be a change in the form of government, then adjustments can be made.

A majority of the members wanted to do educational research prior to delving into the specific articles of the Charter. They desired to hear from the Mayor, Council members, department heads, and outside persons who could educate them on the workings of University Heights' government as it stands now and the different aspects of the various forms of government. It was suggested that a timeline for the charter review be formulated as well as a time frame for each agenda item.

Mrs. Pardee suggested that the outside individuals include: Sy Murray of Cleveland State University (CSU), representatives of the Cities of Brunswick and Cleveland Heights and Tom Bier of CSU. Mr. Miller proposed that each member of the Commission review a city of comparable size and report back to the body as well as hearing from the department heads.

Mr. Carroll agreed with the idea of having a structured process of how to go about the charter review. He stated that having a list of items to be considered before starting the actual review would be beneficial as well as a plan on how those items would be accomplished.

Mr. Fisher advised that a timeline would be good because the Commission is working on a limited time period as the final report and recommendations are due to the Council by April 6, 2009, but this date can be extended by sixty (60) days by a two-thirds vote of the Commission membership.

Mr. Morrison stated that the change in the form of government to a City Manager form is dependent upon the budget to pay a professional City Manager. He questioned whether the funds are available to even consider a change in the form of government.

Councilman Steven D. Bullock, 2434 S. Belvoir Blvd., explained that with regard to Mayor Rothschild's veto of the ordinance establishing the Charter Review Commission, she did not object to a charter review, but rather she objected to the timing. She preferred that the review take place after her term expired on December 31, 2009. He added that Council did not agree and passed the ordinance by overriding her veto. Mr. Bullock requested that the Commission try to keep the two issues separate. He suggested that the Commission focus on reviewing the complete Charter, and then based on that review, if the time comes to discuss a change in structure of government then that discussion should be undertaken. Mr. Bullock encouraged the Commission to do its homework before considering a change to a City Manager or senior operations person within the municipal structure. He added that they should learn about the internal operations of the City and look at cities with various forms of government. Mr. Bullock stated that he personally believes there needs to be a review of how the City is structured and what capacity there is on the staff. He added that the City needs the capability to be proactive in today's environment in order to keep the City at a level where it can be sustainable into the future. He also noted that once the internal investigation is complete, the Commission will know where the City may be facing challenges. Mr. Bullock offered to be available to answer any questions the Commission may have for him. In response to a question by Mr. Morrison, Mr. Bullock replied that the retreat was held in February and Mr. Murray of CSU was not paid to make a presentation at the retreat.

Councilman Steven Sims, 2508 Dysart Rd., congratulated the Commission on a healthy discussion about how to organize and move forward. He mentioned that the Commission has a lot of work ahead of it. He offered a personal insight that all of the Commission's work may not be done at the regularly scheduled meetings. He noted that there may be a need for outside communication between and among the members in order to find out some of the required information. He added that ideas shared at this meeting were good ideas and fundamental of what needs to be done. In regards to the comments regarding why the Council did not inform the Commission of previous discussions, and speaking for himself alone, Mr. Sims stated that the Council made a conscious decision not to prejudice the work of the Commission. Rather, the Council wanted to let the Commission operate independently and arrive at its own conclusions and thereby make a determination of what would be in the best interest of the City. Mr. Sims noted with regret that the conversation at this meeting turned to a change in the form of government because he felt it would have come naturally out of the review process and would not be exclusive to a Council-City Manager form of government. Mr. Sims noted that with its time constraints, the Commission may want to hold special meetings other than the regularly scheduled meetings twice a month.

Councilwoman Frankie B. Goldberg, 4325 Carroll Blvd., stated that her objective with the Charter Review Commission was to make a review to determine how the City could work more efficiently and be more effective in the future. She stated that the Commission should look at the Charter with fresh eyes because the Charter has not been reviewed in 30 years. Ms. Goldberg outlined the main points of her written comments which were presented and made part of the record at the October 30, 2008 meeting.

Ms. Goldberg's points included, but were not limited to touring the City facilities, interviewing directors, interviewing members of the Boards and Commissions, interviewing Mayors and administrators from other cities, reviewing University Heights' Master Plan, and obtaining advice from representatives of the Levin College of Urban Affairs. She encouraged the Commission to get a feel for how University Heights operates and how other cities with various form of government are run, instead of thinking about why the Council established the Commission or why the Mayor vetoed the ordinance, she suggested that the Commission look at how the City operates and how we could do a better job in terms of fiscal management, efficiencies, and operations. Ms. Goldberg made herself available to the Commission.

Vice Mayor Adele H. Zucker, 2464 Claver Road, stated that the Commission may need additional meetings, but it has to meet publicly. She noted that the Commission has a big job ahead of it and the work should be done with due diligence. She recommended that all members review the Charter with an open mind. Vice Mayor Zucker offered to be available to the Commission.

Mr. Wiseman stated that he is craving input from the Council even though the members are purposely not providing the information required. He mentioned that the officials of the City know how the City operates, they know what the challenges are and that information would be beneficial to know.

Mr. Miller requested hard copies of all material presented by e-mail which is an expenditure of time and money. He inquired if part of the budget will be allocated for copies. Mr. Morrison replied that he is trying to save time and money by communicating through e-mail and filing documents electronically. He suggested that each member should download and print the documents sent via e-mail. Mr. Miller stated that he should have been informed initially that he had to make an expenditure of time and money to be on the Commission. Mrs. Pardee offered to print hard copies for Mr. Miller.

Mrs. Pardee also offered to draft a timeline of the people the Commission desires to interview, along with potential questions, and then e-mail everything to the members. Mr. Morrison stated that all e-mail correspondence should be forwarded to the Clerk of Council also for public record purposes. Mr. Shafran proposed that each member coordinate a meeting and make arrangements with the specific individuals who will address the Commission at that meeting. Mr. Morrison delegated Mr. Wiseman to coordinate the meeting of November 25, 2008.

Mr. Boyle proposed a plan of action as follows: A) to do away with the agenda for this meeting and vote on a procedure to have the remainder of City Council members come in and speak to the Commission; B) to discuss the schedule upon which the directors will speak to the Commission for not more than 30 minutes and answer prepared questions which have been agreed upon by the membership; and C) to have outside bodies come in from other cities and entities to speak to the various forms of government.

MOTION BY MR. BOYLE, SECONDED BY MRS. PARDEE to suspend the remainder of this meeting's agenda and discuss a plan of action to have the remainder of the City Council members come in and speak to the Commission. On roll call, all voted "aye."

MOTION BY MR. BOYLE, SECONDED BY MR. MILLER to have all department heads come in on November 25, 2008 at 7:30 p.m. and speak to the Commission to answer prepared questions for not more than 30 minutes per person. On roll, call all voted "aye."

Dr. Adams entered the meeting at 9:00 p.m.

MOTION BY MR. WISEMAN, SECONDED BY MR. McCONVILLE to pair the department heads to appear before the Commission as follows based on availability: Mayor/Safety Director and Director of Finance on November 25, 2008; Building Commissioner, Director of Service, and City Engineer on December 9, 2008; Chief of Police and Fire Chief on December 23, 2008; Law Director, Community Coordinator and Clerk of Council on January 13, 2008. On roll call, all voted “aye.”

Questions will be made available to the department heads at least one week ahead of time.

Mr. Morrison noted that he will not be able to attend the meeting of December 23, 2008 and in his absence Vice Chairman Luke McConville will chair the meeting.

Mr. Morrison asked the Law Director if the Commission decides to recommend a change in the form of government could that change be made effective on a date four (4) years into the future so that it would not interfere with the 2009 election. Mr. Fisher replied that yes it would be lawful.

Steven D. Bennett, 3761 Hillbrook Rd., former City Councilman for fifteen (15) years, stated that the Commission should form a consensus on what services the City wants to provide for its residents then use that consensus to look at what the City currently provides when talking with the directors and outside entities, and conclude by deciding what is next in reviewing the Charter.

Susan Infeld, 3906 Tyndall Rd., former Councilperson, stated that she is pleased with the tone of the discussion. In regards to the inquiry by Mr. Morrison of delaying the effective date of a possible charter amendment, Mrs. Infeld warned against being concerned about something that has not been discussed.

Mr. Fisher advised that the Commission should decide the budget. He noted that his hourly rate is \$110 per hour. He suggested that Clerk of Council Nancy English be paid for her services as well. With regard to out of pocket expenses by the Commission members, Mr. Fisher stated that the members should be able to be reimbursed for out of pocket expenditures. Mr. Fisher suggested a reasonable budget of \$5,000 which would include a reimbursement to members who incur out of pocket expenses.

Mr. Wiseman stated that the Commission has not heard back from the Council as to whether or not the Law Director's duties for the Charter Review Commission were covered under his contract. He was also uncomfortable about discussing the Law Director's compensation in the Law Director's presence.

Mrs. Pardee stated that minutes would be good to have as a reminder of what was discussed at the meetings and inquired if the Commission would want to request Ms. English to transcribe those minutes and pay her for her services. She asked Mrs. English if she is willing to accept the duties and inquired as to her hourly rate. Ms. English responded that her hour rate is \$31.59 per hour.

Mr. Wiseman stated that it is Council's decision as to what to pay a salaried employee for something extra. Mr. Morrison stated that it is the Commission's duty to request a budget from Council for the Commission. There was extended discussion regarding the Commission's budget.

MOTION BY MR. BOYLE, SECONDED BY MR. WISEMAN to send the budget issue back to Council to clarify the reasonable budget for legal advice, secretarial staff, necessary supplies and miscellaneous expense as it relates to Section 9 of Ordinance No. 2008-45, and that Council approve a reasonable budget and that miscellaneous out of pocket expenses be covered within that budget. On roll call, all voted “aye.”

Nancy English, 4107 Washington Blvd., Clerk of Council, offered to transcribe the minutes from the Commission’s first three (3) meetings regardless of what the Council decided about the budget in order to help the Commission move forward in its process. Mr. Morrison stated that the secretary, Jason Ferrante, may have prepared the minutes from the first two meetings and thanked Ms. English for her offer.

MOTION BY MR. BOYLE, SECONDED BY MR. MORRISON that the next step after internal people address the Commission would be to have individuals from external organizations speak to the Commission in order to explain the various forms of government. On roll, call all voted “aye.”

MOTION BY MR. MORRISON, SECONDED BY MR. SHAFRAN to adjourn the meeting. On roll call, all voted “aye.”

The meeting adjourned at 9:30 p.m.

Harvey S. Morrison, Chairman

Jason Patrick Ferrante, Secretary