

**CITY OF HIGHLAND HEIGHTS  
CHARTER REVIEW COMMITTEE MINUTES  
April 20, 2022**

Mr. Tripi called the meeting to order at 7:00 P.M.

Roll Call:

Present: Michael Barber, Lisa Benedetti, Nick D'Angelo, Sr., Kenny Godnavec, Tammy Cappadonna-Kloss, Phil Piccus, René Polin, Phillip Tripi, Mike Zernic.

Absent: None.

Also present: Mayor Chuck Brunello, Law Director Tim Paluf, Assistant Law Director Michael Lograsso, Council President Ann D'Amico (arrived 7:30 P.M.), and residents Brody and Matt Sekerak.

Mr. Barber, seconded by Mr. Piccus, moved to approve the minutes of April 6, 2022 as mailed. All in favor, motion carried.

Mr. Tripi reviewed an updated lettered list he prepared of items under consideration. Two were added after the last meeting. R refers to adding a provision for an acting clerk of council to Section 4.07 Clerk of Council. Mr. Tripi raised this matter as similar to the provision for a Council President Pro Tem, as there are certain duties the clerk has, and there is no formal provision if the clerk is not available. S refers to asking that a secretary be provided for the Charter Review Committee under Section 13.01. Ms. Benedetti raised this matter pointing out, if it is a member, it takes away from that member's ability to focus on the charter review and participate.

Review and consideration of possible amendments:

Items A, B, D, E, G and H –

Article III Form of Government and Powers, Article IV The Council and Article V The Mayor Sections 3.04, 4.03, 4.12, 5.02, 5.09 Removal and Qualifications - all of these sections are of a similar nature pertaining to qualifications or removal of public officials including boards and commission members. Ms. Sekerak suggested adding words such as "if found guilty of crimes of finance or moral turpitude" and also providing for a board to review any actions taken by a person, if removed.

Mr. Paluf explained that most of the crimes are felonies, which do not permit a person to vote and are covered under the Ohio Revised Code and Board of Election rules. He does not think it necessary to make any changes in the Charter, as a person would be disqualified from voting or running for office. Also, the union contracts for the employees cover these kinds of matters. Mr. Barber asked if people running for office are investigated before running. Mr. Paluf replied they would have to be a qualified voter. Mr. Barber clarified this would apply before, during or after the person was in office and does anybody investigate a candidate prior to elections? Mr. Paluf is not aware of any investigations, but if a person committed a felony they would not be able to vote and therefore, could not run for office. Mr. Tripi explained there is checks and balances in that if something happened mid-term, council by a vote of five members can remove a council member or the mayor from office for certain criteria before a criminal

proceeding takes place. He also looked up forfeiture of office language. He found on The National Civic League website sample language stating a council member shall forfeit their office if they fail to meet the residency requirements, violates any express prohibition of the charter, is convicted of a crime involving moral turpitude or fails to attend three consecutive regular meetings without being excused by council. Another provision from Kansas City states no member of council during their term shall be found guilty or enter a plea of guilty or nolo contendere to a felony, even if subsequently followed by a suspension of the sentence. Basically, it means a person would forfeit their position on council under these circumstances and it could probably be used for mayors or employees of a city. Mr. Tripi thought civil service or union contracts would provide for any removal of employees and the mayor can remove any non-civil service position employee at any time. Mr. Paluf and the Mayor agreed.

Mr. Tripi noted he could not find anything regarding economic crimes and he understands there is a concern since there was an issue a few years ago with the City's mayor, which ultimately did not pertain to anything to do with the City. Fraud would fall under moral turpitude, but some crimes such as drugs or DUI would not fall under it. Council has the provision for removal, which could be used. Mr. Zernic clarified the source of the language is a national organization, not Ohio and Mr. Tripi said yes. Mr. Tripi stated there is some sample charter language for Ohio, but nothing for economic crimes. He believes this may underline Mr. Paluf's statement that these types of crimes are covered by state code. It is also difficult to put something in concisely, as it may be challenged in court. He likes the Kansas City language as it does not make the city wait for a sentencing in order to suspend the official. Ms. Benedetti asked what moral turpitude is. Mr. Paluf stated hate crimes, sexual crimes, theft crimes and Mr. Lograsso added pandering. Mr. Tripi added crimes that offend the ethics of the way society operates. An important distinction is it includes misdemeanors. Mr. Tripi suggested the Committee think about this, as it is a serious matter and discuss at the next meeting. Mr. Zernic clarified the Charter references state law, so is this kind of category captured in state law and would that linkage be sufficient with respect to our Charter? Mr. Paluf stated between state law and board of elections, state ethics, etc. yes, he thinks it is covered. Mr. Lograsso agreed with Mr. Paluf that this was covered. Mr. Godnavec stated since it is covered in four ways, is there any reason to wait two weeks and Mr. Paluf said no, but that was up to the Committee.

*Mr. Godnavec, seconded by Mr. Barber, moved to remove Items A,B,D,E,G,H from further consideration.*

Mr. Zernic verified that there was indeed the linkage between the City Charter and the other laws. Mr. Paluf stated he was confident it was covered elsewhere. Mr. Lograsso referenced a recent incident in another city where the mayor immediately resigned after being accused of misuse of campaign funds, which is covered under state law, as he knew he would be removed from office. Ms. Sekerak noted moral turpitude did not cover finance crimes. These are in the Ohio Revised Code and while her suggestion was a little more stringent, it would need specific language to accommodate some things. She understands it is mostly covered in Ohio code. Mr. Tripi pointed out again the removal provision by council in the Charter, which can be done quickly. Ms. Sekerak stated she saw some of this in the city's ordinances and thought the Charter was harder to change than ordinances, therefore she made her suggestions. Mr. Paluf noted a lot things can be taken care of by ordinance.

*All in favor of the motion to remove Items A,B,D,E,G,H from further consideration, motion carried.*

Item C –

Article IV The Council

Section 4.09(c) Powers and Duties - Ms. Sekerak suggested adding the word “digital” to allow the City to provide digital copies as well as paper of resolutions and ordinances.

Mr. Paluf stated the City is already doing this, so it is not a necessary change. Mr. Lograsso added it is also covered under public records law and this would be repetitive. Mayor Brunello stated he is not aware of any issues with this. Mr. Polin pointed out the current wording does not limit the City to only printed versions. Mr. Zernic noted this might be thought to be necessary if the word “printed” is assumed to mean paper and Mr. Paluf agreed digital could be considered printed. Ms. Sekerak stated she also thought there was a provision for people to pay for copies and if digital was available that would be free. Mr. Paluf said there are provisions for paid paper copies in the ordinances. Mr. Lograsso again referenced the public records laws that covers many situations and requests. Mr. Tripi asked if the state records law supersedes the City’s Charter and Mr. Lograsso said yes, it covers all governmental agencies. Mr. Paluf reiterated everything is moving toward digital, so this is not necessary. Mayor Brunello read that the City ordinance Section 117.06, among other payment provisions, provides for payment of \$5.00 for electronic storage. Ms. Benedetti stated that could be for documents provided on USB storage usually used for larger document requests..

*Mr. D’Angelo, seconded by Mr. Polin, moved to remove Item C from further consideration. All in favor, motion carried.*

Item F –

Article IV The Council and Article V The Mayor

Sections 4.03/5.02 Qualifications – Ms. Sekerak suggested there could be clarification of the provision that the mayor and council cannot hold employment with the City by adding the word “simultaneously” to that sentence.

Mr. Paluf stated this is not necessary. He thinks the language is clear. Mr. Zernic pointed out that in both sections the previous paragraph also states it is during the term of office, so that covers the simultaneous nature of employment. Mr. Polin agreed this was not necessary.

*Mr. Barber, seconded by Mr. Zernic, moved to remove Item F from further consideration. All in favor, motion carried.*

Item I –

Article X Franchises

Section 10.01 - Ms. Sekerak suggested abutting property owners should be notified of any pending franchise requests.

Mr. Paluf stated this pertains to public utilities and property owners have no say in these franchise requests. He believes the City notifies property owners. Ms. Sekerak stated that she has heard some cable companies will go into a multi-tenant property to install for a customer, but there is no customer and they instead tied in, stole electricity and did property damage to the abutting property owner. Mr. Paluf said there is nothing the City can do about it and Mr. Lograsso agreed. Discussion was held and the Committee felt strongly that residents would still like to know something was happening even if they have no consent power, especially something like a tower. Perhaps it could be something that is in an ordinance. Mr. Paluf pointed out that if cable companies run lines in the right-of-way, the City has no control, it is under state law. If someone comes on private property and commits fraud that is different. Towers on public

property would have to have notifications, but a cable box on a tree lawn does not. Mayor Brunello mentioned that AT&T was running new fiber on Brainard and did notify the residents and pulled a permit from the building department. Ms. Cappadonna-Kloss pointed out that there are two issues here, consent and notification. We should focus on notification. Mr. Tripi asked Mr. Paluf to see if something could be added to this section for better notifications and further discussion could be held on May 4, 2022. Mr. Tripi noted that Ms. Sekerak's main point was that once something is done, it is hard to undo.

*Mr. Tripi stated Item I would be tabled until the meeting of May 4, 2022.*

Item J –

Article VII Nominations and Elections

Section 7.01 Procedures - pertains to the number of signatures needed on petitions. The question was if council members felt this requirement was sufficient.

Mr. Tripi stated at the last meeting neither Council President D'Amico nor Councilman Milroy felt it was unreasonable. Council President D'Amico stated the members she spoke with also felt it is reasonable and does not need to be more or less.

*Mr. Barber, seconded by Mr. Zernic, moved to remove Item J from further consideration. All in favor, motion carried.*

Item K –

Article VIII Initiative – Referendum - Recall

Section 8.03 Recall - pertains to when is the effective date of a recalled official's removal from office.

Mr. Tripi stated everyone seemed to be in agreement it would be when the Board of Elections certifies the results and Mr. Paluf stated that was correct. He noted that after a recent recall in a neighboring city, the official resigned immediately after the vote. Mr. Tripi commented that the City cannot change the certification result, so he did not see a reason for any change. Ms. Benedetti noted it might be better not to put in the certification portion, since a person could resign sooner.

*Mr. Barber, seconded by Mr. Godnavec, moved to remove Item K from further consideration. All in favor, motion carried.*

Item L –

Article IV The Council

Section 4.07 Clerk of Council - Mr. Milroy had asked about the reference of a clerk/treasurer under the Clerk of Council section and if it should be removed since it no longer is a position.

Mr. Paluf stated there used to be such a position and we cannot change history, so he sees no need for an amendment. Mr. Tripi noted the position dates back to when Highland Heights was a village and thought it should remain as a historical reference.

*Ms. Cappadonna-Kloss, seconded by Mr. Polin, moved to remove Item L from further consideration. All in favor, motion carried.*

Item M –

Article XI Tax Limitation

Section 11.01(c) - Mr. Milroy had asked if the current language requiring .6 mills of the budget being put toward payment of the police and fire pension costs is still sufficient.

Mr. Paluf stated he did not get to speak with the finance director, but would do so for the next meeting.

*Mr. Tripi stated Item M would be tabled until the May 4, 2022 meeting.*

Item N –

Article IV The Council

Section 4.11 President of Council - Council President D'Amico had asked that this provision be added to provide for a Council President Pro Tem, so when the council president is not available, it is known who will be in charge.

Council President D'Amico pointed out another reason this is needed is when there is the situation where the mayor resigns or is recalled, the council president then becomes mayor. If there is no provision, this could leave a potential 3-3 split in council as to who would become the council president. If there was a provision for pro tem, that person would step in to become council president. While this could be done by ordinance, those can be changed at any time. Personally, she would be more comfortable if it is in the Charter. Discussion was held on the advantages or disadvantages of either way. It is more protected in the Charter than by ordinance. If a council gets political, the ordinance can be changed or amended more easily. Mr. Paluf pointed out that if the people defeat this amendment, council can put it in via an ordinance, but then it is against the will of the people and there is the perception of how that looks. Mr. Godnavec thought an ordinance would be safer to get the provision implemented. Mr. D'Angelo stated he cannot see the people defeating this. Mr. Barber added if it is described properly, it should not be an issue to be adopted. Everyone agreed this provision for a pro tem was necessary. Council President D'Amico asked the Committee to get some ideas of what other cities have, charter or ordinance, before making a decision. Mr. Tripi noted this makes good government sense to have a line of succession.

*Mr. Tripi stated Item N would be tabled until the May 4, 2022 meeting.*

Items O, P, Q –

Article VI Administrative Departments, Boards and Commissions

Sections 6.04, 6.05 and 6.06 - These were requested by Mayor Brunello and pertain to the appointment of secretaries to the Planning and Zoning Commission, Civil Service Commission and Board of Building and Zoning Appeals be consistent.

Mr. Tripi stated the Mayor would like to be the appointing authority for these three boards and to make it consistent. Currently the Charter states the secretaries will be a member of the board and in addition the Civil Service members can appoint an outside person instead. All positions of board members and secretaries are paid. The secretary position would as an at will employee. Mr. Paluf stated the mayor has the authority to hire a secretary, but these three sections are in conflict. He will prepare some language to correct this and make it consistent. Mr. Tripi asked if these would be listed as three separate amendments or one. Mr. Paluf believes they would have to be separate, even though it would be the same thought process for the amendments, but he will check into it.

*Mr. Tripi stated Items O, P and Q would be tabled until the May 4, 2022 meeting.*

Item R –

Article IV The Council

Section 4.07 Clerk of Council - pertains to adding a provision for an acting clerk of council.

Mr. Tripi explained he thought of this after the last meeting in conjunction with the idea for a council president pro tem, that there should be a backup to the clerk of council, as there are official duties that have to be done by the clerk, such as certifications. This would give the Mayor the authority to appoint someone. Mr. Paluf stated he does not think this is necessary in the Charter, as Section 121.01 already gives the mayor the authority to appoint part time secretarial or clerical staff including to boards, commissions and administrative work. This covers the previous charter sections just discussed too, but those have to be cleaned up in the Charter. Mayor Brunello stated he does not think this is a problem. Currently, his administrative assistant fills in if the clerk of council is not available and it would not be necessary to hire someone just to wait in the wings. It has never been a problem.

*Mr. Tripi withdrew Item R from consideration.*

Item S –

Article XIII Charter Review Committee

Section 13.01 - pertains to a proposal for a secretary to be provided for the Charter Review Committee.

Ms. Benedetti stated she thinks a secretary who is not a member of the Committee is needed. However, it does not have to be in the Charter, as there is no reference that a member be the secretary. Mr. Paluf stated, again this falls under Section 121.01 for the mayor's authority. He agreed a secretary who has experience with minutes should handle this Committee. Mayor Brunello added it would allow all members to focus on the charter review.

*Ms. Benedetti withdrew Item S from consideration.*

Mr. Paluf reviewed the items still under consideration for the next meeting. They are Items I, M, N, O, P, and Q. Mr. Tripi stated if Mr. Paluf can give the Committee some language to begin to review at the next meeting that would move things forward and Mr. Paluf agreed.

Mr. Tripi stated the next meeting would be May 4, 2022.

Scheduled meetings, if needed, with all meetings beginning at 7:00 P.M.:  
May 4 and 18, June 1, 15 and 29.

Mr. Piccus, seconded by Mr. Godnavec, moved to adjourn the meeting. All in favor. The meeting was adjourned at 8:25 P.M.

Approved:



Phillip Tripi  
Chair

Submitted by:



Lisa Benedetti  
Secretary

**Attachment:**

HIGHLAND HEIGHTS CHARTER REVIEW COMMITTEE LIST OF PROPOSED CHARTER REVISIONS:

May 4, 2022: The status of each of the issues considered by the end of our last meeting is listed as OPEN (pending), WITHDRAWN, or REJECTED. Prior to the start of today's charter committee meeting, we received additional suggested proposals for revisions to the Charter from the Board of Elections. Those NEW proposals have been added to this list, starting at letter T.

Ltr. Section    Description of Issue Raised

- A. 3.04            Removal of employees following conviction for economic/moral turpitude crimes and disqualification from office—REJECTED 4-20-2022
- B. 4.03            Disqualification of Council candidates for economic/moral turpitude crimes and permanent disqualification from office—REJECTED 4-20-2022
- C. 4.09C          Publication of ordinances and resolutions by digital means—REJECTED 4-20-2022
- D. 4.12            Suspension of member of Council for economic/moral turpitude crimes with review of member's participation in enacting ordinances—REJECTED 4-20-2022
- E. 5.02            Disqualification of Mayoral candidates for certain criminal convictions—REJECTED 4-20-2022
- F. 4.03/5.02      Clarification that Mayor and council members cannot hold simultaneous employment with the City—REJECTED 4-20-2022
- G. 5.09            Removal of Mayor for certain crimes and review of Mayor's actions—REJECTED 4-20-2022
- H. 6.02            Suspension of Board members for certain crimes and review of actions—REJECTED 4-20-2022
- I. 10.1            Notice to affected abutting property owners of all new franchises--OPEN
- J. 7.01            Is council satisfied with current requirements for number of signatures on nominating petition filed by candidates—REJECTED 4-20-2022 AS COUNCIL IS SATISFIED WITH CURRENT PROCESS
- K. 8.03            Clarification of when a recalled elected official's removal occurs—REJECTED 4-20-2022 AS ISSUE IS CLEAR THAT CERTIFICATION BY BOE IS EFFECTIVE DATE
- L. 4.07            Clean up language regarding the Clerk Treasurer position—REJECTED 4-20-2022 AS PRIOR POSITION IS HISTORICAL REFERENCE ONLY

<u>Ltr.</u>	<u>Section</u>	<u>Description of Issue Raised</u>
M.	11.01C	Sufficiency of the Police and fire pension costs ceiling of .6 mills--OPEN
N.	4.11	Create position of President Pro Tem of Council—OPEN
O.	6.04	Appointment of Planning and Zoning Commission Secretary--OPEN
P.	6.05	Appointment of Civil Service Commission Secretary--OPEN
Q.	6.06	Appointment of Board of Building and Zoning Secretary--OPEN
R.	4.07	Provision for Acting Clerk of Council—WITHDRAWN 4-20-2022
S.	13.01	Proposal for Secretary to Charter Review Committee—WITHDRAWN 4-20-2022
T.	4.08	Rationale of 120-day limitation on elections to fill Council vacancies--NEW
U.	5.08	Rationale of 120-day limitation on elections to fill Mayoral vacancy--NEW
V.	7.01	Consideration of write-in candidacies for elective offices--NEW
W.	8.01	Timeline increase to 120 days for Initiative--NEW
X.	8.02	Timeline increase to 120 days for Referendum--NEW
Y.	8.02.02-5	Timeline increase to 90 days for submitting ordinances to the voters--NEW
Z.	8.03	Timeline increases for Recall--NEW
AA.	12.01	Change Petition requirements to amend the Charter—NEW