



Charter Review Commission Minutes

Stow City Hall Boards and Commissions Room, Thursday, March 19, 2015, 5:30 p.m.

Members Present: Andrea Denton, Kelly Johnson, Robin Kory, John Long, Tim Schofield, Annal Vyas, Nicole Walker, and Mary Botts

Members Absent: None

Also Present: Law Director Amber Zibritsky Councilman Jim Costello, Councilman Brian D'Antonio, and Ken Barnhart, City of Stow Parks and Recreation

Meeting called to order at 5:31 p.m. by Robin Kory

Approval of Minutes – Motion to approve the minutes of March 5, 2015 by Tim Schofield, seconded by Andrea Denton, motion passed 7-0 with no changes.

The Committee welcomed Amber Zibritsky, City of Stow Law Director, and Councilmen Brian D'Antonio and Jim Costello.

Mr. Schofield asked if Mr. D'Antonio and Mr. Costello would take a few minutes to tell their journey to how they have gotten to where they are at right now as Council members. Mr. Costello said I have been doing it ten years now and I am going to run one more time. It is a two year term. I got started on Council when Ron Alexander was complaining they had term limits back then and Council was going to lose 80% of the existing council members due to term limits if term limits were not removed. The concern there was there were no good candidates coming in. I was finishing up my military career so I had a little extra time on my hands with nothing better to do so I said why not. I saw the way the previous Law Directors wrote the verbiage so you had no clue whether you were voting yes to repeal them, or no to keep them so at that point I said I want to go in and just put more common sense there and that is why I have been doing it. Ms. Kelly introduced herself and said she was from Ward 2 and it was nice to meet Mr. Costello. Ms. Denton asked if he had always been Ward 2 Councilman and Mr. Costello said yes.

Mr. D'Antonio said I was on the 2010 Charter Review Commission, which I was glad to be on and I actually enjoyed. and before that, coming and listening to the Charter Review Commission. My parents were both Council members so I always had some interest in it.

Mr. Long had a question for Mr. Costello. So you are the seasoned veteran on the seat and Mr. Costello said yes. Mr. Long asked what is your take on how it is structured now with every two years re-election? You have been there a long time and you obviously know. Mr. Costello said I will tell you what I have told the previous Charter Review. I think two years is too short. I have said that from day one of being on Council because you are taking a new person who comes in and doesn't know anything about the City's

workings, it is going to take you at least six months to a year to get comfortable. Other people will argue that point but to get comfortable it would be six months to a year and then you have to turn around and run for re-election again, so really you are only working six months to prove something before you have to run for re-election. Personally, I think it should be four years and I also told the previous Commission that I disagree with term limits. The only reason I disagree with term limits is because it takes it out of the hands of the populace. People say you run on name recognition and if people recognize your name and think you are doing okay, they are going to vote for you. Mr. Long said so you feel four years and do you believe in staggering because the way it is set up now everybody runs at the same time. Mr. Costello said it should be staggered. You would have to stagger so that maybe you have the wards running one four year period and the next year you have the at large running. That way you don't have a complete change over in Council. This would be a good time to do it because of the previous term limiting passage, you would be able to get it in. You can't change the Council's term midstream so if you do it now with this commission, then your term limits would fall into place without any problems. Amber said that was the provision because I had a study item, for lack of a better term, that I wanted to kind of submit to the Commission here tonight and it was actually that specific section which is Section 21.08 where we talk about the term limits for elected officials. That is what the last commission did in the term limits, and I have some concerns with it and I am with the Finance Director and the Mayor. They are a little bit more detailed although I agree with everything you (Mr. Costello) just said from a political perspective. I have some issues with that language but I do agree with what you said that this would be a good time, if you wanted to reevaluate it because the fact that they were having to commence in 2012, it says commencing on January 2, 2012 so you will kind of be in that now, it is 2016 which is four years later. I don't want to interrupt in anybody's questions but I could go right into what my issues with that section were.

Mr. Long said let me ask Brian, what is your opinion on the two questions that I asked Jim? In addition, because you sat on the Charter Review, can you comment on prior discussion of this matter and where the thoughts fell? Mr. D'Antonio said unfortunately, I was on the losing end of that because I think it should be four years and no term limits regardless but the majority won. Unfortunately, I think I remember looking back and every time we asked for a change for the voters, they changed it. At-Large used to be four years and wards were only two years and they were both four years for awhile and then they both went to two years. I think even at one time had a staggered term. Every time a Charter Review Commission brought it up and they put it to the voters, I guess we like yes on issues. I am a firm believer in four years. Some of it because you do have to start running again and truthfully it is a hard job, but the hardest part of the job is getting elected, as far as time involved and work and the monies spent or raising the money to run. The other thing was having the three elected officials of the administration on different terms as Council. It always seemed odd to me that they would not be on the same term, so the administration will go through two different Councils before the next election so things just don't stop January 1st because of the new Council. Some things that you have been working on for six months, it is going to happen whether it happens every two years or every four years it is going to happen but you could also end up with a new administration the fourth year not the second year. Term limits are a little more trickier. I always thought that term limits were, we are not voting for the Senator or the

President, it is not really controlled by money. I am a four year and no term limit person. I believe that last time when the council members came in to testify at Charter Review, I remember specifically a few of them wanted two years and term limits and they were big on it. I saw John had mentioned it and I had thought of it before, the term limits for Council, why wouldn't the ward council person run against me next time and then his term limits will start over because now if he or she wins, they are going to be an At Large person. They are going to start over their eight years again. If I certainly want to be here longer than eight years, I would try to run in Ward 2 and start my eight years over again. It is different being a Ward Councilman and an At-Large Councilman. I think the Ward Councilman takes more issues and calls because they are known or they have a tough ward, or a specific ward can be tough that year.

Ms. Kory asked how do you feel about having Ward Council persons rather than everyone being At-Large? Mr. D'Antonio said from the three and a half years of being there, everyone's vote is the same. I think the setup is good. I get called many times just because they know me or I get called from the Ward Councilman and it is just basically saying I just want to let you know I am meeting with so and so if you want to join in.

Mr. Costello said I agree with Brian. It is a good set-up, however, we all handle any calls that come to us, even if it is not specifically our ward. I get a lot of calls from a certain side because I stop at S.R. 91 but I would get calls on the other side. I would talk to them and find out what the issue was and I would call the ward for that person and have them contact them as well. It all works out and it is a good set up and it allows somebody to be more conscientious for that one little section.

Amber said I agree with all of what you guys are saying on the political part. There are a couple of issues of how the wording is on the most recent term limit that was enacted on 21.08 and one of the issues that come about with having all of these term limits with all of these different positions and I am going to kind of focus specifically on the Law, Mayor and Finance Director full time positions. Right now we have, and if you will see it says no elected official shall serve more than eight consecutive years in the same elected office. We have a situation that luckily it hasn't happened yet, my predecessor term limited. He was in his last two years, what was he going to do? Is he going to wait until December 31st to start looking for a job? No, he doesn't have a job and he needs to keep his eyes open and he was doing the smart thing which was keep your eyes open as much as two years in advance. He had a great opportunity and I know he didn't want to leave. He liked his job here. He had to face that he might not have this job opportunity a year and a half from now. I have kids, have to support myself, I love my job but it is a job just like it is for everybody else so he took the job and left. Luckily I was here and I was able to be appointed, but lucky for me and the City, I believe, there is a part, because when you look at the vacancy part, and this is where the issues come about, because when you start putting these term limits for the full time people, you are going to see what happened to Brian possibly happen to Sara, possibly happen to John in the next four years. These are people that are not just going to go straight into retirement, they have to keep working most likely. Their jobs don't just easily fall into January 1st the day after their term. For Council people this doesn't happen as much because it is a part time job, they have day jobs. You are going to start having these people leaving their term, sometimes six years in and sometimes seven years in. On the vacancy on mine, it said if

it was within, Section 9.05, where such vacancy occurs less than 31 days prior to the filing position deadline, then you can be appointed for the remainder of the term. I was lucky in the sense that municipal elections are on odd years. He left in an even year but if he had left a year prior, and who knows that might have to happen with the way that the limits are and people saying I don't know what is going to happen, I can't stay here forever and I might have to leave, then what you have is you are going to have a special election and that actually happened with the Clerk of Courts. Now the problem that I see where we have some of this language about no more than eight consecutive years in the same elected position and now I am going back to 21.08, it might be a little confusing, if that happens where somebody has to leave early and they have to have a special election, things are going to be really off because then what happens. In a special election, you are only elected for two years so then you get elected for a four year term and then you have to run for a four year term but after two years, you are out. This is a major issue. I am very lucky that even though I was appointed, that is not going to affect me. I can run for election this year and have two terms in eight years and I won't have that situation happen. Now that we are seeing term limits coming into play on everybody because as you see, they were kind of staggered into, these are more of a recent thing, these types of issues, I think will happen. I see the argument for term limits but I think in the local context, especially in a modern society, they are not as needed. People have the ability with electronic devices everything else, it is not as hard as it used to be to unseat somebody, especially in the local context. I agree with you on that point. If we decide that term limits are the way we want to go, which is up to you guys and the City ultimately, we kind of really need to put some time and effort into how that goes about. I think the staggering is really important for the longevity of the terms and I also believe, at minimum, rewording this so when these vacancies happen, because they are going to happen as of these term limits, we have a way to address them. One way that I remember, I talked to John Earle, John Baranek, the Mayor, if you wanted to keep the term limits, an easy way is to just have where if somebody is appointed or a special election, just not count. That would be the easiest way to do it.

Amber said if you guys ever need help with wording, I will be happy to help. I can help you draft these. Working with the Law Department for a number of years, that is our job and my job is to sit here and look at this language and say okay, what if this happens, what if 30 steps down the road this happens, does this answer everything. Ms. Kory said can it be written so that the City can understand it? Amber said I think so, I guess I can say is it is hard to put everything in just plain language, the best drafting does both to be honest. The best statutory drafting makes it so that somebody who isn't a lawyer understands it but that somebody who is a lawyer trying to interpret it this way or that way, the meaning stays in it.

Ms. Denton said doesn't somewhere along the way, the Board of Elections decides what the language is too? Amber said the Board of Elections will certify. What they are looking at is it clear enough that somebody can understand it and that they understand the question and that there is one question. That is the hardest part. I don't know if that is going to be much of an issue to you guys because you submit a whole section and the whole section is this or that, but that would be something I could help you research and look into and see what the Board of Elections qualifications are. That can be very tough. As we know we have had one ballot issue, the income tax thing a couple of years ago.

We went back and forth over and over again making sure that the language was perfect. People need to know exactly what it is they are voting for and not be confused by it and then the City also needs to be bound by exactly what the people voted for, so there is a lot to that. When it comes to those parts, I would be happy to help you all if you would like to use me for that part. I try to write so that anybody who isn't a lawyer understands it.

Brian said I think what happened last time was that Brian Reali was in a few times but we sent the questions the way the Commission thought they should be, and then he would write if I was writing it today, here is what it would be and then when they narrowed it down, then he wrote it and it went to Council, and I even still think after that there may have been some discussion. I don't know if there was language change but then the Commission had to agree on the language change. Ms. Kory said sitting here we have spent too much time just trying to decipher one sentence at a time and thankfully we do have some legal knowledge here but even still, we are not very clear and I can't imagine presenting something as big as staggering or extending from two to four and how that is going to come out in legal terminology and Joe Voter is going to walk in there and not know. Ms. Walker said that happens all the time. We go in and read something on the ballot and we are not sure if voting yes means we are for it or not. I think there has been a movement in the law to get away from legalize. I would never use the term "aforementioned" in any sentence anywhere. Amber said I agree with you. I don't think you need to make it a terminology. I think it is important to think of the legal implications and I think that is a better way to put what I was thinking.

Amber said I think that term where these term limits were addressed which were created in 2005, 2010, these are some of the more recent stuff that could be written better to either reflect the true intention, to address some of those things to make them understandable because there is a lot of this that is confusing.

Mr. Long said when you said no elected official can serve more than eight consecutive years in an office, is this typical in surrounding communities? Amber said the term limits, with my knowledge, which is localized, is different here than in most areas. Most areas don't term limit to this extent. Now if there are term limits they are longer. There is a mixture of this position being elected. There are pros and cons. I can go either way on it. Mr. Long said so there isn't a consistency. Amber said there is a mix on the Law Director part. On the Finance Director part, I do not know of any place that elects a Finance Director. The Law Director part, there is argument for and against it. You ultimately work with the administration the most and it would make sense to have them appoint somebody that they need to trust and feel comfortable with to get something done. On the other hand, from a Law Directors perspective, and that is why I do say many places do have Law Directors elected, I also technically represent Council, I represent the Judges, and I have all these different competing interests that I have obligations to but when you are appointed by one, you still technically, along with those obligations, the reality is they end up serving one appointed. One thing about my job I feel I can be honest about my position to anyone, even if it is the Mayor or it is somebody on Council. My job is to be the bad guy and it's really not fun in that way. I have to tell people that they are wrong and what they want to do is maybe not quite the way they want to do it may not be legal so they have to find another way. People don't want to hear that sometimes and if you work for somebody who has employment power over you,

you tend to kind of sugarcoat it and that may not be the right thing either so there are pros and cons to having my position elected. I don't really see any pros to having the Finance Director elected. Brian said I think we lose our pool of candidates. I don't know if that is a job you want. Ms. Denton said another concern I have about losing candidates, and maybe I am missing something on this with the eight year limit, you guys are in PERS retirement system but to become eligible for health insurance, you can't become eligible for health insurance with an eight year employment. If they know they are only going to work for eight years, they are either bound to find another public employees place to go to or they are not going to take it to start with if they are looking down the road at the future.

Amber said from a personal standpoint, I haven't been here as long as others but my secretary has been here for thirty years and as we having these longevity persons with people not at the top, sometimes I think it gets really hard for them to just have these constant changes. Part of it is politics and it should be because people should have the choice to decide the direction of government but when you have somebody good and you get this momentum and then it is just gone, it can really be demoralizing to the people that are kind of here for a long time and after awhile they start saying what I do here doesn't matter. The truth is, they matter more than any of us because they are the ones that carry the history because it is not people at the top. There are some issues with that with term limits. It definitely merits consideration. There are pros and cons to everything.

Mr. Schofield said we have spent a significant time on term limits and you guys have all seen the Charter and have been involved with it. Are there any other things that you think this group, and I know it might not be tonight but in weeks to come, are there are any other issues that you would say, hey, I would revisit this. Term limits obviously have consumed our time in a good way but I realize that there might be other things that we haven't gotten to yet in the Charter that might come up.

Amber said there is one section about ability I believe to enter into contracts without competitive bidding. It is not exactly enforced but should that become an issue in the future. Essentially the way it is written it is terrible. It would be an easy thing to eliminate. We have our own rules about exceptions to bidding and so forth that are in contravention of that actually but to be honest, this place would not run if we did not have that. If that provision was truly enforced, we would be the most inefficient government. Amber said what we really have is Board of Control for below \$15,000. They don't have to do formal bidding depending on the type of contractor they have. They don't have to take it to Council and they shouldn't have to do a formal bidding but they do have criteria, it has to meet one of these other things or they have to do informal bidding where they can just call up three guys which I think is all great and it should stay the way it is but technically, that provision is in conflict.

Brian said I know you talked about President and Vice President terms of Council. I personally don't think there should be a limit on it. They are voted by their seven peers and their like or dislike is really, to me, is about their administrative function. I think Matt is a very good President of Council and I would vote for him again if we could regardless if he agrees with me, the power of his vote is the same, his or her vote is the

same. Mr. Costello said it says every year but basically it becomes a two year term and then that was sort of set up so again every two years election, but again, I agree with Brian, I sort of pushed Matt into running for President of Council after my two year terms.

Mr. Long asked who determines if a Council person abstains from a vote based on a conflict with what is going on with their life? Brian said their personal legal opinion. Mr. Long asked is it up to the individual to say I abstain saying this is a conflict? Brian said I believe they can ask Amber for an opinion. Amber said yes, it is technically up to their own ethics. Everybody is responsible for their own ethics, for better or for worse. Sometimes they will ask the Law Department for an opinion but that is all I offer is an opinion. It is ultimately up to them. They can also ask the Ethics Commission in the State and the State will give you an opinion on what they recommend based on the rules and that is usually pretty indicative because they kind of also help decide if you break the rules, but there is nobody that is going to force anybody to do or not to do something but there can be consequences.

Mr. Costello said if you come up with something later that you would like input from us, feel free to e-mail us or have Mary call us.

Mr. Schofield said was there any discussion on Council has to put this on the ballot if it goes? Mary Botts said Brian Reali had given his legal opinion at the last Charter Review that they went in front of Council but it was a formality. Council has the right to review. Amber said it just says Council shall submit to the electors all such proposed amendments to this Charter with the provisions with the constitution of Ohio so I would have to look at the Ohio Constitution, that is the biggest part. They talk about initiatives and also sorts of stuff about the language that actually came into play when somebody did a petition a number of years ago and that is how those rules come into play more about the form which Board of Elections takes into account as well. I don't think they can sit here and say, no, you guys want to get rid of term limits, well we like them so, no. If you want something to be submitted, it has to be submitted. The language might be tweaked because of those other legal considerations but the concept has to go forward.

Regarding the verbiage in the Charter, my opinion is to look at big things and certain areas that you think might have a problem. To look at the language of the whole Charter, that might be a little bit too broad. I would say, we don't like this idea of the purchasing thing, focus on that, or we want to look at term limits. Find something that you really want to look at. It is one of those things that don't cause us everyday problems and probably do what they are supposed to do even if they look funny and maybe not written in the best way, they probably work.

Ms. Kory said if anything we submit, I think if we can put it in nontechnical terms. Amber said that was fine. Mr. Vyas said I think the best legal writing is plain writing.

Ms. Kory thanked Mr. Costello, Ms. Zibritsky and Mr. D'Antonio for coming tonight.

There were no further comments or concerns. Next week's homework will be Chapters 7, 8, 9 and 10. The next Charter Review Commission Meeting will be held Thursday, March 26th at 5:30 p.m. in the Boards and Commissions Room.

Motion to adjourn by Nicole Walker, seconded by John Long. Meeting adjourned 6:45 p.m.

Mary Botts, Secretary

Robin Kory, Chairperson