



## **Charter Review Commission Minutes**

Stow City Hall Boards and Commissions Room, Thursday, April 16, 2015, 5:30 p.m.

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

**Members Absent:** None

**Also Present:** Councilman Brian D'Antonio, John Baranek, Mary Mumper, Ms. Gross, and Jeff Saunders, Stow Sentry

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

**Approval of Minutes** – Motion to approve the minutes of April 2, 2015 by Robin Kory, seconded by Nicole Walker, motion passed 7-0 with no changes.

Ms. Kory welcomed John Baranek, Finance Director, to the meeting. Ms. Kory asked Mr. Baranek if he had anything in particular that you would like to discuss about the Charter or are you here for our questions? Mr. Baranek said not anything in particular. I know you discussed a lot of different things relating to the set up, the way the current set up of the Charter has with the positions. I think it works well for the positions that are elected and that are sighted in the Charter. One clarification that I notice from the one set of minutes is when they were talking about appointed. The Finance and Law Director were never appointed by the Mayor, they were always appointed by City Council so just to clarify some of the other issues that they had come out prior to that. With term limits, my idea of term limits, especially for local government is, they are here, they are going to stay, but for a small, like a local government, I think it really doesn't serve a good purpose because of the size of the municipality as compared to size of a County or a size of a State or a size of the Federal Government. Ms. Kory said so you are against term limits then. Mr. Baranek said I would have to say personally I am because voters have every two or four years, they have their chance to either kick somebody out of office or put them into office. Ms. Kory said is that for the Finance Director? Mr. Baranek said the Law Director and Finance Director. Ms. Kory said as well as Council? Mr. Baranek said yes, even more so with Law and Finance because they are professional positions so it is harder to find a professional person to step in for an eight year term and then expect them to leave and go back into the private sector at their same rate that they left at or even more but with the way the playing field is, I think the voters in Stow have spoken on that and they prefer to have the term limits as they have set, even for Council and for Law Director, Mayor and Finance Director. When I ran, I ran against the incumbent and actually beat the incumbent so it can be done. It is a lot of footwork and you have to go out and sell yourself. I don't feel like I am a political person but I deal with the City's finances and try to keep a neutral look at what we are trying to accomplish with the City between the Mayor's office, administrative and Council and all of that. I am here to answer any questions that you might have.

Ms. Kory said we will go over our notes that we have from other areas to ask your opinion. Ms. Denton said one that I don't know if we have down there or not but I have been curious about it the more I thought of this is, especially for you and the Law Director, and the Mayor too as far as that goes, is Public Employees Retirement. It takes basically ten years or more to be eligible for medical benefits and so forth at retirement. I have been playing around in my head with what if the term limits got changed to twelve years so that folks that were hired in these positions would have the possibility of benefits because I would think, especially somebody who is needing that for retirement. Mr. Baranek said that is a thought because that is where PERS stands right now. You get, and it might have changed because it did change back and forth, but ten years was always the vesting for healthcare and I think it is still vested for healthcare but a different style of healthcare and a different percentage that you pay. That is a valid thought for it but I think when we originally did the charter and did the term limits and that, that would probably be an area that they can look at. The problem with those areas is when, and I don't know how legal it is, but if you go and vote for the change to twelve years, does that now put the time back to day one of the term limits so now you would have ten successive years, and I think the reason why they did eight was because the way the elections are, you have four year terms and two year terms to it needs to be divisible by four I guess for them to do something like that, not that you can't do it individual one. Ms. Denton said it was just something that I thought about because I would see it limiting the field of who would want to run. Mr. Baranek said it is a difficult thing. When I first started, I don't believe there were term limits on and then they put term limits on and took them off for certain positions and then put them back on so it sort of went back and forth but for the most part, I think the environment out there for the elector in Stow is they like the term limits. I think basic term limits are you are just trying to avoid making a bad decision by majority of the voters, you can only do it twice, at least for a four year position. Mr. Long asked if Mr. Baranek was, as stated in the Charter, with what the qualifications are in someone in your position? Mr. Baranek said for the Finance Director, I think it is an all encompassing area. I think if you have your college degree, you are getting a flavor of all of that in most of your classes, whether you take public administration classes or accounting classes, everybody has the accounting when you go through it, but there still is a learning experience when you go from the private to the public sector because that is who it drifts, it drifted with me when I came out of the private sector into the public. Mr. Long asked is there an audit that you are subject to outside? Mr. Baranek said we are subject to an annual audit by the State or their appointed accounting firm, if they allow us, we can go have somebody like the Lloyd do that or whatever but you do have to go out and technically bid for that but the State Auditor, unless they say, yes, you can go do that, the State Auditor comes in annually and audit our books. With that, which we don't have to do, but we also create a capper which is a comprehensive financial statements for the City and it has the City's financial statements for the year as the audit is a part in there as a section and has explanations of the different areas, just like a corporate annual report that we do. Some of the things that we do is we try to become more transparent, you can go out on the city website and actually access the audits through a link down to the auditor's website.

Mr. Schofield said double dipping was brought up. Ms. Kory said that is not in the Charter. Mr. Baranek said there is nothing in the City Charter that says you cannot do it.

The State, with the pension system at the State and all that, they allow it so it does happen. Mr. Schofield said I think this doesn't pertain to this team, it was just a context that came up within a discussion. Mr. Baranek said one of the other things too when we are talking about term limits, that it is not very clear on, that when a person is appointed to fill the elected position, actually that I believe, you probably should get clarification but I believe if somebody does get appointed to fill out your remaining two years, that is actually considered a term so they may only be in office for six years filling the term that is left for the officer that is leaving and then an additional four years because it says eight years, I believe in there is term limits so that may be the only place where there could be some clarification to where you put in two elected terms or eight elective years so that would be the only clarification that I see. Ms. Kory said she didn't understand the Public Employment for Retirement. You said it takes ten or more years to obtain benefits? Mr. Baranek said under the retirement system, the PERS system, they have different levels of vesting, if you want to call it that, in the system and at ten years, you get vested in their insurance that they offer through the PERS system. If you don't get the ten years in, you are going to be out under, if you want to call it Obamacare, you will be out. Ms. Kory said so those are your benefits for when you retire, healthcare. Mr. Baranek said healthcare and then if you retire at ten years, your pension that you would get would be very small because the way it is calculated. Ms. Kory said so when we have term limits on somebody for eight years, you don't get really anything so all the more reason to not run. Mr. Baranek said the only thing you would get is whatever vesting you have in the contributions that you put in every pay. 10% of my pay, I get deducted into PERS system and then the City matches 12%. At some point of time, you get vested into the City's portion but for a regular employee, you have to retire to get that. You can quit and get some portion in a lump sum payment to you at that point in time. Mr. Long said say for example a school teacher in the system, that adds to your..? Mr. Baranek said right, it combines, there is some combining of the system. Mr. Long said so somebody who is a city employee, state employee. Mr. Baranek said not the Federal. The State of Ohio falls under PERS, local governments fall under PERS, your city workers, they would fall under PERS. The schools are under STRS which is a different pension system, police and fire are under their own pension system so they are not under PERS so there are different contributions that come out for police and fire, we have different contributions that we make to their pension system that are different than PERS so there are actually three pension systems and usually what happens is when you go to retire, such as me, I worked under both social security and PERS, what social security does is they look at my PERS and then they go through their formula and they say you are going to get say \$50 a month of social security and the rest of yours comes out of your PERS so there are some formulas that the pensions, the public pension and the federal pension system. Ms. Denton said and within the Ohio system with the SRTS and the PERS, they do combine them when you retire and then they have their own formulas. Mr. Baranek said they have their own formulas to share the cost and different things like that because there are people who have been in both systems that do that.

Ms. Kory said so you are qualified, and step away from a higher paying job to come here and not get those benefits. It certainly is not a more difficult position, that I would assume, then working for a national firm or law firm. Ms. Denton said and limit our pool of candidates. Mr. Baranek said that is not saying that somebody that might have a County position might not run for an office here in Stow but then they would have to

leave their County position to come here for eight years. Now, will they be able to go back to the County? That depends on whoever is in office as to where they came from because you can't hold two positions at the same time. The Mayor, Finance and Law Director all considered full time positions and in the Charter it says that we cannot hold another elected office anywhere else. Ms. Walker said I guess my comment about this whole thing would be, are we looking at a problem that doesn't exist? Has there ever been a time where we haven't had a pool of qualified candidates to serve as either Law Director or Finance Director? I don't know the answer to that but I would think that this discussion has been going on a long time through many of our meetings and I don't know that a problem exists currently. Mr. Baranek said that is why I don't think you have to play with qualifications or anything like that because you don't know what kind of pull you are going to have. I have been fortunate in the years that I have been here because I have been under term limits and not under term limits so this is actually my 20<sup>th</sup> year here so I have been through five elections and in that time, sometimes I have had an opponent and sometimes I did not had an opponent. In some other cities, I don't think it is a predominant thing that people have term limits or things like that. What you end up doing is you end up losing a lot of your, what I call "influence" of being somewhere for a long period of time, especially in the county. If you sit on a fiscal committee or something like that where you are not going to have somebody who has a lot of experience on that committee. Many of the Finance Directors within the County are appointed here in some form by a City Council or by the Mayor. I only know of in Summit County maybe three that are elected; Stow, Tallmadge and Barberton, I believe are the three Finance Directors that are elected. Medina also elects theirs but that is in Medina County. Your pool of candidates, you find out when it happens what your pool of candidates is going to be like and it just so happens that when I ran the first time, there were three candidates, and then there was no opponents and then there were a couple of candidates so it sort of ebbs and flows. It all depends on if you want to try to take out eight years or if you are somewhere else and you could be a City Councilman and run for Finance Director and not give up your seat until you win but if you become Finance Director there and you got your PERS going under the other elected office or even an employee could do that.

Mr. Vyas asked what is your opinion of staggering terms with Council? Mr. Baranek said I don't have a problem, I think there is a lot of other communities that have staggered. I think you just have to figure out the correct way to do it; on years, off years and then when would you start to stagger, who is going to get to stagger, are you only going to stagger ward council people, are you going to stagger all the council people? You have to come up with sort of how you want to stagger because there are other communities that do stagger. Mr. Long said do you like it the way it is now or would you prefer stagger regardless of how it is figured out? I think the plus for me under staggered would be that you don't have the propensity of losing all the councilman at one time. You at least have some knowledge of a previous council if three out of seven, you have three that are in two years and the other ones in the off year, however, you go three and four and the most you are going to lose is going to be four people in any particular election so you still have three people that have some knowledge of how things work. I think your experience and knowledge you might lose them all at one time without staggering so I think that is one of the things that I see that would be an improvement to have them staggered.

Mr. Vyas said I was trying to figure this out in my mind, I guess the counter to that, I think that somebody said well you could come up to speed pretty easily and it is not too tough. What do you think about that? Mr. Baranek said usually what happens, because our Council is all set at two year terms which is brand new, it usually takes them three to four months to maybe understand how things go and progress. Well then they might have a year, and then all of a sudden you get into that next year and now they are in re-election mode so now they are focusing on reelection mode when they do that, especially for two year terms, it is very hard. I know there have been opponents of at-large council people going to four year terms because they run city-wide as compared to ward people who only have a finite area that they are dealing with. I have always run city-wide and it is four years and at least you can concentrate for three years to get something accomplished. Staggering would mean you would not lose all council people at a time.

Ms. Kory said in Section 15.01 in Limitations of Rate of Taxation, regarding the first paragraph, it says 7.2 mills in any one year and an additional max of 2.3 mills, so for a total of 9.5 mills. Mr. Baranek said what that is, originally under Ohio Constitution, is they have millage, charter millage for cities, counties, everything, there is a certain amount of millage that you got and our original millage was when we started for cities and then you can commend, you can actually add millage by going out to the electorate like we did for the EMS levy to add charter millage which is a permanent addition as is compared to what some of the school millages are that they have for their charter issues and basically the 7.2 mills in the beginning, and I don't have the breakout, is broken down between, I think there is some pension, police and fire pension that is included in there and then some regular millage for city operations that you get through property taxes. Right now the 2.3 mills was added to the EMS services that we did back in 1999, I believe. For the income tax, we cannot do anything with our income tax unless it is voted so right now we are at 2% and 1-1/2% is for city general fund and then the extra 1/2% is actually designated out and we just passed an ordinance where we show how it is broken out but it is broken out between police, fire and parks improvements and there is a fourth one in there but I can't remember what it is, so we have to take that and we actually have to account for that separately, the 1/2% tax that we collect.

Ms. Kory asked Mr. D'Antonio if he had anything to discuss and Mr. D'Antonio said no, he was just listening.

Ms. Mumper said I am just a resident from Stow who is concerned about my local government. I just have to say that I am in support of term limits and only for council members. I don't know about the others but I feel that this was never meant to be a full time job, that our founding fathers did it for free and I feel when they become too regular and too ingrained, just as you see in Washington, it is really difficult to get some of these people out because if you go to a council meeting, you would be surprised by how few people attend council meetings. Most people don't know what is going on in their government. Frankly, I became involved several years ago when they literally planned on inspecting our home with a prison term, I have that ordinance if you don't believe me if you want to see it, it went down but only because people became alert to what was going on. I have also sat in Chambers and heard a council person say, just let them sue if the charter wording is unconstitutional so I have become just trying to kind of watch and

see what is going on and I am very much in favor of term limits because unfortunately, people don't know what is going on and I think it is not a full time job. Most of these people have other jobs and they have their retirement with their other jobs and they should not lose sight that they are here for the residents and not for themselves, that is my personal opinion. Ms. Kory asked how Ms. Mumper felt about the two year versus the four year for the council. Ms. Mumper said I can't really say. It doesn't matter that much to me. To be honest with you, I would not want to be campaigning every two years, it does seem like a lot but I don't have a strong opinion on that. Mr. Vyas asked Ms. Mumper if she had a strong opinion on staggered terms at all. Ms. Mumper said I don't even have a strong opinion on that, to be honest with you.

Ms. Kory asked if there were any more opinions or questions from the audience. There were none.

Article XVII – Initiative, Referendum and Recall – Section 17.01 – Initiative – Ms. Denton asked if that had ever happened. Mr. Baranek was not aware of one.

Section 17.02 – Referendum – Mr. Vyas asked when was the last referendum. Mr. Baranek said it might have been term limits? He was not sure. Mr. D'Antonio said a group of people brought a petition and all petitions go through the Board of Elections and I think it was term limits.

Section 17.03 – Recall – Ms. Denton said I was interested on the recall that there doesn't seem to be any specific grounds for recall, just if a group of people gets together and decide that they wanted to have somebody recalled and could get enough signatures. Ms. Kory said just the person serving has to be there for six months, petitions signed by qualified electors equal in number to 25% of the total votes cast, no grounds. Ms. Denton said I am not saying there should be I just thought it was interesting. I kept waiting to see what you had to do to be recalled.

Section 17.04 – Recall Petitions – No other questions.

Section VXIII – Franchise – Section 18.01 – Granting of Franchises – Ms. Kory said do I read that to mean if I live on the corner and I have a little piece of somebody's property here and I am next to it and if they want to put in a Verizon power right there next to my house. Ms. Denton said that is what I would guess but I don't know that for sure. Mr. Vyas asked when was the last time this section was invoked. Ms. Walker said it is a public utility, right? Ms. Kory said I would just be concerned as a property owner. Mr. Long asked Mr. D'Antonio isn't there a lot more filters that this you would have to go through? Planning Commissions, Zoning, then Council collaborates over it? There are a few checkpoints in place before something would just take place, right? Ms. Kory said I would want to know my rights, I want to know under Section 18.01, what can you just throw next to my house? It says non-exclusive franchise to any person, firm or corporation to construct or operate a public utility on, across, under, above, any public street or public real estate within a municipality for a period not in excess of twenty five years, may prescribe in the ordinance, the kind or quality of service or product to be finished, the rate or rates to be charged, such other terms deemed conducive to public interest. Such franchise may be amended or renewed in the manner subject to provisions

established herein for grants. No consent of the owner of property abutting on any public street or public real estate shall be necessary to the effectiveness of any such grant. Mr. Baranek said maybe a cable company that they have a right of way with a public access, that they can expand that. Ms. Kory said a telephone pole makes sense as long as that is what they are referring to. Mary Botts will ask Amber Zibritsky what exactly that section means.

Section 18.02 – Regulations – No further questions.

Article XIX – Amendments to Charter – Section 19.01 – Submission to the Electors - No further questions.

Section 19.02 – Adoption – No further questions.

Section 19.03 – Changes to Charter – No further questions

Article XX – Charter Review Commission – Section 20.01 – Composition and Term – No further questions.

Section 20.02 – Duties – No further questions.

Section 20.03 – Submission to Electors - Ms. Kory said I think we had a questions about what we submit to Council. We kind of just funnel it through but they don't get to say yea or nay. Even though we recommend to council, they shall submit it to the electors is my understanding. Ms. Botts said the word was changed in 2000 from "may to shall". Ms. Kory said can we look at or talk about possibly rewording. If we look at Charter Review Commission shall, review the Charter, we are on Section 20.02, review the Charter August 1<sup>st</sup>, instead of recommend to council, how about submit to council because we are not recommending something go on the ballot to council for their decision. We are submitting, saying these are the things we want. Mr. Schoefield said no, not necessarily because there could be, it might not be this year, but I think what I understood was we could read the Charter, spend three months and go, we like it as is so we wouldn't have to submit anything. Recommend is we are recommending this as opposed to submit means that we were forced to make a change and I think it is set up that this teams doesn't necessarily have to submit but could recommend the change. Mr. Vyas said if you say submit to council such amendments, if any. Ms. Kory said I read it as recommend to council. I think we should, what do you think. Mr. Schofield said I don't disagree with that view but I think they are leaving the door open for the fact that it doesn't have to submit a recommendation. Your comment on "if any" is a good catch too. Ms. Kory said maybe we can look at possibly clearing up the language on this. Mr. Vyas said I think if council didn't submit it to the electors, then they would be in contravention of 20.03 so there is some legal ramifications. Ms. Kory said so it should say Council shall submit to the electors all such proposed amendments.

Article XXI – General Provisions – Section 21.01 Personal Interest – Mr. Vyas asked what an "emolument" was. After a search, it was "compensation that one received in exchange for their work or services."

Section 21.02 Removal of Appointive Officers and Employees and Members of Boards and Commissions – Ms. Denton said this one confused me but I thought School Board people ran for election and this mentions specifically School Board people. Am I wrong that school board people run? Mr. Baranek said there are some appointees to some of the commissions, I think at least two commissions that the School Board gets to make. It is the Parks Board and Planning Board. It is a member that is appointed by the school board, that is why this is in here. Ms. Denton said so it is not the general school board, it is the people that we are appointing. Mr. Baranek said if they are appointed to these commissions, then they exercise the power of removal and it requires the removal by 2/3 majority of their board in case they want to remove somebody from that before their term is over on those boards. Mr. D’Antonio said the last guy on the Planning Commission, Bernie, he was their appointee so they actually had to appoint a new person.

Ms. Kory said so is this paragraph just about the school board people or is it about others as well? It says any officers as well. Who would kick us out? Ms. Denton said the Mayor. Ms. Kory said but not Council? Mr. Baranek said I think it depends on whose appointments they are, that is who gets to remove them and then Council, I think, if the Mayor wants to remove somebody, Council has to approve it by 2/3 of the majority, I believe. Council can remove their own appointment but it actually requires approval of the Mayor.

Section 21.03 – Effective Date of Charter - No further questions.

Section 21.04 – Effect of Partial Invalidity – Mr. Long said I am having a difficult time comprehending that. Is this open for change in the Charter? Ms. Kory said if I think something is illegal in the Charter. Mr. Vyas said this is a pretty standard contract provision. Basically the court says one part of this entire Charter is not valid for whatever reason, it doesn’t mean that the entire rest of the Charter has to go so a common example would be for non-competes. If you have a contract with a non-compete which a court can say, wait a second, this non-compete is completely invalid, they can get rid of that non-compete without simultaneously nullifying the rest of the employment agreement so to take it back to here, if a court says wait a second, section 17.04 is completely invalid, doesn’t mean the rest of this is gone.

Section 21.05 – Effect of the Charter Upon Existing Laws and Rights – No further questions.

Section 21.06 – Interpretation of the Charter – No further questions.

Section 21.07 – Residency of City Employees – Ms. Kory said so City Council is authorized to create residency requirements as long as they follow the Ohio rules of residency.

Section 21.08 – Term Limits for Elected Officials - In 1996, there were exceptions and then in 2012, anybody voted for, you don’t get more than eight years straight. Mr. Baranek said there was a point where just Council and the Finance Director did not have term limits. I think that was the amendment in November, 2002 and then commencing with the term January 2, 2012, is where it was after the charter amendment saying we

want term limits on all the elected offices so that is where it commences and where it stands today. Ms. Kory said I think we discussed this one already removing all these dates and simplifying and saying this is who it applies to and this is the rule, at least to get rid of some of these if, and or buts, regardless if we want to look into changing term limits or whatever, just clearing the paragraph up so we don't have five iterations within the same section. We want layman's terms. Mary Botts will see if Amber can reword it. Not necessarily changing anything about it other than just putting in exactly what it means, removing the 1996 and the 2002 and the 2012. Ms. Denton said if you took out that first line. Ms. Kory said that is how I feel too.

Mr. Vyas said I knew that for the exact vote, I think that was sent out regarding how many people disapproved of term limits, it was Amendment 41 regarding term limits. It was 75.5% that wanted eight year term limits on council.

Ms. Kory said the one thing I had printed was the items for discussion. I am going to get back and do that again, finish putting all our notes in that file. What I want to do is have the section, our question, and then on a separate sheet, all the visitors and people who have provided input, just what their input was so we can get a feel of how everybody else is feeling about it before we move forward. Maybe we only asked one councilman and we didn't catch the other three or whatever, maybe submit that to them as well. Maybe they weren't here when we posed that question and give them an opportunity to give us some feedback. Ms. Botts said Councilman Rasor is testifying on April 30<sup>th</sup>.

Mr. Long said as far as reaching out to the Councilmen, isn't there a way too that we can ask them (council) if there are any things they need to bring to us and they can do it e-mail or in writing as opposed to having to set a meeting to meet with two or three at a time because none of them have any input or if they do have input, we can look at it effectively and efficiently and a little more faster time if possible. Also, if there are some of these sections, and there are, and you have said check. Maybe we can hopefully agree to say "check" and put those five or six or many aside. Ms. Kory said if I can pull together all the questions that we have and the few responses that we do have and just work off of that knowing that we already cleared section 1 and just consolidate and say, okay, we questioned this at six meetings, we got some feedback, we are good and cross it off our list and remove that question off so just to continually whittling it down. I do like sending out there via e-mail, hey, if you have something else, maybe you couldn't attend or you must thought about it, just send it in and we can review it. Mr. Long said getting back to the results of the election, there has to be a way of finding this out; I would be curious to know what percentage of the Stow voters, registered voters, went to the polls to cast their vote. Ms. Johnson said it shows that there were probably only about 10 or 11,000 people that actually voted and we are a city of 35,000 minus children who are not registered. Mr. Long said I would just be curious to know of those that are registered who actually voted.

Ms. Kory asked if there were any issues on meeting on the 30<sup>th</sup> and not the 23<sup>rd</sup>? There were no issues so the next Charter Review Commission Meeting will be on Thursday, April 30<sup>th</sup>. There will be no Charter Review Commission Meeting on April 23<sup>rd</sup>.

Ms. Walker made a motion to set a beginning and end time to the Charter Review Meetings to be between 5:30 to 6:30 p.m., with the provision that should we require extra time, somebody can motion for that but I would like to vote on a motion to maybe have an hour meeting each time our Commission meets and should we need more time, someone can make a motion to do that, motion seconded by Kelly Johnson. Motion passed 7-0.

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

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Mary Botts, Secretary

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Robin Kory, Chairperson