

City of Westlake
Charter Review Committee
2019-2020



2019-2020 Charter Review Committee Members

Brook Bright

Appointed by Ward 5 Councilmember Ken Brady

Russell Ezolt

Appointed by Mayor Dennis Clough

Amy Havelka

Appointed by Mayor Dennis Clough

William Leonard

Appointed by Ward 6 Councilmember Mark Getsay

Michelle Mindell

Appointed by Mayor Dennis Clough

Alan Olson

Appointed by Ward 4 Councilmember Mike O'Donnell

Richard Petrulis

Appointed by Ward 2 Councilmember Nick Nunnari

Paul Schlosser

Appointed by Ward 1 Councilmember Lynda Appel

Larry Yankow

Appointed by Ward 3 Councilmember Dennis Sullivan



LAW DEPARTMENT

MICHAEL P. MALONEY, DIRECTOR

27700 Hilliard Blvd.
Westlake, OH 44145

Phone 440.871.3300
Fax 440.617.4249

January 24, 2020

Council President Michael F. Killeen
Westlake City Council
27700 Hilliard Boulevard
Westlake, Ohio 44145

Re: Charter Review Committee Report

Council President Killeen:

Enclosed please find the report of the 2019 Charter Review Committee submitted by Committee Chairman Richard Petrulis. The report includes the following:

- 1.) Letter from Chairman Petrulis summarizing the work done by the Committee;
- 2.) Westlake Charter Review Committee Scorecard;
- 3.) Charter Amendment Recommendations;
- 4.) Committee Meeting Minutes; and
- 5.) Current Charter of the City of Westlake.

Please note that the Committee recommends that certain issues be addressed by ordinance as opposed to Charter amendments. Other issues set forth in the Scorecard are not recommended for consideration either by amendment or ordinance.

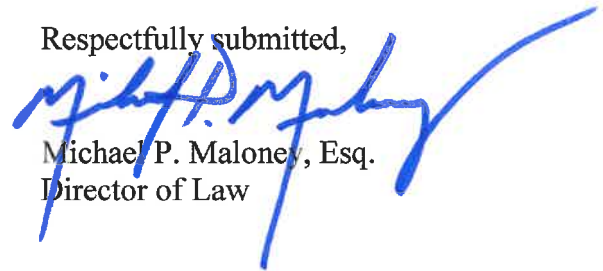
I would like you and City Council to know that the Committee members took their work very seriously. The Committee put a great deal of time and thought into considering and formulating these recommendations. I will add that the City is fortunate to have had such a talented, intelligent and professional group. The Committee members have rendered a true public service for the City of Westlake.

In accordance with Article X, Section 1 of the Charter of the City of Westlake, the Committee is submitting this report for consideration prior to the first meeting of February 2020. I recommend that the report of the Charter Review Committee be referred to the Committee of the Whole without delay, and certainly in time for action prior to Council's summer recess.

Council President Michael F. Killeen
January 24, 2020
Page Two

Thank you for your time and consideration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael P. Maloney", with a long, sweeping flourish extending to the right.

Michael P. Maloney, Esq.
Director of Law

MPM/jls
Enclosure

January 23, 2020

Council President Michael F. Killeen
Westlake City Council
27700 Hilliard Boulevard
Westlake, Ohio 44145

Re: Report of the 2019 Westlake Charter Review Committee

Council President Killeen:

The 2019 Westlake Charter Review Committee has completed its work as provided for by Article X, Section 1 of the Westlake Charter. Its members and I are pleased to submit this report to you and the members of Westlake's City Council. Enclosed are:

- 1.) Recommended Charter Amendments (redlined);
- 2.) Meeting Minutes;
- 3.) Current Charter of the City of Westlake; and
- 4.) Scorecard.

On January 17, 2019, action was undertaken to appoint the members of a Charter Review Committee. Notice of those appointments was mailed on or about February 6, 2019. At the first meeting held on March 6, 2019, an Oath of Office was administered to, and signed by, the following members: Patrick Lipaj, Richard Petrulis, Larry Yankow, Alan Olson, Brook Bright, William Leonard, Russell Ezolt, Amy Havelka and Michelle Mindell. Each member served on the Committee for the full term, except Patrick Lipaj who submitted his resignation on April 24, 2019, and was replaced by Paul Schlosser, who was sworn in on April 24, 2019.

Our Committee met twelve times over the last eleven months. Our final meeting was held on January 15, 2020. We reviewed the process used by prior Westlake Charter Review Committees and elected to use a "Scorecard" approach previously employed by those Committees as more fully discussed below. In undertaking our responsibilities, the Committee reviewed Westlake's Charter and selected part of the charters of similar cities to obtain a perspective on how such documents are written in general. The Committee has also consulted or interviewed Westlake elected officials and all department directors in regard to possible changes to the Charter.

We were pleased to hear from you, Mayor Clough, members of Council, and the department heads, giving us a comprehensive list of items for our deliberations. Law Director Maloney and his staff provided us with research as needed and legal opinions as called for along the way.

As referenced above, the Committee used a Scorecard to keep track of all suggestions and their dispositions. A copy of this Scorecard is included with our report. Please note that it includes those suggestions which, while not what we determined to be Charter items, may well be suggestions that should be considered by Council for ordinances. We invite your attention to them.

The agenda for each of our meetings was published prior to each meeting. All of our meetings were open to anyone who wished to attend – just as we were open to anyone who wished to bring suggestions to us – and the minutes, with supporting documents, were broadly distributed throughout all branches of our City’s government. We believe that all were well informed of the work we were doing as we did it. This approach also facilitated other suggestions as prior suggestions and some of our decisions became known.

Our Committee, in its deliberations, represented the citizens of Westlake without regard to any political considerations. Each suggestion was seriously considered, just as we know each of our recommendations will receive the serious attention of Council.

After due diligence in considering a number of possible changes, we have proposed 15 Charter amendments. We believe these amendments will improve, through either change or clarification, the Westlake Charter. In abstract, the proposals are as follows:

Article II, Section 2 – POWERS.

Amendment to clarify that the Mayor appoints his/her office staff and all department heads, except the Director of Law.

Article II, Section 6 – VACANCY IN OFFICE OF MAYOR.

Amendment to clarify acting Mayor’s pay and reduce number of signatures needed from 500 to 250.

Article III, Section 1 – NUMBER AND TERM.

Amendment to provide for staggered terms for the offices of Council President and Council members.

Article III, Section 8 – MEETINGS.

Amendment allowing Council to set start time of Council meetings.

Article III, Section 13 – ENACTMENT OF ZONING ORDINANCES.

Amendment to establish electronic means of providing notice of public hearings.

Article IV, Section 1(a) – SPECIFIC PROVISIONS.

Amendments to list all City departments, including those with existing Charter provisions and clean up language as to merger of Board of Building Appeals into the Board of Zoning Appeals.

Article IV, Section 10 – BOARD OF ZONING APPEALS.

Article IV, Section 11 – BOARD OF BUILDING APPEALS.

Amendments to provide for the merger of the Board of Building Appeals into the Board of Zoning Appeals.

Article IV, Section 2 – GENERAL PROVISIONS.

Amendments to clarify term of service for members of various boards and commissions and clean up language as to merger of Board of Building Appeals into the Board of Zoning Appeals.

Article IV, Section 4 – DEPARTMENT OF LAW.

Amendments to clarify the term “next preceding” and provide for special election if position becomes vacant.

Article IV, Section 14 – DEPARTMENT OF RECREATION.

Amendment to supplement the Charter with a description of the existing Department of Recreation.

Article IV, Section 15 – COMMUNITY SERVICES DEPARTMENT.

Amendment to supplement the Charter with a description of the existing Community Services Department.

Article VII, Section 3 – DECLARATION OF CANDIDACY.

Amendment to reduce number of signatures needed for offices of Mayor, Council President and Director of Law from 500 to 250.

Article X, Section 1 – REVIEW.

Amendment to rename Charter Review Committee, “Charter Review Commission”.

Miscellaneous: It is recommended that the Charter as a whole is amended to provide for gender neutral terminology throughout.

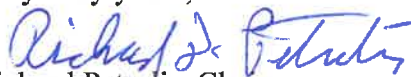
After consideration by Council, we hope to see these amendments on the ballot this November, so the residents of Westlake we represented can join with us in the Charter improvement process. All of the members are available to you and Council to assist in your discussions and deliberations. In addition, it is our fervent hope that the entirety of our work be made available in a public forum so that the citizens of Westlake are made aware of the extent of the considerations undertaken by our Committee. To the extent that funds are needed to accomplish that, we request that those funds be appropriately authorized.

Our Committee members appreciated this opportunity to serve our community. We found the work challenging at times and always interesting. I know too, that we all have a greater appreciation for all those that serve our City in its government. Our special thanks to

Law Director Michael Maloney and Denise Rosenbaum for their invaluable guidance and assistance. And my personal thanks as Chairman to the Committee members for their dedication, work and support.

The Committee is providing for consideration by Council our full report with our proposed Charter Amendments and pertinent material on our work.

Very truly yours,



Richard Petrusis, Chairman

2019 Westlake Charter Review Committee

Enclosures

PROPOSED CHARTER AMENDMENTS

ARTICLE II THE MAYOR

SECTION II-2. POWERS.

The chief executive authority of the Municipality shall be vested in the Mayor. As administrator of the City government, the Mayor shall appoint his/her office staff and all department heads, except the Director of Law and the Mayor's office staff. The Mayor shall exercise control over and be responsible to the electors of the City for the operation of all departments and divisions.

The Mayor shall be chief conservator of the peace within the Municipality and shall serve as its Director of Public Safety. The Mayor shall see that all laws, ordinances and resolutions are faithfully obeyed and enforced. The Mayor shall have the power to appoint, promote, transfer, reduce or remove any officer or employee to the extent and under the circumstances permitted by this Charter or the laws of the State of Ohio, where it is beyond the scope of this Charter to provide.

PROPOSED CHARTER AMENDMENTS

ARTICLE II THE MAYOR

SECTION II-6. VACANCY IN OFFICE OF MAYOR.

(a) Absence. When the Mayor is temporarily absent from the Municipality or is unable for any cause to perform his/her duties, the Mayor shall appoint from the department heads presently serving an individual to serve as Acting Mayor with the same rights, powers and duties as the Mayor during the term of his/her temporary absence. ~~If~~ the event that the Mayor is unable for any reason to make such appointment of an Acting Mayor, the President of Council or the individual acting in the capacity of President of City Council shall make such temporary appointment.

(b) Vacancy. In the event the office of Mayor shall become vacant for any reason, the President of Council shall become Acting Mayor for a period not to exceed six (6) months to permit a duly elected successor to be chosen. In the event the President of Council, for any reason, cannot assume the office of Acting Mayor, the Director of Law shall assume the office. In the event the Director of Law, for any reason, cannot assume the office of Acting Mayor, Council shall select from the remaining Directors one who need not be a resident of the City of Westlake, to ~~act~~ serve as Acting Mayor. During his/her term of service an Acting Mayor shall be paid the salary established by Council for the position of ~~the~~ Acting Mayor and may retain his/her original elected or appointed position at no additional compensation. The Council shall, within fourteen (14) days after the vacancy occurs, provide for a special election, with no preliminary primary, to be held within one hundred twenty (120) days from the date of the vacancy to fill such vacancy. The candidates for the special election shall be chosen in the following described manner:

- (1) Any candidate who files a nominating petition that is signed by not less than ~~five~~ two hundred fifty (~~500~~250) qualified electors shall be a candidate at the special election.
- (2) Unless otherwise provided by the Constitution or the general laws of the State of Ohio, all candidates must file their nominating petitions not later than 4:00 p.m. of the 60th day before the day of the special election. The person receiving the largest number of votes in the special election shall become Mayor and take office upon certification by the Board of Elections, and he/she shall serve for the unexpired term of office. He/She may be a candidate to succeed himself/herself.

PROPOSED CHARTER AMENDMENTS

ARTICLE III THE COUNCIL

SECTION III-1. NUMBER AND TERM.

Except as otherwise provided in this Charter and by the Constitution of the State of Ohio, all legislative powers of the Municipality shall be vested in a Council of seven (7) members, consisting of a President and six (6) ward Council ~~men~~ members.

The term of the six ward Council members shall be staggered and shall begin on January 1st following the election and certification by the Cuyahoga County Board of Elections of the results of the election, ~~for members of Council and t~~The ward Council members shall serve for a term of four years ~~beginning with the term to commence on January 1, 2002.~~

At the regular municipal election to be held on November 2, 2021, and for that election only, three (3) Council members shall be elected to start the system of staggered terms by serving shorter terms. The three (3) Council members receiving the highest number of votes shall each serve a four (4) year term and the remaining three (3) Council members shall each serve a two (2) year term.

The term of President of Council shall begin on January 1st following the election and certification by the Cuyahoga County Board of Elections of the results of the election, ~~of the office of President of Council and t~~The President of Council shall serve for a term of four (4) years ~~beginning with the term to commence on January 1, 2002.~~ At the regular election to be held on November 2, 2021, and for that election only, the President of Council's term shall be two (2) years.

PROPOSED CHARTER AMENDMENTS

ARTICLE III THE COUNCIL

SECTION III-8. MEETINGS.

(a) Regular Meetings. At eight o'clock p.m. local time (8:00 p.m.) on the second day of January following a regular municipal election, or if such day be a Sunday, on the day following, the Council shall convene and organize. Thereafter, the Council shall meet the first and third Thursdays of each calendar month, at ~~eight p.m. (8:00 p.m.) local~~ the time as determined at the discretion of Council, unless the regular meeting shall fall on a legal holiday, then such regular meeting shall be held on the succeeding Tuesday. Council may recess during the month of July or August subject to call of the Mayor.

(b) Public Meetings. All meetings of the Council or of its committees shall be open to the public.

(c) Special Meetings. Special meetings may be called by the Mayor, President of Council or any three members of Council. There shall be given at least twenty-four (24) hours' notice in writing of such special meeting, served personally on each member of Council or at his/her usual place of residence. Such notice shall state the subject or subjects to be considered at the meeting and no other subject shall be considered.

(d) Compel Attendance. The attendance at any special meeting of the Council shall be considered as a waiver of notice required by the preceding subsection and if all members of Council are present the meeting may proceed as a duly called special meeting.

(e) Emergency Meetings. Emergency meetings may be called by the Mayor or President of Council by written notice served personally on each member of Council or left at his/her usual place of residence at any time up to the time of the meeting. Such notice shall state the subject or subjects to be considered at the meeting and no other subject shall be considered.

PROPOSED CHARTER AMENDMENTS

ARTICLE III THE COUNCIL

SECTION III-13. ENACTMENT OF ZONING ORDINANCES.

The Council may provide by ordinance for the procedure for the passage and amendment of any zoning ordinance, the maps and regulations thereof, and the publication of notice and public hearing thereof, provided that the minimum notice of the time and place of such public hearing shall be published in one the following two ways:

- i. Published once a week for two (2) consecutive weeks in a newspaper of general circulation in the City; or
- ii. Published by posting in a conspicuous location at a public building such as a public library in the City or City Hall, or similar;

and additionally shall be published electronically:

- iii. on the City of Westlake internet web site; and
- iv. by way of electronic social media notification or similar electronic notification as may be more specifically determined by City Council.

In the event it is proposed to re-zone or re-district ten or fewer parcels of land, as listed on the tax duplicate, then, in addition to the newspaper notice hereinbefore provided, notice of the time and place of such public hearing shall be given by first class mail, postage prepaid, ten (10) days before such hearing, to the record title holders of the property within or immediately adjacent to, adjoining, abutting on or directly across the street from such parcel or parcels. Record title holder shall mean the title holder of such property as disclosed by the records of the Auditor of Cuyahoga County, thirty (30) days immediately prior to the date of such public hearing. If the mailing address of such record title holder cannot be reasonably ascertained then the aforesaid newspaper notice of such hearing shall be deemed adequate notice. Nothing herein provided shall be construed as limiting the power of the Council to increase such notice requirements.

PROPOSED CHARTER AMENDMENTS

ARTICLE IV ADMINISTRATIVE OFFICES

SECTION IV-1. SPECIFIC PROVISIONS.

(a) Departments. A Department of Law, Department of Finance, ~~and~~ Department of Public Service, Department of Engineering, Department of Buildings, Structures and Inspections, Department of Purchasing, Department of Recreation, and Department of Community Services are hereby established by this Charter and Council shall provide by ordinance for the organization thereof. Each department shall be headed by a director, except Police and Fire which shall be headed by chiefs. The Council may by ordinance provide for the establishment and organization of other departments or divisions thereof and may provide for the abolishment or combination of any department or division not established by this Charter.

(b) Boards and Commissions. A Board of Building and Zoning Appeals, Planning Commission, and Civil Service Commission ~~and Board of Building Appeals~~ are hereby established by this Charter. In addition to the boards and commissions so established by this Charter, Council may by ordinance provide for the establishment of additional boards and commissions and prescribe their powers and duties. Such additional boards and commissions may be abolished by Council.

PROPOSED CHARTER AMENDMENTS

ARTICLE IV ADMINISTRATIVE OFFICES

SECTION IV-2. GENERAL PROVISIONS.

(a) Department Heads. All department heads except the Chiefs of Police and Fire, whose appointments shall be governed by applicable civil service laws, rules, and regulations, and the Director of Law, who shall be elected, shall be appointed by the Mayor subject to the confirmation by a majority of the members of Council. Dismissal of any department head by the Mayor, with the exception of the Director of Law who shall be elected, shall require the approval of a majority of the members of Council. The appointment or dismissal of the Police or Fire Chief shall be governed by applicable civil service laws, rules, and regulations. All department heads shall perform such duties consistent with their office as shall be required by this Charter, by ordinance, or as directed by the Mayor.

(b) Salary of Department Heads. The starting salary of each department head at the time of appointment shall be considered the base salary and there shall be no reduction of salary below the base salary during the appointee's tenure of office.

(c) Board and Commission Appointees. Except as otherwise provided by this Charter, the Mayor shall appoint, dismiss, or suspend any members of the various boards and commissions subject to the confirmation of a majority of the members of Council. Each member appointed to a board or commission shall be appointed for a term of four (4) years. Such appointees shall be qualified electors of the City and shall reside in the City during their term of office. They shall serve without compensation unless otherwise provided by ordinance.

(d) Continuation in Office. On January 1, ~~1966~~ **2021**, the Board of Building Appeals and ~~the Board of~~ Zoning Appeals shall become the Board of **Building and** Zoning Appeals. Effective January 1, 2021, Each present member of the Board of Zoning Appeals, now known as the Board of Building and Zoning Appeals, Planning Commission, and Civil Service Commission shall continue to serve until the expiration of his/her present term or until the appointment of his/her successor has been made by the Mayor and confirmed by Council, whichever occurs later. Thereafter, each member of the Board of Building and Zoning Appeals, Planning Commission, and Civil Service Commission shall continue to serve until expiration of his/her term, or until the appointment of a successor has been made by the Mayor and confirmed by Council, whichever occurs later.

~~The terms of the members first appointed to the Board of Building Appeals shall commence January 1, 1966, and, except as provided in subsection (f) hereof, each member subsequently appointed to said Board and each member appointed to any other board or commission established by this Charter shall be appointed for a term of four years, which term shall commence upon the expiration of the term of his immediate predecessor on such board or commission.~~

(e) Reappointment. A member of any board or commission established by this Charter shall be eligible for reappointment.

PROPOSED CHARTER AMENDMENTS

(f) Vacancy. A vacancy occurring during the term of any member of a board or commission established by this Charter shall be filled for the unexpired term in the manner authorized for an original appointment.

PROPOSED CHARTER AMENDMENTS

ARTICLE IV ADMINISTRATIVE OFFICES

SECTION IV-4. DEPARTMENT OF LAW.

The Department of Law shall be headed by the Director of Law and commencing with the regular municipal election in the year 2005, and every fourth (4th) year thereafter, ~~he~~ the Director of Law shall be elected for a term of four (4) years. The Director of Law's term shall commence and he/she shall assume office on the first day of January following his/her election and shall serve out his/her term or until his/her successor is elected and qualified, whichever occurs last. During ~~his~~ the Director of Law's term of office he/she shall continue to be a resident and qualified elector of the municipality. The Director of Law shall appoint all assistant directors of law and office staff; assistant directors of law shall be subject to confirmation by a majority of the members of Council. The Director of Law shall be a qualified elector at the time of his/her election, shall have been a resident of the City for at least eighteen (18) months immediately preceding his/her election, an attorney at law duly admitted to the practice of law before the courts of the State of Ohio, and been engaged in the active practice of law in Ohio for a period of six (6) continuous years ~~next immediately~~ preceding his/her election. The annual salary for the Director of Law for the term commencing January 1, 2014 and each succeeding term thereafter shall be fixed by Council at least forty-five (45) days prior to the time a person is required to file nominating petitions for the office of Director of Law for that particular term. The annual salary may be increased but shall not be decreased during the term it was set.

~~He~~ The Director of Law shall serve the Mayor, the various administrative departments, boards, and officers of the Municipality and the Council, as attorney and legal counsel, and shall represent the Municipality in all proceedings in courts of law and before any administrative body. ~~He~~ The Director of Law or his/her designee shall attend all Council meetings and Committee meetings of Council. ~~He~~ The Director of Law shall perform all other duties now or hereafter imposed by law upon directors of law of cities unless otherwise provided by ordinance of Council. ~~He~~ The Director of Law shall act as the Prosecuting Attorney of the City.

Council may, by a two-thirds (2/3) vote of the members of Council after public hearing, expel or remove the Director of Law from office for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his/her oath of office; for conviction while in office of a crime involving moral turpitude; or for mental or physical disability rendering it impossible for him/her to perform the duties of the Director of Law. Prior to any such action by Council, the Director of Law shall be notified in writing of the charge against him/her at least ten (10) days in advance of the hearing upon such charge, and he/she and his/her counsel shall be given an opportunity to be heard, present evidence or examine any witness appearing in support of such charge.

In the event the office of Director of Law shall become vacant, for any reason, the Mayor shall appoint an Acting Director of Law subject to confirmation of Council. During his/her term of service, an Acting Director of Law shall be paid the salary established by Council for the

PROPOSED CHARTER AMENDMENTS

position of Acting Director of Law. The Acting Director of Law shall be an attorney-at-law licensed to practice before the Courts of the State of Ohio but need not be resident of the municipality. The Council shall, within fourteen (14) days after the vacancy occurs, provide for a special election, with no preliminary primary, to be held one hundred twenty (120) days from the date of the vacancy to fill such vacancy. **The candidates for the special election shall be chosen in the following described manner:**

- (1) Any candidate who files a nominating petition that is signed by not less than two hundred fifty (250) qualified electors shall be a candidate at the special election.**
- (2) Unless otherwise provided by the Constitution or the general laws of the State of Ohio, all candidates must file their nominating petitions not later than 4:00 p.m. of the 60th day before the day of the special election. The person receiving the largest number of votes in the special election shall become Director of Law and take office upon certification by the Board of Elections, and he/she shall serve for the unexpired term of office. He/She may be a candidate to succeed himself/herself.**

PROPOSED CHARTER AMENDMENTS

ARTICLE IV ADMINISTRATIVE OFFICES

SECTION IV-10. BOARD OF BUILDING AND ZONING APPEALS.

(a) Membership. Effective January 1, 2021, There shall be a the Board of Zoning Appeals ~~which shall become the Board of Building and Zoning Appeals and~~ shall consist of five (5) members, one of which shall be a member of the Planning Commission, appointed by the Mayor with the approval of a majority of members of Council. Members of this Board shall hold no other municipal office or appointment, except the one as a member of the Planning Commission. Effective January 1, 2021, the current Board of Zoning Appeals members shall continue to serve their terms in accordance with Article IV, Section 2(d). The current Board of Building Appeals members' terms shall expire effective December 31, 2020.

(b) Powers.

- (1) It shall be the duty of the Board of Building and Zoning Appeals to hear and decide applications for exceptions to and variances from the zoning ordinances of the Municipality and to hear and decide all appeals from orders, decisions and regulations of municipal administrative officials or agencies in regard to the zoning ordinances. The Board shall not permit any exception or variance from the zoning ordinances unless it finds that a practical difficulty or unnecessary hardship would exist as a result of the literal application of the zoning ordinances because of some peculiarity of the property in question as distinct from the other properties in the same district. In such cases the granting of the exception or variance must not be detrimental to the public welfare or injurious to the property in the immediate surrounding area, and must be in keeping with the general purpose, intent and objective of the municipal zoning ordinances.
- (2) The Board shall also hear and decide appeals from any order, decision or determination of any administrative official or agency of the Municipality relating to the interpretation or application of the Building Code or such other related ordinances as may be determined by Council.

PROPOSED CHARTER AMENDMENTS

ARTICLE IV ADMINISTRATIVE OFFICES

SECTION IV-11. BOARD OF BUILDING APPEALS.

~~(a) **Membership.** There shall be a Board of Building Appeals which shall consist of not less than five (5) or more than nine (9) members appointed by the Mayor, subject to the approval by a majority of the members of City Council. The members shall be of such experience and occupation as determined by the Mayor and approved by Council.~~

~~(b) **Powers.** The Board shall hear and decide appeals from any order, decision or determination of any administrative official or agency of the Municipality relating to the interpretation or application of the Building Code or such other related ordinances as may be determined by Council. The Board shall have no jurisdiction or authority with respect to the zoning ordinances of the Municipality but shall otherwise have such additional powers and duties as Council may provide by ordinance.~~

Article IV, Section 11 is hereby repealed.

PROPOSED CHARTER AMENDMENTS

ARTICLE IV ADMINISTRATIVE OFFICES

SECTION IV-14. DEPARTMENT OF RECREATION.

The Department of Recreation shall be headed by the Director of Recreation who shall be responsible for overseeing the recreational needs of the City including, but not limited to, the Golf Course, Aquatic Center and Recreation Center. The Director of Recreation shall perform such other duties and functions in connection with the recreation needs of the City as may be provided by ordinance or at the direction of the Mayor.

PROPOSED CHARTER AMENDMENTS

ARTICLE IV ADMINISTRATIVE OFFICES

SECTION IV-15. COMMUNITY SERVICES DEPARTMENT.

(a) General Duties. The Department of Community Services shall be headed by the Director of Community Services who shall be responsible for overseeing the community service needs of the City including, but not limited to, senior services, senior enrichment, wellness, activity and transportation programs as well as social services for residents in need and youth and community outreach. The Director of Community Services shall perform such other duties and functions in connection with the community service needs of the City as may be provided by ordinance or at the direction of the Mayor.

(b) Qualifications. The Director of Community Services shall hold a current Ohio license in social work or counseling.

PROPOSED CHARTER AMENDMENTS

ARTICLE VII NOMINATIONS AND ELECTIONS

SECTION VII-3. DECLARATION OF CANDIDACY.

Any persons desiring to become a candidate for election to any office to be voted for at the next succeeding regular municipal election shall, not later than 4:00 p.m. of the 90th day before primary election day, file a nominating petition. Such petition shall require signatures of registered electors and shall be accompanied by the written acceptance of the nominees. The petition for offices of Mayor, President of Council and Director of Law shall be signed by not less than ~~five~~ two hundred ~~fifty~~ (~~500~~ 250) qualified electors. The petition for office of Ward Councilman/Councilwoman shall be signed by not less than one hundred (100) qualified electors of the ward in which election is sought. Petitions shall be circulated by a qualified elector of the City of Westlake.

PROPOSED CHARTER AMENDMENTS

ARTICLE X CHARTER REVIEW ~~COMMITTEE~~ COMMISSION

SECTION X-1. REVIEW.

At the second meeting of Council in January 1, 1979, and each ten (10) years thereafter, a Charter Review ~~Committee~~ Commission of nine (9) members shall be appointed.

The ~~Committee~~ Commission shall consist of six (6) members to be appointed, one from each ward by the ward Councilman/Councilwoman, who shall reside within his/her ward, and three members to be appointed by the Mayor, for a total of nine (9) members. The Chairman shall be selected by the ~~Committee~~ Commission from its members by majority vote.

The ~~Committee~~ Commission shall review the Charter and submit all recommended changes or alterations to Council for its consideration for submission to the electorate by the first meeting in February of the following year. Council shall review the recommendations of the Charter Review ~~Committee~~ Commission and approve or disapprove each individual recommendation. Council thereafter shall submit to the electors the recommended changes or alterations it has approved, pursuant to Article XVIII, Section 9, of the Constitution of the State of Ohio.

The members shall serve without compensation unless otherwise provided by ordinance. The Council shall provide appropriations for a clerk, and sufficient funds to operate the ~~Committee~~ Commission.

PROPOSED CHARTER AMENDMENTS

GENDER NEUTRAL

Amend the Charter to be gender neutral throughout.

2019-2020 Charter Review Committee Scorecard

Sorted by Article, Section

Issue #	Issue language proposal	By	Recommendation	Date
80	Article II, Section 2: clarify conflicting language as to elected law director	Maloney	Recommended clarify conflicting language re: elected law director	9/25/19
5	Article II, Section 2: Define Director of Public Safety	Killeen	No changes recommended.	4/10/19
61	Article II, Section 2: Mayor to appoint dept heads, exercise control/be responsible for depts unless elected; questioned need for Director of Public Safety title	Sullivan	Recommend clarifying conflicting language re: elected law director	7/31/19
32	Article II, Section 2: Mayor's control over all depts except law dept which should be by law director	Brady	Recommend clarifying conflicting language re: elected law director	5/22/19
6	Article II, Section 5b: Add provision to sign when Mayor doesn't sign documents	Killeen	No changes recommended.	4/10/19
43	Article II, Section 5b: Have others sign contracts when Mayor refuses	O'Donnell	No changes recommended.	5/22/19
62	Article II, Section 5b: if Mayor refuses to sign contracts, have written succession of those authorized to sign	Sullivan	No changes recommended.	7/31/19
33	Article II, Section 5b: If Mayor refuses to sign contracts, then approval by law dept and majority of Council	Brady	No changes recommended.	5/22/19
23	Article II, Section 5b: Payment of legal expenses approved by 2 parties	Getsay	No changes recommended.	4/24/19
63	Article II, Section 5e: advice submitted to Mayor limits directors	Sullivan	No changes recommended.	7/31/19
7	Article II, Section 5e: Eliminate if not used	Killeen	No changes recommended.	4/10/19
34	Article II, Section 5e: eliminate reports/advice by directors submitted to Mayor for approval	Brady	No changes recommended.	5/22/19
8	Article II, Section 6b: Clarify salary of acting mayor	Killeen	Recommended clarifying language re: salary of acting mayor. No change to order of succession.	4/10/19

2019-2020 Charter Review Committee Scorecard

Sorted by Article, Section

Issue #	Issue language proposal	By	Recommendation	Date
35	Article II, Section 6b: clarify salary of acting Mayor; law director vacancy should be similar	Brady	Recommended clarifying language re: salary of acting mayor. No change to order of succession.	5/22/19
58	Article II, Section 6b: clarify wording act/serve, salary of Acting Mayor	Schlosser	Recommended clarifying language re: salary of acting mayor. No change to order of succession.	6/26/19
28	Article II, Section 6b: leave as is	Getsay	Recommended clarifying language re: salary of acting mayor. No change to order of succession.	4/24/19
54	Article II, Section 6b: succession for vacancy in Mayor's office	Havelka	Recommended clarifying language re: salary of acting mayor. No change to order of succession.	6/26/19
4	Article II, Section 6b: Vacancy in Mayor's office should be filled by finance director or public service director	Clough	Recommended clarifying language re: salary of acting mayor. No change to order of succession.	4/10/19
9	Article II, Section 6b1 and 2: Filing with board of elections outlined here should be added for vacant law director.	Killeen	Recommended and addressed in amendments to Art. IV, Sec. 4	4/10/19
71	Article III, Section 1: keep 4-year terms but staggered; possible term limits	Nunnari	Recommended staggered terms; did not recommend term limits	7/31/19
10	Article III, Section 1: Opposed to 2-year terms, staggered terms are OK	Killeen	Recommended staggered terms: did not recommend term limits.	4/10/19
36	Article III, Section 1: Prefers 4-year terms, staggered terms are OK	Brady	Recommended staggered terms; did not recommend term limits	5/22/19
44	Article III, Section 1: Prefers 4-year terms; no term limits; opposed to staggered terms	O'Donnell	Recommended staggered terms; did not recommend term limits	5/22/19
21	Article III, Section 1: Staggered terms	Appel	Recommended staggered terms	4/24/19
27	Article III, Section 1: Staggered terms	Getsay	Recommended staggered terms	4/24/19
53	Article III, Section 1: Staggered terms	Havelka	Recommended staggered terms	6/26/19

2019-2020 Charter Review Committee Scorecard

Sorted by Article, Section

Issue #	Issue language proposal	By	Recommendation	Date
64	Article III, Section 2: 18-months resident should be in ward	Sullivan	No changes recommended.	7/31/19
72	Article III, Section 4: Council President should be full-time with benefits	Nunnari	No changes recommended.	7/31/19
50	Article III, Section 8a: Change Council meeting time to 7:00 or 7:30	Surber	Recommended discretionary time	6/26/19
84	Article III, Section 13: Publication and posting of required notices on web site or other electronic means	Maloney	Recommended	11/20/19
77	Article IV, Section 10b: no use variances, remove "unnecessary hardships"	Bedell	No changes recommended.	9/25/19
20	Article IV, Section 13: Rezoning that increase density, ward/citywide voter approval	Appel	No changes recommended.	4/24/19
26	Article IV, Section 13: Rezoning that increase density, ward/citywide voter approval	Getsay	No changes recommended.	4/24/19
42	Article IV, Section 13: Rezoning that increase density, ward/citywide voter approval	Brady	No changes recommended.	5/22/19
78	Article IV, Section 13: Rezoning that increase density, ward/citywide voter approval	Bedell	No changes recommended.	9/25/19
83	Article IV, Section 1a: add Senior and Community Services Dept.	Gadd	Recommend adding Recreation & Senior and Community Services Dept.	11/20/19
65	Article IV, Section 1a: eliminate ambiguity of co-mingling elected law director with appointed directors	Sullivan	Already addressed in Law Dept. Sec.	7/31/19
12	Article IV, Section 1a: No more departments	Killeen	Recommend adding Recreation & Senior and Community Services Dept.	4/10/19
37	Article IV, Section 1a: no need for additional departments named	Brady	Recommend adding Recreation & Senior and Community Services Dept.	5/22/19

2019-2020 Charter Review Committee Scorecard

Sorted by Article, Section

Issue #	Issue language proposal	By	Recommendation	Date
38	Article IV, Section 2a: department heads should remain appointed/dismissed by Mayor subject to Council approval	Brady	No changes recommended.	5/22/19
2	Article IV, Section 2a: Mayor should have the ability to terminate director/dept head without Council approval or concurrence	Clough	No changes recommended.	4/10/19
13	Article IV, Section 2a: Opposed to eliminating concurrence of Council to dismiss department heads	Killeen	No changes recommended.	4/10/19
81	Article IV, Section 2d: planning commission member terms	Maloney	Recommended clarifying language	9/25/19
66	Article IV, Section 2e: clarify reappointment process. See Section 2d, also.	Sullivan	Recommended clarifying language	7/31/19
59	Article IV, Section 4: clarify "next preceding"	Schlosser	Recommended clarifying Language	6/26/19
67	Article IV, Section 4: clarify "next preceding" and qualifications of acting law director; add authority to hire/approve legal related services/invoice payments	Sullivan	Recommended clarifying Language	7/31/19
14	Article IV, Section 4: Clarify period of practice "next preceding"	Killeen	Recommended clarifying Language	4/10/19
39	Article IV, Section 4: Clarify period of practice "next preceding"	Brady	Recommended clarifying Language	5/22/19
79	Article IV, Section 4: Clarify period of practice "next preceding"	Maloney	Recommended clarifying Language	9/25/19
22	Article IV, Section 4: Law director keep as elected; clarify language	Getsay	Recommended clarifying Language	4/24/19
1	Article IV, Section 4: Law director should be an appointed position by the Mayor with confirmation by Council	Clough	No changes recommended.	4/10/19
47	Article IV, Section 4: Retain elected law director position	O'Donnell	No changes recommended. (See issue #1)	5/22/19
60	Article IV, Section 4: Retain elected law director position	Sullivan	No changes recommended. (See issue #1)	7/31/19
73	Article IV, Section 4: Retain elected law director position; make legal counsel decisions	Nunnari	No changes recommended. (See issue #1)	7/31/19
82	Article IV, Section 5: add city fleet maintenance	Quinn	No changes recommended.	10/23/19
68	Article IV, Section 5: enhance needed qualifications for director	Sullivan	No changes recommended.	7/31/19

2019-2020 Charter Review Committee Scorecard

Sorted by Article, Section

Issue #	Issue language proposal	By	Recommendation	Date
69	Article IV, Section 6 : enhance needed qualifications for director	Sullivan	No changes recommended.	7/31/19
46	Article IV, Section 6: Retain engineering department as a named department	O'Donnell	No changes recommended.	5/22/19
49	Article IV, Section 8a: Add a final sentence: "The Director is also permitted to procure goods and services through an approved Governmental Cooperative Purchasing Program."	Surber	No changes recommended.	6/26/19
15	Article IV, Section 8a: Provide for obtaining state pricing	Killeen	No changes recommended.	4/10/19
16	Article IV, Section 8c: "Inventory each dept." Purpose?	Killeen	No changes recommended.	4/10/19
48	Article IV, Section 9a: A member of planning commission should be an architect	O'Donnell	No changes recommended.	5/22/19
55	Article IV, Section 9a: planning commission appointments	Havelka	Recommend clarify terms (See issue #81)	6/26/19
17	Article IV, Section 9c: Add language to make planning commission also architectural review board	Killeen	No changes recommended.	4/10/19
76	Article IV, Sections 10 & 11: Combine BZA and BBA, define duties, number of members/alternates	Bedell	Recommended combining BZA and BBA	9/25/19
25	Article IV: Human Resources: establish department and director in Charter	Getsay	No changes recommended.	4/24/19
75	Article IV: Recreation dept should be named in Charter	DeMinico	Recommended	8/28/19
18	Article V, Section 5: Make sure our use of state bid items and similar is OK under this language.	Killeen	No changes recommended.	4/10/19
45	Article VII, Section 3: Reduce # of signatures for city-wide offices from 500 to 250	O'Donnell	Recommended	5/22/19
11	Article VII, Section 3: reduce signatures from 500 to 250?	Killeen	Recommended	4/10/19
3	Article X, Section 1: All recommendations of Charter Review Committee should be required to go on the ballot	Clough	No changes recommended.	4/10/19
40	Article X, Section 1: each elected official have a singular appointment	Brady	No changes recommended.	5/22/19
31	Article X, Section 1: each elected official have a singular appointment; state replacement process	Getsay	No changes recommended.	4/24/19
70	Article X, Section 1: each elected official have one appointment	Sullivan	No changes recommended.	7/31/19

2019-2020 Charter Review Committee Scorecard

Sorted by Article, Section

Issue #	Issue language proposal	By	Recommendation	Date
85	Article X, Section 1: change Charter Review Committee to Charter Review Commission	Olson	Recommended	12/18/19
57	Article XI, Section 10f: correct typo Court of Common Peas	Havelka	(Text Amendment)	6/26/19
51	Chapter 145.03: replace \$5,000 threshold with current State of Ohio statutory limit	Surber	No changes recommended.	6/26/19
41	City Manager form of government should be considered	Brady	No changes recommended. (Recommended separate committee to study.)	5/22/19
19	City manager system	Killeen	No changes recommended. (Recommended separate committee to study.)	4/10/19
30	City manager system: should be studied by special commission	Getsay	No changes recommended. (Recommended separate committee to study.)	4/24/19
29	Double dipping: add to all elected positions in Charter	Getsay	No changes recommended.	4/24/19
56	Gender neutral language throughout	Havelka	Recommended	6/26/19
24	Human Resources legal counsel should be law dept duty	Getsay	No changes recommended.	4/24/19
74	Human Resources should be separate dept with full-time director	Nunnari	No changes recommended.	7/31/19
52	Term limits	Havelka	No changes recommended.	6/26/19



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
MARCH 6, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall in the Mayor's Conference Room.

Present: Committee members Brook Bright, Amy Havelka, William Leonard, Patrick Lipaj, Michelle Mindell, Alan Olson, Richard Petrulis, Larry Yankow

Also present: Mayor Dennis Clough; Law Director Michael Maloney; Council President Michael Killeen; Councilmembers Dennis Sullivan, Mark Getsay, Lynda Appel, Michael O'Donnell, Nick Nunnari.

Absent: Committee member Russell Ezolt

- I. Introductions and Welcome – Acting Chair, Michael Killeen. Introduction by each member. Brief description of committee duties, amendment procedure and timeline by Law Director Michael Maloney. Introductory memorandum circulated to members by Law Director, copies provided to Mayor and Councilmembers.
- II. Richard Petrulis volunteered to be temporary/acting Chairman.
- III. Larry Yankow volunteered to be acting Vice Chairman.
- IV. Discussion and appointment of Denise Rosenbaum as Committee Clerk, subject to her acceptance.
- V. Meeting schedule for the year to be made at next meeting in April.
- VI. Miscellaneous - Request for previous charters and charter amendments; Mayor circulated copies of previous meeting minutes and previous proposed amendments to Charter. Mr. Petrulis requested a legal/executive summary outlining procedure and duties of the Committee, and examples of the procedure followed for past amendments. Discussion about public meetings and public records laws. Discussion about officials to contact at the City regarding potential areas of change to the Charter. The Mayor circulated a list of attorney's names to be consulted as outside legal counsel. Ms. Mindell asked about the purpose of the list. The Law Director indicated that outside legal counsel was never used in the prior four Charter Reviews – meaning over 40 years.

The next scheduled meeting of the Charter Review Committee is April 10, 2019, at 7:00 p.m. at Westlake City Hall in the Mayor's Conference Room or Council Caucus Room (TBD).

Mr. Petrulis moved, and it was seconded to adjourn the meeting.


VOICE VOTE:

Yeas: Bright, Havelka, Leonard, Lipaj, Mindell, Olson, Petrulis, Yankow

Nays: None; motion carried.



Michael P. Maloney, Law Director



Richard Petrulis, Acting Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
APRIL 10, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Brook Bright, Russell Ezolt, Amy Havelka, William Leonard, Patrick Lipaj, Michelle Mindell, Alan Olson, Richard Petrulis, Larry Yankow.

Also present: Mayor Dennis Clough; Council President Michael Killeen; Councilmembers Ken Brady and Nick Nunnari; Law Director Michael Maloney; Clerk Denise L. Rosenbaum.

I. Presentation and approval of minutes.

Mayor Clough commented on the reference in the minutes to the use of outside legal counsel and wanted it added to the minutes that in the 1979 Charter Review process, Attorney Bernie Niehaus spoke. Mayor Clough then wished to discuss the use of outside legal counsel for the current Charter Review process in regard to specific amendments related to the law director position. However, it was pointed out to Mr. Petrulis and the committee that it is the committee that approves the minutes, and Mr. Petrulis asked if the committee members had any amendments to the minutes. None were stated.

Mr. Olson moved, seconded by Mr. Yankow, to approve the minutes of the March 6, 2019, meeting as presented.

VOICE VOTE:

Yeas: Bright, Havelka, Leonard, Lipaj, Mindell, Olson, Petrulis, Yankow.

Abstentions: Ezolt.

Nays: None; motion carried.

II. Discussion of appointment of Committee clerk.

The committee discussed the appointment and compensation of Denise Rosenbaum as the clerk for the 2019-2020 Charter Review committee.

Mr. Petrulis moved, seconded by Mr. Ezolt, to appoint Denise Rosenbaum as the Charter Review committee clerk.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

III. Discussion by Committee of approach to review process and general discussion.

The committee discussed a general timeline for the review process and set meeting dates for the remainder of the period. The clerk was instructed to coordinate with Councilmembers and directors to schedule interviews for upcoming meetings. The general consensus was to allow 20 minutes for each interviewee's presentation, 20 minutes for committee members to ask questions of the interviewee, and 20 minutes for committee follow-up discussion. It was proposed to have three interviewees per meeting for the next six meetings to allow for each to contribute. Some of the interviewees may not need that much time, and the schedule can be adjusted accordingly.

The committee agreed that the scorecard method used by the 2009-2010 Charter Review committee was a good method to keep track of recommendations and whether they would be addressed by a charter amendment or by ordinance. Law Director Maloney was instructed to coordinate with the clerk to create and maintain such a scorecard and to have the clerk create the scorecard notes when the topic involves the law director position.

Mr. Petrulis mentioned obtaining charters from other cities for comparison purposes. The clerk was instructed to compile some charters to have available for committee members as needed. It was suggested that each interviewee provide research on any particular sections for which they may have recommendations. It could also be done on a topic by topic basis.

There was general discussion about public records and the Sunshine Laws and how they apply to the committee members. Also, since there have been issues with the city-provided email addresses for communications, it was decided that the members would use personal email addresses and limit interchanges to logistics only. Any discussions by committee members are to occur in the public meetings.

Mr. Ezolt inquired about a memo from Law Director Maloney setting out the current charter provisions relating to the review committee and charter review, and summarizing past actions by charter review committees going back to 1979. Mr. Ezolt pointed to vote tallies in the summary of the 2009 committee votes regarding the appointed versus elected law director issue. The summary read that the "Committee" voted 6-1 against appointment. Mr. Maloney agreed that, although this information was correct, this reference was to the Committee of the Whole and, therefore, more properly belonged in the paragraph below, referring to City Council. In fact, the charter review committee voted twice. It first voted 5-4 against recommending an appointed law director, and then, in a later, separate vote, voted 5-4 to recommend appointment.

Mr. Olson suggested that it would be helpful to have a city organizational chart showing who reports to whom. Discussion ensued as to how boards and commissions function and that they are independent, not reporting to anyone, merely recommending bodies, with the exception of the Board of Zoning Appeals. Department heads report to the Mayor.

IV. Interview Mayor Dennis Clough.

Mayor Clough distributed two handouts to the committee members, one of his recommendations and the other a list of former Westlake appointed law directors for potential reference. He began by referencing a statement from the April 26, 1989, Charter Review committee meeting by Law Director Patrick Gareau about charter limitations and how important the language of a charter is.

Mayor Clough discussed his powers based on Article II, Section 2 and Article IV, Section 1(a) as to department heads, including the law director, and police and fire chiefs. He gave a history of the law director position in Westlake and explained the most recent attempt in 2017, initiated by him, to change the law director position to an appointed one, albeit without the confirmation by Council process. He feels it is good government to have an appointed law director and that it provides a balance of power. Mr. Lipaj commented that this issue has gone to the voters twice, and both times the people chose to have an elected law director. Other committee members asked the Mayor about law director opinions, if he ever fired an appointed law director, controlling the law department budget and communication between the mayor and law director. The pros and cons of term limits and staggered terms were briefly discussed.

Other recommendations by the Mayor included that the mayor should have the ability to terminate any director or department head without Council approval or concurrence; that all recommendations of the Charter Review committee should be required to be placed on the ballot; and vacancy in the Mayor's office should be filled by the finance director or director of public service, which he feels is appropriate since these directors are full-time and closely involved with the workings of the city. His memo provided proposed language for Article II, Section 6(b); Article IV, Section 2(a); and Article IV, Section 4.

V. Interview President of Council Michael Killeen.

Council President Killeen commented on some of the Mayor's recommendations as to succession in the Mayor's office, dismissal of department heads, law director opinions, terms of directors, the pros and cons of an elected versus appointed law director, and that putting the issue of the latter to the voters again would be an affront to the voters.

His charter amendment recommendations are as follows:

Article II, Section 2 – What is the definition of Director of Public Safety?

Article II, Section 5(b) – The Mayor must sign all documents. He would be negligent in his duties if he didn't. Add a provision for someone to sign.

Article II, Section 5(e) – Eliminate if not used. He recommends open communication.

Article II, Section 6(b) – Clarify the salary of Acting Mayor.

Article II, Section 6(b)(1) and (2) – The filing with the board of elections outlined here should be added to the election for a vacant law director position.

Article III, Section 1 – He strongly opposes two-year terms, but staggering terms is acceptable.

Article VII, Section 3 – The number of signatures needed for Ward candidates is 100 and for President of Council, it is 500, which he feels discourages competition. Maybe it should be 250 signatures.

Article IV, Section 1(a) – There should be no more departments added. They can be provided for by ordinance.

Article IV, Section 2(a) – He strongly opposes eliminating concurrence of Council to dismiss department heads.

Article IV, Section 4 – The law director needs to be an active attorney. Clarify the period of practice "next preceding his election" which had been an issue at the last election.

Article IV, Section 8(a) – Regarding bidding, provide for obtaining state pricing.

Article IV, Section 8(c) – What is the purpose of this?

Article IV, Section 9(c) – Add language to make the planning commission also the architectural

review board.

Article V, Section 5 – Make sure our use of state bid items and similar is OK under this language.

Mr. Killeen commented on the requirement of petitions for election to be circulated by a qualified elector. Law Director Maloney explained that an “elector” simply means a registered voter residing in the City of Westlake. Mr. Maloney stated that, as an example, the Westlake City Charter requires that petitions be circulated by a qualified elector. Mr. Maloney further explained that such provisions are gradually being challenged in state and federal courts with mixed results.

As a final suggestion, Mr. Killeen encouraged consideration of a city manager system instead of a mayor for the future of Westlake. He gave figures as to how many cities, locally and statewide, have this system and, of those, how many have the AAA bond rating and similar population size as Westlake. Discussion ensued as to how that system operates. Committee members asked why it is better, who hires the city manager, whether cities with that system are performing poorly and what qualifications are necessary for a city manager.

VI. Discussion regarding future meeting schedule.

Mr. Petrulis stated that the committee should hear the Mayor and Council President again near the end of the review process. There was further discussion about setting up the scorecard method, input from the committee members, items that are voted on, and drafting recommendations when necessary. At the request of Mr. Olson, the clerk had provided a list of charter amendments that went to the ballot from the 2009-2010 review as well as any since then, along with the election results, for future reference. The clerk was instructed to schedule two interviewees for the April 24th meeting which will begin with discussions on what was presented at tonight’s meeting.

VII. Discussion regarding interview questions and public input process.

Ms. Havelka inquired as to how suggestions from individuals are to be submitted and to whom. Mr. Ezolt asked about confirming the acting chairman and vice chairman and the hiring of outside counsel. Mr. Leonard said the hiring of outside counsel should be on an ad hoc basis.

Mr. Ezolt moved, seconded by Mr. Bright, to appoint Mr. Petrulis as Chairman and Mr. Yankow as Vice Chairman of the Charter Review committee.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

VIII. Adjournment.

Ms. Mindell moved, seconded by Mr. Leonard, to adjourn the meeting at 9:06 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is April 24, 2019, at 7:00 p.m. in the Council Caucus Room.


Denise L. Rosenbaum, CMC, Clerk


Richard Petrulis, Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
APRIL 24, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Brook Bright, Russell Ezolt, William Leonard, Patrick Lipaj, Michelle Mindell, Alan Olson, Richard Petrulis, Paul Schlosser (new member), Larry Yankow.

Also present: Mayor Dennis Clough; Law Director Michael Maloney; Councilmembers Lynda Appel, Ken Brady, Mark Getsay and Nick Nunnari; Clerk Denise L. Rosenbaum.

Absent: Amy Havelka.

Chairman Petrulis advised the committee that Patrick Lipaj was resigning because he is moving out of Ward 1 and that this was his last meeting. Ward 1 Councilmember Lynda Appel had selected his replacement, Paul Schlosser, who was sworn in by Mayor Clough.

I. Presentation and approval of minutes.

Mr. Leonard moved, seconded by Mr. Ezolt, to approve the minutes of the April 10, 2019, meeting as presented.

VOICE VOTE:

Yeas: Bright, Ezolt, Leonard, Mindell, Olson, Petrulis, Yankow.

Abstentions: Schlosser.

Nays: None; motion carried.

II. Discussion of presentations from the April 10 meeting.

Ms. Mindell inquired about the city manager form of government that was brought up by Council President Killeen at the April 10 meeting. Committee members had questions about how that system works and what cities have it. Law Director Maloney was instructed to research which cities have a city manager – i.e. Cleveland Heights, Mason, Oberlin or other cities with a similar budget and population as Westlake – and to report on a weak mayor system as well.

The committee discussed the scorecard format of keeping track of proposed Charter amendments, clarification as to its layout and contents, the process over the course of the review period, and how to pare it down to what proposals to address as Charter amendments or in ordinance form. It was recommended that any ballot issues should be as singular as possible.

Mr. Ezolt requested the law director to prepare a memo defining the roles, responsibilities and limitations of the Mayor, Council and law director as outlined in the Charter. There was much discussion about the obvious tensions between these offices, how the amount of time and energy spent on the law director issue is impeding the progress of the review process, and whether it is in the scope of the Charter Review committee to dictate civility. Chairman Petrulis asked each committee member present to express his or her thoughts on the topic and pros and cons of an elected or appointed law director. The consensus of the members was in favor of retaining the elected law director provision in the Charter and not presenting the issue to the voters again; Mr. Ezolt wanted it changed to an appointed position; and others wished to have more time to decide. The importance of impartiality and balance of power was emphasized. However, it was understood that the role of the committee as a recommending body is to propose what is best for the citizens of Westlake. Committee members agreed that any relevant language discrepancies in the Charter need to be addressed, that this issue should be decided very soon, and that it will be considered again at the next meeting.

III. Interview Councilmember Lynda Appel.

Councilmember Appel gave a brief overview of her history on Council. She recommended that the process of rezoning properties needs to be reviewed, specifically Article IV, Section 13, when increasing the density, which has to go to the ballot. Having been Council's representative on the planning commission, she has seen both sides of the issue of a zoning change – if it is defeated in its ward but approved by the rest of the city, or if it were only up to the voters of that particular ward, how that could impact the entire city. She asked if there is a way to legally and fairly address this.

Ms. Appel's second recommendation was to consider staggering elected officials' terms to avoid the possibility of having an entire new slate of officials in one election. She mentioned how the school board has staggered terms with an election every two years. Costs of elections were mentioned and whether there would be city-wide voting as in other cities on such a schedule.

Committee members asked Ms. Appel about the issue of an appointed or elected law director. While she has a good working relationship with the current elected law director as she did with the previous one, she is in favor of an appointed law director with Council confirmation. Based on an issue she had during her last campaign, an elected law director may not always be able to offer objective advice.

IV. Interview Councilmember Mark Getsay.

Councilmember Getsay gave an overview of his background on Council emphasizing how public employees/officials serve and represent the people. He distributed and discussed a memo with his recommendations beginning with the issue of the law director position, which, in 2004, he was opposed to it being elected, but now sees it as a positive experience. He recommended keeping the law director an elected position and that the language in the Charter should be clarified where needed as to duties, responsibilities and requirements.

Mr. Getsay next stated that he is opposed to withholding payment for legal services when such services have been rendered. He recommended that payments be approved by two of three parties – Law Director, Mayor, Council – and that if the Mayor refuses, the law director could authorize such payments with Council's approval.

Another recommendation Mr. Getsay presented was that all legal counsel for Human Resources related issues should be handled by the law department as a central place for all legal issues. Also in regards to Human Resources, he stressed how vital it is to have an established department and director, consistent with other departments, and he recommended adding this to the Charter.

Mr. Getsay had similar comments as Ms. Appel about rezonings and recommended that, when it involves an increase in density, such rezonings should be required to pass citywide AND in the affected ward unless it is related to a planned unit development which should continue to be by a citywide vote.

As to elected officials' terms, Mr. Getsay prefers staggered four-year terms as good succession planning. When there is a vacancy in the office of the Mayor, the interim Mayor should be filled by an elected official. He recommended keeping the current succession order.

Other recommendations from Mr. Getsay included adding language to the Charter regarding double dipping, similar to the current code section 167.26, for all elected positions. He briefly mentioned the topic of a city manager form of government, which is a very complex issue, and recommended that a special commission be formed to study the advantages and disadvantages. Lastly, as to Charter Review committee appointments, he recommended that each elected official, including the Council President and law director, should be granted a single appointment and that there should be a stated replacement process should someone be unable to serve.

Committee members asked Mr. Getsay about term limits and he stated that, in effect, every four years is like a term limit in that a person must seek to be re-elected to continue.

V. Discussion of suggested charter amendments from committee members.

Due to time constraints, the committee agreed to postpone this until the next meeting.

VI. Adjournment.


Mr. Ezolt moved, seconded by Mr. Yankow, to adjourn the meeting at 8:43 p.m.


VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is May 22, 2019, at 7:00 p.m. in the Council Caucus Room.


Denise L. Rosenbaum, CMC, Clerk


Richard Petrulis, Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
MAY 22, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Russell Ezolt, Amy Havelka, William Leonard, Michelle Mindell, Alan Olson, Richard Petrulis, Paul Schlosser (arrived at 7:20), Larry Yankow.

Also present: Law Director Michael Maloney; Councilmembers Ken Brady, Mike O'Donnell, Mark Getsay and Lynda Appel (arrived at 7:11); Fire Chief Jim Hughes; Clerk Denise L. Rosenbaum.

Absent: Brook Bright.

I. Presentation and approval of minutes.

Mr. Leonard proposed that the April 24, 2019, meeting minutes be amended to reflect more accurately the committee's position on the topic of an elected or appointed law director. It was agreed that, in paragraph 3 under item II, the sentence "Some of the member were in favor of retaining the elected law director provision..." be changed to "The consensus of the members was in favor of retaining the elected law director provision..."

Mr. Leonard moved, seconded by Ms. Mindell, to approve the minutes of the April 24, 2019, meeting as amended above.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

II. Discussion and vote on retaining elected law director provision in Charter.

Chairman Petrulis proposed to postpone a vote on the topic of the law director provision until Mr. Schlosser arrived and to begin the meeting with the interviewees scheduled.

Mr. Ezolt moved, seconded by Ms. Havelka, that the committee should defer the vote until the end of the Charter review process after all the interviewees as well as former appointed law director Bernie Niehaus are heard.

Much discussion ensued. There were concerns that if this topic were delayed any longer, politics and inappropriate discussions outside of meetings could become involved and influence the members. It was suggested that perhaps the matter could even be left to the next Charter Review

committee to address. While additional input could still be heard throughout the process – from elected officials, directors and the public, given the right cross-section of the latter – there are many other proposed topics on the scorecard that haven't been discussed as of yet. Several committee members expressed the desire to resign if the matter was not dealt with tonight. Mr. Olson briefly reviewed the history of the topic over the last 10 years, from its being an issue at every single meeting of the last Charter Review in 2009-2010 to its failing on the ballot three times. Mr. Yankow suggested the committee hear the interviewees scheduled for this meeting and revisit the topic at the end of the meeting.

ROLL CALL ON THE MOTION:

Yeas: Ezolt, Havelka.

Nays: Leonard, Mindell, Olson, Petrulis, Yankow; motion failed.

Mr. Schlosser arrived at this point.

Mr. Yankow moved, seconded by Mr. Leonard, to change the order of the agenda by moving item II to item VI.

ROLL CALL ON THE MOTION:

Yeas: Havelka, Leonard, Mindell, Olson, Petrulis, Schlosser, Yankow.

Nays: Ezolt; motion carried.

III. Interview Fire Chief Jim Hughes.

Fire Chief Hughes gave an overview of his background and position as executive officer of the fire department and the State and local laws and civil service rules to which they are subject. He expressed appreciation for the support of the people through the levies provided for in the Charter for police and fire which pay for the wages and benefits of approximately seven firefighters. Law Director Maloney explained that the fire chief selection process is decided by scoring on testing by civil service, and the firing process is also governed by civil service. Committee members asked about emergency planning, disaster coordinating and recovery, residency requirements and cyber security issues. When asked about his interactions with the law director, whether appointed or elected, Chief Hughes explained he has had no problems interacting with any department and that during his tenure as Chief, the law director position has been an elected one. Reasons for interacting with the law department include enforcing laws, employee matters, FMLA, among many other things, although a human resources department formed in recent years now handles employee matters.

IV. Interview Councilmember Ken Brady.

Councilmember Brady thanked the committee members for their work to date and explained how important the Charter is. He then proceeded to review his comments for consideration outlined in a memo distributed to the members, which were as follows:

Article II, Section 2 – The Mayor's control over and responsibility for all departments should be with the exception of the law department which should be controlled by and the responsibility of the law director.

Article II, Section 5b – If the Mayor refuses to sign contracts/authorize payments, then the expenses should be paid with the approval of the law department and the majority of Council. The process for contracts, invoices and approval of expenditures was explained,

- and an example was given of a substantial legal bill that went unpaid for quite a while.
- Article II, Section 5e – Eliminate the need for reports and advice of appointed officials to be submitted to the Mayor for approval. If this were followed, it would mean Councilmembers couldn't directly seek the assistance of directors. This is better addressed as a policy than in the Charter.
- Article II, Section 6 – Clarify the salary of the acting Mayor to be the same as the Mayor. Also, a similar procedure for addressing vacancy should be added for the law director. Mr. Maloney pointed out that this is outlined in the Charter as well as by ordinance.
- Article III, Section 1 – Council could have staggered terms but all should be a different year than the Mayor. He prefers 4-year terms since 2-year terms are a lot of work and expense for a short term.
- Article IV, Section 1a – It is not necessary to name additional departments in the Charter, like human resources, because to remove a department would require it to go to the electors.
- Article IV, Section 2a – Department heads should remain appointed and dismissed by the Mayor subject to confirmation of Council. There was discussion as to when department heads' terms should end and the negative impact that can have on employees affected when new terms begin and appointments are delayed.
- Article IV, Section 4 – Clarify qualification of being active in practice of law to mean immediately preceding election.

Mr. Brady also suggested the Charter Review committee should consist of a representative of every elected official: 1 for the Mayor, 1 for the law director, 1 for each Councilmember as well as 1 for the Council President, for a total of 9. Mr. Maloney wanted it noted for the record that he has not asked to have such a representative.

Mr. Brady recommended that consideration be given to the city manager form of government, since a new mayor may be inexperienced whereas a city manager has the background and experience for such a role.

Lastly, as had been mentioned by Councilmembers previously interviewed, Mr. Brady suggested the process for zoning changes should have to be approved not only by a majority of voters in the city but also a majority in the ward where the change will occur. He gave the example of Crocker Park, the rezoning for which was defeated in its ward (his own ward 5) but passed by the rest of the city. Though he feels most are happy with it now, smaller area rezonings that may not affect the whole city should be determined by a majority in that particular ward.

The committee asked Mr. Brady for his input on the elected vs. appointed law director position. He explained how the view had evolved over the years and that he is against an appointed law director at this time since such a person can feel indebted to the Mayor and thus not be impartial. He feels the law director should be elected by the people. As to term limits, he feels that when there is a good person in office, term limits are not desirable, but when there is a bad person in office, term limits would be useful.

V. Interview Councilmember Mike O'Donnell.

Councilmember O'Donnell gave his background being on Council for 20 years and serving on a Charter Review committee before that. He explained how the committee's role is important since it affects the Charter by which Council must abide.

His first recommendation was regarding the Mayor's duty to sign all documents. The committee should consider having others, especially those with a fiduciary role, authorized to sign if the Mayor doesn't fulfill this duty.

As to terms of office, 2- or 4-year terms, Mr. O'Donnell is grateful for 4-year terms and feels they allow an official to get things done. He is not in favor of term limits on a municipal level. The success of a city is benefited by continuity and tenure of those holding office. Each election serves as a form of term limit on its own. He is opposed to staggered terms since he has experienced joining Council with two other new members and was successfully integrated. Other cities' terms run all at once as well. He feels it should be left as it is currently.

Mr. O'Donnell discussed the number of signatures needed for city-wide offices and suggested reducing it from 500, which seems to him to be excessive and possibly a deterrent to run, to 250 and 100 for ward candidates.

Regarding departments specified in the Charter, Mr. O'Donnell stressed the importance of an engineering department being core to a city with its multi-million dollar infrastructure projects. Possible future management of a utility for water supply should fall under this department.

Mr. O'Donnell spoke about the law director position, its roles and responsibilities, and how all department heads, whether elected or appointed, need to work in concert with the Mayor and that the Mayor, who is ultimately responsible for the city, needs to get along with all factions of the city. Mr. Ezolt asked Mr. O'Donnell if he is in favor of an appointed law director. Mr. O'Donnell has seen both appointed and elected law directorships work during his time on Council. However, the issue has been to the vote of the people, and we must abide by that; therefore, there is no need for change. Mr. Ezolt further asked what happens when officials don't get along to which Mr. O'Donnell replied that one must define the roles and responsibilities of each office and not the people in them.

Lastly, alluding to mention at previous meetings of making the planning commission also the architectural review board, Mr. O'Donnell recommended that a member of the planning commission be an architect.

VI. Discussion of suggested charter amendments from committee members.

The committee resumed discussion of the law director position. Mr. Maloney briefly reviewed three memos he had provided as requested at the last meeting regarding the general responsibilities of the law department; the separation of powers of the Mayor, law director and Council; and a summary organizational chart for the city of Westlake. Mr. Ezolt strongly urged hearing the Mayor again, as well as Mr. Niehaus and all the other interviewees before taking action. Mr. Yankow mentioned that the committee has heard from the Mayor both at the April 10 meeting and by way of two additional memos from the Mayor provided in the packet of materials for this meeting. He also stated that the Councilmembers interviewed so far feel the law director position should be elected and that any recommendation to Council most likely wouldn't be passed by Council to go to the ballot. Ms. Havelka felt that voting this early is a dereliction of duty and that the committee needs to do research and hear from the public before taking final action on the issue. Mr. Petrulis stated that the committee, whose job is to be apolitical, has discussed the issue, heard from five of the seven Councilmembers, and that the

citizens have spoken at the ballot three times. The committee should move forward and consider other suggested revisions.

Mr. Petrulis moved, seconded by Mr. Leonard, to recommend that the law director should be an appointed position by the Mayor with confirmation by Council.

ROLL CALL ON THE MOTION:

Yeas: Havelka, Ezolt.

Nays: Leonard, Mindell, Olson, Petrulis, Schlosser, Yankow; motion failed.

The committee agreed that language should be clarified in Article IV, Section 2, as to appointed/elected discrepancies. Additionally, the Mayor's responsibilities and legal inconsistencies therein should be addressed. Mr. Maloney stated he will present at his interview a redlined version of the entire Charter to highlight inconsistencies he has found.

VI. Adjournment.

Mr. Leonard moved, seconded by Ms. Mindell, to adjourn the meeting at 9:07 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is June 26, 2019, at 7:00 p.m. in the Council Caucus Room.



Denise L. Rosenbaum, CMC, Clerk


Richard Petrulis, Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
JUNE 26, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Brook Bright, Russell Ezolt, Amy Havelka, Alan Olson, Richard Petrulis, Paul Schlosser, Larry Yankow.

Also present: Law Director Michael Maloney (arrived at 8:15), Assistant Law Director Robin Leasure, Finance Director Prashant Shah, Purchasing Director Larry Surber, Engineering Director Bob Kelly, Clerk Denise L. Rosenbaum.

Absent: William Leonard, Michelle Mindell.

I. Presentation and approval of minutes.

Mr. Olson moved, seconded by Mr. Yankow, to approve the minutes of the May 22, 2019, meeting as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Ms. Havelka moved, seconded by Mr. Yankow, to change the order of the agenda to interview Engineering Director Kelly first.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

II. Interview Engineering Director Bob Kelly.

Mr. Kelly gave an overview of the engineering department and its various responsibilities – plan review, inspections, traffic signals, water line and roadway design work, bids, grants, flood plain coordination, overseeing infrastructure capital projects, and others as directed by the Mayor or Council.

Mr. Petrulis asked about state term pricing, and Mr. Kelly explained the process and projects for which it is utilized, stating that it gives better control, design is done in-house and there is no need to pay a consultant.

Mr. Petrulis then asked for Mr. Kelly's input on rezonings that increase density and need voter approval and whether they should require approval within the affected ward and/or city-wide, a topic that had been brought up at previous meetings. Mr. Kelly explained that his department is involved with maintaining the city maps, including the zone map which would be affected by such rezonings, and that it would make sense for rezonings to pass in the affected ward, but he didn't have a definitive stance on it.

Ms. Havelka asked about directors having to submit reports first to the Mayor for approval and whether it would be proper to eliminate this. Mr. Kelly stated that he provides advice and answers to questions directly to be efficient. However, it is good to have checks and balances especially with a new director or Councilmember.

Mr. Olson inquired of the verbiage describing the planning commission and the platting authority for the city. Mr. Kelly explained that the planning commission is a recommending body and that they seek the engineer's advice and comments on plan review – another checks and balances system. Additionally, all final plans are subject to the review and approval of the engineering department. All plats are recorded and kept by the department as well. With so much involvement in the planning commission's process, Mr. Kelly felt it is not necessary for the engineering director to be an ex-officio member of that commission. He also felt that planning commission's duties already include those of an architectural review board and that the Charter doesn't need to stipulate that one of the members be an architect.

Mr. Ezolt asked about flooding in yards and basements. Mr. Kelly explained how that is addressed and mitigated with dye testing, checking water lines and catch basin rehabilitation. When asked by Mr. Yankow about the Mayor not signing off on payments, Mr. Kelly stated that he has never had a problem with that.

Mr. Olson brought up the topic of the water supply issue, whether it be from Cleveland, Avon Lake or another source, and the possible need for setting up a water department. Mr. Kelly stated that it might fall under the division of service or a director of public works and would require a licensed engineer since it would deal with potable water. Such a department might need to be included in the Charter, but that remains to be determined if and when the time comes.

III. Interview Finance Director Prashant Shah.

Mr. Shah introduced himself, giving his background and history with the department and an overview of the department's staff and responsibilities. He briefly reviewed the city's finance operations, budget, funding, expenditures, revenue and daily monitoring of appropriations. He saw no need for any revisions or additions to the Charter for his department and pointed out that most of their functions are governed by the Ohio Revised Code, GASB (Governmental Accounting Standards Board) and GAAP (Generally Accepted Accounting Principles). He explained the processes for purchases – from requisition to purchase order to payment – and who signs them at each stage. With legal invoices, there have been times when the Mayor had questions as to some line items and held up payment until the questions were resolved. Otherwise, they are typically paid within 30 days of receipt. Committee members asked about daily transactions, city investments and required collateral, which Mr. Shah explained.

Mr. Olson inquired about the possibility of a water department and how that would be addressed. Mr. Shah stated that his department currently handles sewer bills and would combine water billing with that.

Ms. Havelka asked about directors having to submit reports to the Mayor to which Mr. Shah responded that it is good to have open communication and by copying the Mayor on communications with Council, he keeps him informed and that is sufficient.

IV. Interview Purchasing Director Larry Surber.

Mr. Surber gave his background and presented an overview of the purchasing department's duties as a centralized source for procurement of goods and services, quotes, bids specifications and selling of obsolete equipment and forfeited items. He and Ms. Leasure detailed the state pricing and cooperative purchasing programs the city participates in and how, if an item or service is over a certain threshold, he will get quotes and look for the best value, justifying the choice if it's not the lowest bid. He consults other cities and information sharing platforms when researching purchases.

Mr. Surber then distributed the pertinent sections of the Charter and administrative code for which his recommended amendments were as follows:

Article IV, Section 8(a) – Add a final sentence, “The Director is also permitted to procure goods and services through an approved Governmental Cooperative Purchasing Program.” Ms. Leasure stated that this is not really necessary.

Article III, Section 8(a) – Change the start time of regular Council meetings to 7:00 or 7:30 p.m. to be consistent with other evening public meetings and other cities' Council meeting times.

Chapter 145.03 Prevailing Wage Certification – Replace the total overall purchase cost estimate threshold of \$5,000 with “the current statutory limit prescribed by the statutes of the State of Ohio” to be consistent with what is required of engineering bids.

When asked about the need for the Charter requirement that there be an annual inventory submitted to the purchasing department, Mr. Surber explained that it is needed for insurance purposes. Asset tags are issued for items valued at over \$1,000.

Ms. Havelka posed the same question as she did to the previous two interviewees regarding the submitting of reports to the Mayor for his approval. Mr. Surber explained that most of his communications go through the Mayor anyway. If Councilmembers call him for information, he provides it to them. He also copies the Mayor on emails to keep him informed.

V. Review scorecard and finalize items on list by proposing actions on items.

The committee discussed, in general, the proposals on the scorecard. Ms. Leasure was asked to prepare a list by section and categorize the issues. She explained that some of the proposals are more significant while others are mere language clarification. It is not advisable to combine multiple articles and sections in one proposal. Also, she stated that the purpose of the Charter is

to not be so specific, but to be broad enough to encompass options. Some changes could have unintended effects. Committee members felt that some of the recommendations can be addressed in ordinance form and not in the Charter.

Ms. Havelka presented some proposed amendments she has received from individuals:

- Term limits
- Staggered terms
- The chain of succession for the Mayor – This has changed over time.
- Commission member appointment language – When a board or commission member reappointment by the Mayor isn't confirmed by Council, the member remains serving on the board or commission until an appointment by the Mayor is confirmed by Council
- Gender neutral language throughout
- Article XI, Section 10(f) – correction of typographical error in third paragraph: "Court of Common Peas" should be Court of Common Pleas

Mr. Olson mentioned the need for certain city officials – law director, city engineer, if there is to be a designated architect on planning commission, service director, director of inspections – to have current licenses or appropriate certifications and a method of checking this on a regular basis. Ms. Leasure explained that this would be done by human resources and could be part of the job descriptions which are contained in the administrative code, not the Charter. Other topics discussed were age limits, annual ethics training for all employees, the reason for dates referenced in the Charter (They are for historical purposes.), and the definitions of the terms "board," "commission" and "committee" (These are explained in the administrative code.).

Mr. Maloney arrived during the above discussions.

Mr. Schlosser requested the following be worded more clearly:

- Article II, Section 6(b), third sentence, to use the word "serve" instead of to "act" as Acting Mayor; and fourth sentence that "an Acting Mayor shall be paid the salary of the Acting Mayor."
- Article IV, Section 4 – "next preceding"

The committee was reminded that they are a recommending body reporting to Council and the Mayor. Discussions continued with Ms. Havelka asking if all the committee's recommendations should go to the ballot instead of only the ones Council chooses. Mr. Petrulis requested research on other cities that have staggered terms with the Mayor and President of Council opposite Ward terms. Regarding the city manager form of government proposal, the consensus of the committee was that there is not enough time to consider it and that a separate committee should be appointed to study it.

Mr. Olson moved, seconded by Mr. Petrulis, to recommend that Council set up a committee to study the city manager system.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next subject discussed was human resources and whether its legal counsel should be a duty of the law department and if it should be a named department in the Charter. It was stated that

there is a newly hired human resources manager who is also an attorney. Even so, Ms. Leasure said that legal advice should still be sought from the law department. Historically, the position has been part-time and not a director, and therefore not a named department in the Charter. Mr. Petrulis requested that other cities with a comparable number of employees be looked at for examples.

Lastly, the committee discussed double dipping. Mr. Maloney explained what it is and what restrictions are currently in place in the administrative code regarding it. At the April 24th meeting, Mr. Getsay had recommended that similar language be added for elected positions. Mr. Ezolt commented that it would be an asset to an employer to rehire an experienced retired employee. Mr. Maloney and Ms. Leasure will clarify with Mr. Getsay as to what he meant.

VI. Adjournment.

Mr. Ezolt moved, seconded by Mr. Schlosser, to adjourn the meeting at 8:42 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is July 31, 2019, at 7:00 p.m. in the Council Caucus Room.



Denise L. Rosenbaum, CMC, Clerk



Richard Petrulis, Chairman



27700 Hilliard Blvd.
Westlake, Ohio 44145

Phone 440.871.3300
Fax 440.617.4089

**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
JULY 31, 2019**

The meeting convened at 7:01 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Brook Bright, Russell Ezolt, Amy Havelka, William Leonard, Michelle Mindell, Alan Olson, Richard Petrulis, Paul Schlosser, Larry Yankow.

Also present: Law Director Michael Maloney; Councilmembers Dennis Sullivan, Nick Nunnari and Mark Getsay; Director of Inspections Don Grayem; Clerk Denise L. Rosenbaum.

I. Presentation and approval of minutes.

Mr. Olson pointed out a few statements in the minutes of the June 26, 2019, meeting that he felt were not accurate, so approval of them was postponed until the next meeting.

II. Interview Director of Inspections Don Grayem.

Mr. Grayem gave an overview of his 26½ years with the building department; its duties and responsibilities; composition; inspector qualifications; property maintenance issues; enforcement of and processes for compliance with codes; interactions with other departments such as engineering, fire, planning, law and service; and involvement with plan reviews and pre-construction meetings. He explained that the current Charter section adequately describes the qualifications needed for a Director of Inspections, emphasizing the need for experience and certification from the State of Ohio. He, as well as the inspectors, participates in continuing education.

Mr. Ezolt asked about Mr. Grayem's involvement in tree removal on a residential street and whether the road could withstand the required heavy machinery and loads associated with it. Mr. Grayem stated that matters involving tree removal are handled by the city forester, and the road issues are an engineering department matter but that the roads are designed to accommodate heavy vehicles such as fire trucks.

Mr. Olson asked if any changes were needed in the planning commission composition and if it should be an architectural review board as well. Mr. Grayem felt it is fine the way it currently is. As for the issue of rezonings that increase density being approved by voters in the affected ward and/or city-wide, he said it would make sense to be approved by those in the ward, but he did not have a real definite opinion.

III. Interview Councilmember Dennis Sullivan.

Councilmember Sullivan thanked the committee members for their efforts serving on the Charter Review committee. He gave the background on his 14 years on Council in ward 3 and highlighted the main concerns he hears most from residents, namely garbage collection, snow and leaf removal, and property maintenance. He strongly agreed with the committee's earlier decision to leave the law director position as an elected one because it is a good checks and balances system. However, there is a need to fine-tune the language in the law department section of the Charter to make the intent as clear as possible. He distributed a page outlining his recommendations as follows:

Article II, Section 2 – Shall appoint all department heads unless elected; exercise control over and be responsible of all departments unless elected. Mr. Sullivan questioned the need for the title of Director of Public Safety since the Mayor's position encompasses aspects of that. He proposed it be a duality. Mr. Maloney will research cities with a Mayor as Safety Director and those with separate positions and the duties of each.

Article II, Section 5(b) – Execution of documents. Official documents that have been approved should be signed, and if the Mayor refuses, there should be a written succession of those authorized to do so, possibly the Council President then the law director or vice versa.

Article II, Section 5(e) – Advice from directors submitted to the Mayor first for approval. Mr. Sullivan felt this limits directors in providing assistance when asked.

Article III, Section 2 – 18 months resident should be in the ward immediately prior to election.

Article IV, Section 1(a) – Eliminate the ambiguity resulting from co-mingling the elected law director provisions with appointed directors.

Article IV, Section 2(e) – Clarify the process of reappointments to prevent long, drawn out vacancies on boards or commissions. Mr. Sullivan felt that if a volunteer wants to continue serving and has been a valued member, that person should be presented for approval for reappointment. Committee members inquired if he meant that appointments should continue indefinitely, or if the terms are up with the Mayor's term, and what about in cases where someone not performing well should be removed. Mr. Sullivan stated that boards and commission members serve a definite term, and Mr. Getsay, in the audience, added that the intent is that a member serve until a successor is appointed. Mr. Maloney will clarify the language.

Article IV, Section 4 – Clarify "next preceding" to mean immediately preceding. As to vacancies and the Mayor's appointment of an acting law director who "...need not be a resident..." Mr. Sullivan recommended it should be the same qualifications as the elected law director. He proposed to add that the law director should have the authority to hire and approve all legal related services and invoices for payment. Mr. Maloney said he prefers to have Council's approval of his recommendations, especially when it comes to using outside legal counsel for major court cases like the ongoing Cleveland water issue or Crocker Park.

Article IV, Section 5 – Enhance the needed qualifications for the director.

Article IV, Section 6 – same as above.

Article X, Section 1 – He recommends an even dispersment of appointments to the Charter Review committee: one by each of the six Council ward members, one by the President of Council, one by the law director and one by the Mayor, for a total of nine.

General discussion followed with committee members questioning the perceived emphasis on reducing the powers of the Mayor and spreading them out more over Council, the feelings of

negativity toward the Mayor, and the animosity among the Mayor, Council and the law director. Mr. Sullivan stated that there are some gray areas and incoherency of the Charter that just need clarification so there is no need for interpretation. Mr. Maloney briefly explained that since he has been in office, interactions have improved. Mr. Leonard acknowledged the obvious friction, but concurred with Mr. Sullivan that it's not a matter of taking power away from the Mayor, but rather clarifying gray areas so as to waste less time.

IV. Interview Councilmember Nick Nunnari.

Councilmember Nunnari gave a brief introduction of his time on Council and stated that, despite the tensions between the Council and the administration, the longevity of both Council President Killeen and Mayor Clough is valuable, and they work out their differences. He commended Mr. Maloney for the efforts he has made so far in his term.

Many of Mr. Nunnari's recommendations had been mentioned by previously interviewed individuals, but the main ones he wanted to point out were as follows:

Article III, Section 1 – He wants to keep 4-year terms but have them staggered, with all wards running together and the Council President and Mayor together two years later. He favors term limits, maybe 4-5 terms, to allow for fresh blood. Mr. Maloney had distributed a memo at the beginning of this meeting which detailed the results of similar and surrounding cities surveyed as to their form of government, terms of office and Human Resources director. The committee will review and consider this at the next meeting.

Article III, Section 4 – Mr. Nunnari feels the Council President position should be full-time with full benefits because it has many more demands than the ward positions. Currently, none of Council receives any benefits.

When asked whether he favored an elected or appointed law director, Mr. Nunnari stated he prefers elected because it is a balance of power and because the electors have spoken to that effect as well. It should be left alone. He also feels the law department should make all decisions concerning legal counsel. Further, he stated that holding back money, or not signing contracts, is not right. Lastly, he recommended that Human Resources should be a separate department with a full-time director.

V. Review scorecard and finalize items on list by proposing actions on items.

Chairman Petrulis reviewed some of the issues on the scorecard and proposed several to be considered at the next meeting, one of which being the Human Resources issue. There will no doubt be more demand on that position in the future. Mr. Getsay in the audience stated that the Human Resources director should be similar to other directors, being confirmed by Council. Mr. Maloney indicated that qualifications for this position can be in ordinance form and as detailed as needed. He was instructed to obtain language for it, whether it be in the Charter or in ordinance form. Mr. Sullivan suggested the option of regionalization for Human Resources that would be impartial.

The committee revisited how there seems to be a desire to diminish the Mayor's responsibilities and/or clarify powers. The councilmembers present repeated that the intent is not to diminish the Mayor's powers but to implement best practices, have internal controls and be prepared for what is best, current and transparent for the city.

The issue of rezonings was further discussed since it is an important one for the city, particularly with Crocker Park. Mr. Sullivan cautioned that ward boundaries do change and what might occur in one ward today may end up in another ward in the future. Mr. Getsay mentioned the need to provide protection for small areas where rezonings to multi-family are sought, suggesting that those under 10 acres would require ward approval whereas those over 10 acres could be city-wide approval.

VI. Adjournment.

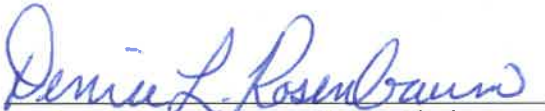
Mr. Yankow moved, seconded by Mr. Ezolt, to adjourn the meeting at 8:55 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is August 28, 2019, at 7:00 p.m. in the Council Caucus Room.


Denise L. Rosenbaum, CMC, Clerk


Richard Petrulis, Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
AUGUST 28, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Russell Ezolt, Amy Havelka, William Leonard, Alan Olson, Richard Petrulis, Paul Schlosser, Larry Yankow.

Also present: Law Director Michael Maloney, Mayor Dennis Clough, Recreation Director Bob DeMinico, Clerk Denise L. Rosenbaum.

Absent: Brook Bright, Michelle Mindell.

I. Presentation and approval of minutes.

Mr. Ezolt moved, seconded by Mr. Yankow, to approve the minutes of the June 26, 2019, meeting as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Ezolt moved, seconded by Mr. Schlosser, to approve the minutes of the July 31, 2019, meeting as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

II. Interview Recreation Director Bob DeMinico.

Mr. DeMinico gave an overview of his 42+ years in public recreation; a background on the department – the various facilities, its staff, duties and relationship with the Board of Education; and the composition and functions of the Recreation Commission. He explained how membership fees, policies and procedures are researched and reviewed by staff and the Recreation Commission which, in turn, makes recommendations for Council's approval. The recreation department provides many activities, events and entertainment every day, impacting the most people in the city on a personal level.

Mayor Clough, in the audience, stated that the recreation department is not a named department in the Charter. It is all addressed in the administrative code which allows for changes at any time. Mr. DeMinico stated that it probably should be a named department in the Charter since he wouldn't want it to be absorbed into another department such as the service department.

Mr. DeMinico explained his interaction with other departments -- mostly finance, engineering, community services, public service and occasionally the law department. He responded to committee members' questions about employee training, background checks, the various athletic associations involved, funding, how the director is appointed, improvements made to the recreation center, and geese and pond management.

General discussion followed. Mr. Olson stated, just for clarification, that whenever there is mentioned the need for a director, commission member or any employee to have a license or certification, he suggests that the word "current" be added. Mr. Yankow asked if the recreation department should be added to the Charter. Mr. Petrulis stated that it is more flexible if it is not in the Charter, with which Mayor Clough concurred. Mr. Maloney will do a survey of other cities as to where their recreation department is addressed. Mr. Olson asked to whom the Information Technology department reports. The Mayor replied that it reports to him. There are three employees and no director thus no need for Council confirmation.

III. Discuss scorecard issues.

A. Human Resources.

Mr. Petrulis began the discussion by referring to the survey Mr. Maloney had provided on July 31, noting that the city of Lakewood was the only one to address the human resources department in its Charter. All others addressed it in the administrative code. Regionalization was mentioned but not ideal since policies could be different in each city. Mayor Clough gave a background on how human resources was handled in the past, being spread among several other directors. He explained that the current human resources manager position, created about 8 years ago, is part-time, but he can make it full-time when there's a strong demand for it, especially during collective bargaining negotiations. Hiring good employees minimizes issues, and having the right person with the appropriate training in the human resources position has had good results. Mr. Olson felt that, based on the city's size of operation, there should be more emphasis on a full-time human resources person. Committee members asked how employee issues are addressed, how disciplinary actions are taken, and if there has been an increase in claims. It was noted that, overall, employee turnover is low, and the current policies and procedures are effective. The consensus of the committee was to leave the human resources department out of the Charter.

Mr. Ezolt moved, seconded by Mr. Schlosser, to not recommend adding human resources to the Charter.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

B. Charter Review committee appointments.

Mr. Maloney distributed the section of the Charter, Article X, Section 1, which outlines the current composition of the Charter Review committee. Discussion ensued regarding the proposal that each elected official -- the mayor, law director, council president and ward councilmembers -- have one appointment to the committee. Mr. Maloney made it clear that he had not requested to have an appointment. Committee members asked why the need for a change and why the council president doesn't currently have an appointment. Ms. Havelka stated that if each elected

official has an appointment, there still would be three city-wide appointees. Mayor Clough stated that the Charter is meant to guide administrative and legislative roles, and the current Charter Review committee structure gives six representatives for the legislative body and three for the administrative body. If there is to be any change, he would recommend having the members elected like a couple other cities currently do. Mr. Leonard acknowledged that the current dispersion is 2/3 legislative and 1/3 administrative but that he'd rather deal with more meaningful issues of the Charter. The committee tabled this issue to the next meeting, and Mr. Maloney will gather information from other cities and organize the comments already made to present at that time.

C. Rezoning – approved by ward and/or city-wide

From Mr. Maloney's research, he stated that it is very rare that an individual ward would decide a rezoning issue. A good example in Westlake is Crocker Park, which, if it had been decided by voting of ward residents only, would not be in existence today. It was recommended that, before taking action, the committee wait to hear from Planning Director Jim Bedell, scheduled to be interviewed at the next meeting, since he knows the technicalities of rezonings. Therefore, this issue was tabled to the September meeting.

D. Elected officials' staggered terms.

Mr. Maloney again referred to his survey of other cities, noting that term limits were more rare than staggered terms. The committee agreed that it is not good to have all elected officials up for election at the same time as this could create an entirely new group. There is value to history and continuity of elected officials. However, it was noted that incumbents are difficult to defeat. Mr. Maloney pointed out that judges in Ohio are never all on the same slate at the same time. Mayor Clough and committee members offered suggestions as to how the staggering could be implemented (while still retaining 4-year terms), which offices should run at the same time, how it would affect election expenses, and how voter burnout could be possible as a result. The committee decided that the different options and language could be crafted by the law director and Council.

Ms. Havelka moved, seconded by Mr. Leonard, to recommend staggered terms for elected officials.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

E. Elected officials' term limits.

This issue was touched on in the previous discussion. Mr. Ezolt was opposed to term limits since it is good to have history, as brought out before. Mr. Leonard agreed but reiterated that incumbents are difficult to defeat and that terms limits would be good to eliminate elected officials who abuse their power, citing examples in neighboring cities. Mr. Olson stated that, in Westlake, there is an egalitarian view and that he doesn't see a good reason to have term limits.

Mr. Leonard moved, seconded by Ms. Havelka, to recommend term limits for elected officials.

Yeas: Havelka, Leonard, Yankow.

Nays: Olson, Petrusis, Schlosser, Ezolt; motion defeated.

The committee considered addressing other items on the scorecard but was reminded that only those on the agenda could be considered. This also gives members time to review materials in advance of discussions. Possible topics for the next meeting were suggested, but with three interviews scheduled, there won't be time for them. The definition of public safety director was briefly mentioned. Mr. Maloney commended the committee for the progress they've made so far. He stated that many of the items on the scorecard are similar and some have nothing to do with the Charter. Mayor Clough stated that, when the committee is making recommendations, he wanted to be given the opportunity to provide his input since it impacts the administration and some of the information presented is not accurate. Mr. Petrulis assured the Mayor that the committee intends to invite both the Mayor and the Council President back for final input.

IV. Adjournment.

Mr. Leonard moved, seconded by Mr. Ezolt, to adjourn the meeting at 8:39 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is September 25, 2019, at 7:00 p.m. in the Council Caucus Room.



Denise L. Rosenbaum, CMC, Clerk



Richard Petrulis, Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
SEPTEMBER 25, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Brook Bright, Russell Ezolt, Amy Havelka, William Leonard (arrived at 7:07 p.m.), Michelle Mindell, Alan Olson, Richard Petrulis, Paul Schlosser, Larry Yankow.

Also present: Law Director Michael Maloney, Assistant Law Director Robin Leasure, Planning Director Jim Bedell, Mayor Dennis Clough, Clerk Denise L. Rosenbaum.

I. Presentation and approval of minutes.

Mr. Olson moved, seconded by Mr. Ezolt, to approve the minutes of the August 28, 2019, meeting as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

II. Interview Planning and Economic Development Director Jim Bedell.

Mr. Bedell gave a brief overview of his 6+ years as director as well as the responsibilities of both the planning and the economic development segments of his department. He reviewed his memo outlining his four Charter amendment recommendations which were as follows:

Article IV, Sections 10 and 11: Combine the Board of Zoning Appeals (BZA) with the Board of Building Appeals (BBA) to create a single board for all appeals. These boards had been one board but were split in 1966. Since the city has adopted the Ohio Building Code, most appeals are to the State. The BBA hears only a few appeals and therefore meets very infrequently—once in 2007 and twice in 2017. Having a quorum of informed members is sometimes challenging. As for the BZA, it averages ten meetings per year. The workload of the combined boards would not be an issue.

The new combined board was recommended to have five members and two alternates, if permitted under the Ohio Revised Code. This would ensure that meetings would not have to be cancelled due to a lack of a quorum. The responsibilities of the combined boards would need to be defined as well.

Article IV, Section 10(b): The appeals process should be clarified that the BZA may only hear appeals for dimensional variances and not for use variances. Also, remove “unnecessary hardships” since this phrase relates to use variances.

Article IV, Section 13: Mr. Bedell does not recommend changing the approval of rezonings to be both in the affected ward and city-wide. There are other ways to control growth and development through the existing applicable code sections and by future amendments to lesson impacts of new development on established residential subdivisions.

Committee members asked questions as to the combining of the two boards; if the alternates would be required to attend meetings at times to be informed; whether this matter had been discussed with the current BZA members; the length of terms and if staggered; the number of members and if it would be necessary to require specific professions. Mayor Clough in the audience was asked for his input, and he had no objection to combining the boards.

Mr. Olson moved, seconded by Mr. Leonard, to recommend combining the BZA and the BBA (Article IV, Sections 10 and 11).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Bedell elaborated on the difference between dimensional and use variances and why the latter are not desirable as they undermine zoning by permitting uses in a zone where they are not allowed. Mayor Clough explained the process of how a business requests a use change through a rezoning, a conditional use permit or a determination of similar use application. Mr. Olson suggested the powers in Article IV, Section 10(b) be clarified to be for single family residences. Mr. Maloney will prepare an explanation and provide proposed language to address this matter at the next meeting.

The committee next discussed the approval of rezonings and the recommendations that had been made previously by others. Mr. Bedell stated that it is better to address issues related to zoning in ordinance form that can be refined when needed versus in the Charter which can't be changed as easily. He explained how new developments may at times conflict with neighboring residents who wish to preserve undeveloped land. He also explained the notification process whereby people can voice their concerns to the planning commission and Council. Ms. Havelka noted that generally, residents and developers work together to make adjustments and reach acceptable solutions during the approval process. In his research, Mr. Maloney found that most cities do not put rezonings to the voters. Mr. Bedell agreed and was unaware of any communities that also required approval by ward. It was the consensus of the committee to leave the process as it stands.

Mr. Yankow moved, seconded by Mr. Schlosser, to recommend leaving the voter approval process of rezonings as is (Article IV, Section 13).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

III. Interview Law Director Mike Maloney and Assistant Law Director Robin Leasure.

Mr. Maloney reviewed the duties and staff of the law department, how and from where he hires his staff and any additional legal counsel, the approval of appointments by Council, and the setting of salaries. There was brief mention of mayor's courts, their purpose, advantages and disadvantages, and resistance of them at the State level. Committee members asked if Mr. Maloney's other jobs ever conflict with his duties in Westlake. He has had no conflicts. Whenever there has been a conflict of interest, he has removed himself from the matter. Ms. Leasure, who was hired by Mayor Clough and has been with the department for 25 years, stands in as needed. She is part-time, in the office every day, 25 hours per week, with no outside legal work.

Mr. Ezolt inquired about the process of certifying legal bills, and Ms. Mindell referred to the scorecard and the five previous requests regarding two parties signing for legal expenses. Mr. Maloney explained the process and how, historically, it had been a problem with some long delays of payments, but it has improved since he took office. Mr. Maloney stated that the Charter clearly and soundly covers the process already in Article II, Section 5, where the mayor is obligated to sign contracts. If he doesn't, Council can take action in court which committee members realized would be costly and damaging to the city's reputation. Mayor Clough was asked for his input, and he stated that the issue in the past had been the need for bills to be reviewed by the law director. He added that charges must be legitimate and that, ultimately, the bills were paid. Mr. Schlosser stated that in the corporate world, if there is a bill dispute, it is discussed, bringing in an attorney if needed, and the matter is settled that way. The committee felt it should be similar for the city.

Mr. Ezolt moved, seconded by Ms. Mindell, to recommend no changes to Article II, Section 5(b).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next group of recommendations on the scorecard to be considered related to Article II, Section 6(b) as to the salary of the acting mayor and the succession for vacancy in the mayor's office. Mr. Maloney said he could draft language to have the salary be the mayor's current rate or be determined by Council. Committee members briefly considered the existing succession order and other order options and agreed it should left as is.

Mr. Yankow moved, seconded by Mr. Ezolt, to recommend clarification of the salary of the acting mayor in Article II, Section 6(b).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Petrulis moved, seconded by Mr. Ezolt, to recommend to leave the mayor's succession order as is in Article II, Section 6(b).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Maloney referred to his memo of proposed Charter amendments relating to the law director and explained the reason for the proposed amendment to Article IV, Section 4, as to the phrase “next preceding” which had been a legal challenge raised in his run for election. The Ohio Supreme Court decision stated that the language “next preceding” did not mean “next” or “preceding,” leaving confusion over the meaning of the phrase. The committee agreed it needed to be clarified to mean immediately preceding.

Mr. Yankow moved, seconded by Mr. Schlosser, to recommend clarifying “next preceding” in Article IV, Section 4.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Also in his memo of proposed Charter amendments relating to the law director, Mr. Maloney proposed language amendments to Article II, Section 2, where it conflicts with the changes made to Article IV in 2004 when the law director became an elected position. Mayor Clough objected to these proposed changes to the powers of the mayor stating that if the people had wanted to change this section, they would have done so with the same referendum. He feels he is still accountable to the citizens as to the operation of all departments including the law department and that the law director should not be changing this section. Mr. Petrulis stated that, at a previous meeting, Mayor Clough had brought up the fact that there is conflicting language. Mr. Maloney had drafted the proposed language because Council had suggested it.

Mr. Leonard moved, seconded by Mr. Yankow, to recommend clarifying conflicting language in Article II, Section 2, and any other sections where necessary as it relates to the elected law director.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Maloney distributed another memo at the meeting regarding planning commission appointments and explained how the current wording in Article IV, Section 2(d) is poorly written as to terms. It states that a member serves until the “expiration of” his term or “until the appointment of his successor has been confirmed by Council.” As written, it is not clear whether a member’s term could continue indefinitely, until a successor was confirmed by Council, or expire at the end of the member’s current term, leaving the commission without a full board. In the recent past, there had been a stalemate when a member’s 4-year term ended and a new appointee was not confirmed by Council, which left a vacancy for a year or more. Mr. Maloney emphasized that the planning commission is an important body and would be at risk with a reduced number of members. Mayor Clough explained the situation when he wanted to appoint someone else at the end of a member’s term. He had presented six different candidates which Council did not confirm. He sees nothing wrong with the language as it currently reads. Mr. Maloney stated that the city’s experience with an unfilled spot on the commission last year showed the problem with the current language. He reiterated that the proposed amended language would better ensure a quorum and avoid the issue that occurred last year. Committee members discussed various scenarios and how those could be addressed.

Mr. Olson moved, seconded by Mr. Bright, to recommend clarifying language as to planning commission member terms (Article IV, Section 2(d)).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

IV. Discuss scorecard issues tabled at August 28 meeting:

A. Charter Review committee appointments

Mr. Maloney had researched some of the 200 Charter-rule cities in Ohio as to the Charter Review committee appointments and found many different variations. Some give Council the authority to appoint members; others require Council approval of the mayor's appointments; but Council members typically have appointments to the committee. Ms. Mindell asked for the Mayor's input on this matter. Mayor Clough stated that the Charter determines the powers of the legislative and administrative bodies. Currently, Council has 2/3 of the Charter Review committee appointments (6 of the 9) and the mayor has 1/3 (3 of the 9). He has no problem with the way it is, but if it were changed, he would recommend having all members elected like it is done in the city of Brook Park. Brief discussion ensued.

Mr. Leonard moved, seconded by Mr. Ezolt, to recommend leaving the Charter Review Committee member appointments in Article X, Section 1, as is.

VOICE VOTE:

Yeas: Bright, Ezolt, Havelka, Leonard, Mindell, Olson, Schlosser.

Nays: Petrulis, Yankow; motion carried.

B. Rezoning – approved by ward and/or city-wide

See discussion under item II.

V. Consolidate scorecard issues.

The committee reviewed items on the scorecard that had been addressed at tonight's meeting and those they wish to address at the next meeting. Members asked Mr. Maloney additional questions regarding the law department, the number of man hours involved, and how often he meets with the mayor and directors.

VI. Adjournment.

Mr. Leonard moved, seconded by Mr. Bright, to adjourn the meeting at 8:52 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is October 23, 2019, at 7:00 p.m. in the Council Caucus Room.



Denise L. Rosenbaum, CMC, Clerk



Richard Petrulis, Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
OCTOBER 23, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Russell Ezolt, Amy Havelka, William Leonard, Michelle Mindell, Alan Olson, Richard Petrulis, Paul Schlosser.

Also present: Law Director Michael Maloney, Service Director Paul Quinn, Police Chief Kevin Bielozer (arrived at 8:03 p.m.), Mayor Dennis Clough, Clerk Denise L. Rosenbaum.

Absent: Brook Bright, Larry Yankow.

I. Presentation and approval of minutes.

Ms. Mindell moved, seconded by Mr. Ezolt, to approve the minutes of the September 25, 2019, meeting as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Petrulis moved, seconded by Mr. Schlosser, to take the interviews out of order since Ms. Gadd and Chief Bielozer were not present when the meeting began.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

II. Interview Community Services Director Lydia Gadd.

Ms. Gadd was not present.

III. Interview Service Director Paul Quinn.

Mr. Quinn gave an overview of his department's many responsibilities which include maintenance of streets, sidewalks, sewers, city buildings, fleets, cemeteries, lawns, trees, storm water detention/retention basins, storage tanks and the landfill; snow plowing; leaf collection; ditch/creek cleaning and inspections; solid waste collection and recycling; various materials round-ups; and other duties. He stated that the current Charter does not hinder him or his staff from performing their duties. His only suggestion was to add city fleet maintenance as one of the responsibilities of the department in Article IV, Section 5. When asked about certifications and

licenses for the director and/or staff, he listed the training he has and the training the staff receives or is expected to have. Committee members asked further questions about specific street conditions, who is responsible for the maintenance of privately owned retention basins, the composition and turnover of the department staff, OSHA (Occupational Safety and Health Administration) ratings and workers' compensation claims.

IV. Review scorecard and finalize items on list by proposing actions on items.

Mr. Maloney began with Issue #3 (Article X, Section 1) on the scorecard relative to having all recommendations of the Charter Review committee go to the ballot. Members of the committee expressed the desire for their work to be recognized and not subject to Council's discretion as to what goes to the ballot. Mr. Petrulis felt that he is not an expert, being part of a recommending board only; that Council should review the recommendations; and that independent legal counsel may be needed as well. Mayor Clough, in the audience, confirmed that his intention in making the suggestion was for the citizens to determine the administrative and legislative powers through the Charter. When asked what other cities do, Mr. Maloney stated that none put all recommendations to the ballot. If they did, it could result in too many proposals instead of a few important, clearly written ones. Most of the committee, however, felt strongly that Council should send all recommendations to the ballot. They also realized that this change, if implemented, would be effective for the next Charter Review committee and not the current one.

Mr. Leonard moved, seconded by Mr. Ezolt, that all recommendations by the Charter Review committee should go to the ballot (Article X, Section 1).

VOICE VOTE:

Yeas: Ezolt, Havelka, Leonard, Mindell, Olson.

Nays: Petrulis, Schlosser; motion carried.

Next, Mr. Maloney addressed Issues #63, 7 and 34 (Article II, Section 5e), having to do with reports being submitted first to the mayor for his approval. Ms. Havelka recalled that department heads interviewed said that it is acceptable the way it is and that it does not hinder them. Mr. Olson asked the Mayor how many reports he reviews to which he responded that it's not usually the day-to-day activities but more important issues. The consensus of the committee was to leave the section as is.

Mr. Leonard moved, seconded by Mr. Ezolt, that Article II, Section 5e be left as is.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Discussed next was Issue #64, Article III, Section 2, a suggestion by Councilmember Sullivan that the residency requirement for Councilmembers be *in the ward* and not just in the city of Westlake. Mr. Petrulis and others noted that ward boundaries change, and this would make the proposed residency requirement difficult.

Mr. Leonard moved, seconded by Ms. Mindell, that Article III, Section 2 be left as is with respect to residency requirement.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The committee next considered Issue #72, Article III, Section 4, proposed by Councilmember Nunnari that the Council President position should be full-time with benefits. Mr. Maloney stated that this is extremely rare.

Mr. Leonard moved, seconded by Ms. Mindell, that Article III, Section 4 be left as is.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Maloney then commented on Issue #77, Article IV, Section 10b, dealing with use variances and removing the terminology "unnecessary hardship." He asked the committee to postpone action on this so that he can get clarification from Planning Director Jim Bedell. This issue is partially related to the proposed combining of the Board of Zoning Appeals and the Board of Building Appeals, the difference between use and dimensional variances and what defines a hardship. He will give specific examples at the next meeting.

Issues #12 and 37, Article IV, Section 1a, were considered next. They recommend that no more departments be named in the Charter. Committee members recalled that Recreation Director Bob DeMinico expressed the desire for the recreation department to be a named department in the Charter, and Community Services Director Lydia Gadd had expressed the same in a memo she provided to the committee (though not discussed at this meeting). The Mayor stated that, to eliminate politics, a department should be named in the Charter, especially those that are a big part of the city, thus making it more difficult to get rid of it. He recommended adding these two departments. Mr. Petrulis countered that there is greater flexibility if they're not in the Charter. Mr. Maloney will clarify these issues at the next meeting.

V. Interview Police Chief Kevin Bielozer.

Chief Bielozer did not have any proposed amendments to the Charter, but he gave a detailed overview of the police department's responsibilities and activities. Their comprehensive law enforcement plan is to preserve life and restore peace, reduce crime, improve professionalism of police services and create a sense of safety in the city. He explained how the department is proactive and aggressive in addressing crime, the presence of police being a deterrent in itself. Committee members asked many questions regarding the schools and the school resource officers, current drug and social media issues, cyber bullying, emergency response times, scams targeting the elderly, body and dash cameras, firearms training, deer culling, the K-9 units, shoplifting at Crocker Park, the composition and turnover of the police force, civil service testing procedures, and other topics. Chief Bielozer described the various ways police prepare for, prevent and combat safety issues in the city, and he expressed appreciation for the support from the Mayor and Council for the training and equipment which make them a premier police force.

VI. Adjournment.

Mr. Petrulis moved, seconded by Mr. Leonard, to adjourn the meeting at 8:56 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is November 20, 2019, at 7:00 p.m. in the Council Caucus Room.


Denise L. Rosenbaum, CMC, Clerk


Richard Petrulis, Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
NOVEMBER 20, 2019**

The meeting convened at 7:00 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Brook Bright, Russell Ezolt, Amy Havelka, Michelle Mindell, Alan Olson, Richard Petrulis, Paul Schlosser, Larry Yankow.

Also present: Law Director Michael Maloney, Community Services Director Lydia Gadd, Clerk Denise L. Rosenbaum.

Absent: William Leonard.

I. Presentation and approval of minutes.

Ms. Mindell moved, seconded by Mr. Ezolt, to approve the minutes of the October 23, 2019, meeting as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

II. Interview Community Services Director Lydia Gadd.

Ms. Gadd gave a history of the department, from its beginnings as the Westlake Assistance and Service Commission run by volunteers with contributions and donations, to its current status as the department of Senior and Community Services. They provide transportation, activities, social services, utility and prescription assistance, home visits, a food pantry and other services for seniors—to facilitate independence and aging in place—and for those in need based on the federal poverty level. She described the department's interactions with other departments such as the fire and police departments for follow-up on medical incidences and the recreation department for the health and safety fair. In response to committee members' questions, Ms. Gadd explained how the department is funded, briefly outlined its budget and the support of the administration, and described methods of promoting programs to the residents, schools and businesses. Currently, there are seven full-time plus a number of part-time employees, and she anticipates the need for additional reception and custodial employees once the new building is open.

Ms. Gadd had one recommendation for the committee—that the department of Senior and Community Services be a named department in the Charter because it shows a commitment to senior services and so that it doesn't become absorbed into another department. With the senior

population increasing and living longer, she stated that there is definitely a need for such services and a center that is age-friendly. The Mayor had approved of this recommendation.

III. Address remaining scorecard issues.

Mr. Maloney reviewed the scorecard, pointing out that he will clarify some issues for consideration at the next meeting and others can be addressed by ordinance, not in the Charter.

On Issue #50, Article III, Section 8a, the Council meeting time, Mr. Ezolt questioned why it is even stipulated in the Charter. The committee agreed with Mr. Maloney's suggestion that the Council meeting start time should be left up to the discretion of Council, by ordinance, and not be in the Charter.

Ms. Mindell moved, seconded by Mr. Bright, that Article III, Section 8a, as to the Council meeting start time should be left up to the discretion of Council, by ordinance, and not be in the Charter.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The committee discussed Issue #77 regarding use variances and unnecessary hardships in Article IV, Section 10b, and decided to wait until the next meeting when further clarification will be provided. A motion to act on this item was rescinded as a result.

Issues #2, 13 and 38 having to do with Article IV, Section 2a, the appointment and dismissal of department heads requiring Council confirmation, was discussed next. There was confusion as to which departments this covers and the difference between department heads or directors and managers.

Mr. Petrulis moved, seconded by Ms. Mindell, that Article IV, Section 2a, relative to the appointment and dismissal of department heads requiring Council confirmation be left as is.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

On Issues #12, 37 and 75, Article IV, Section 1a, which establishes certain departments in the Charter, there had been recommendations from the director of Recreation as well as Senior and Community Services to add these departments into the Charter. The Mayor did not oppose adding them, and the committee agreed it was logical to do so, especially based on their size.

Mr. Olson moved, seconded by Mr. Ezolt, that the Recreation department should be added to Article IV, Section 1a.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Ezolt moved, seconded by Ms. Mindell, that the Senior and Community Services department should be added to Article IV, Section 1a.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The committee next discussed Issues #46, 68 and 69, Article IV, Sections 5 and 6, and mainly focused on the qualifications of the respective directors of Public Service and Engineering. Mr. Olson emphasized the importance of having certifications, licensing and appropriate training for the various skills involved. The consensus of the committee was that it is adequate the way the sections are currently written.

Mr. Petrulis moved, seconded by Ms. Mindell, that Article IV, Sections 5 and 6, with respect to the directors' qualifications, should be left as is.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Petrulis moved, seconded by Ms. Mindell, that the Engineering department should be retained as stated in Article IV, Section 6.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The recommendation in Issue #48 was that a member of the planning commission should be an architect – Article IV, Section 9a. Mr. Maloney stated that it is not typically required and, in theory, it would be desirable. However, the likelihood of an architect being available to volunteer on such a commission is not practical. The committee agreed that when interviewing candidates, being an architect would be preferable.

Mr. Ezolt moved, seconded by Mr. Bright, that Article IV, Section 9a, be left as is.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The topic of signature requirements for elected officials was discussed next. Issues #11 and 45 both addressed Article VII, Section 3, Declaration of Candidacy. Mr. Maloney stated that the current requirement of 500 signatures for the offices of Mayor, President of Council and Director of Law, is extremely high. To emphasize the point, he brought to the committee's attention that for a County judge, only 50 signatures are required. For ward councilmembers, the current Charter requires 100. Ms. Havelka added that for the school board, only 75 are required, and that perhaps the ward requirement should be reduced to 50.

Mr. Ezolt moved, seconded by Mr. Schlosser, that the signature requirement in Article VII, Section 3, for Mayor, President of Council and Director of Law, be reduced from 500 to 250.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The committee unanimously agreed with Issue #56, that there should be gender neutral language throughout the Charter.

Ms. Havelka moved, seconded by Mr. Yankow, that there should be gender neutral language throughout the Charter.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Maloney addressed Issue #24, a recommendation that Human Resources' legal counsel be a duty of the law department. He stated that, unlike the past Human Resources situation, the current one runs smoothly, with the manager consulting regularly with the law department. So there is no need for an in-house HR legal counsel.

Ms. Mindell moved, seconded by Mr. Ezolt, that there should be no changes as to the Human Resources legal counsel.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

An additional suggestion Mr. Maloney mentioned for the committee's consideration was a change that the city of Fairview Park just passed having to do with the publication and posting of notices. He stated that the standard has been an advertisement in a local newspaper which is expensive and not very effective as most people don't read the newspaper anymore. It would be much more sensible to put such notices on the city's website or other electronic posting sites. Committee members asked about current practices and options such as the postings in city hall and at the Porter Public Library, notification sign-ups on the city's website, and mailing of postcards for certain projects. Mr. Yankow expressed concern for the elderly and others who may not have internet access or are not on social media.

Ms. Mindell moved, seconded by Ms. Havelka, that publication and posting of required notices be on the city's website or by other electronic means.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Maloney stated that language for the recommendations the committee has made to date is being drafted and has to be approved by the Charter Review committee at the January meeting along with the summary report which he will prepare as well. Also, as stated earlier, he will have clarification on the few remaining issues on the scorecard for the next meeting. Committee members discussed their availability for the last meeting in January, and it was decided that January 15, 2020, will be the date of the last meeting of the Charter Review committee. The Mayor, Council President and all those interested should be invited to attend this final meeting.

IV. Adjournment.

Ms. Mindell moved, seconded by Mr. Ezolt, to adjourn the meeting at 8:44 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next scheduled meeting of the Charter Review Committee is December 18, 2019, at 7:00 p.m. in the Council Caucus Room.



Denise L. Rosenbaum, CMC, Clerk



Richard Petrulis, Chairman



**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
DECEMBER 18, 2019**

The meeting convened at 7:04 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Brook Bright, Amy Havelka, Michelle Mindell, Alan Olson, Richard Petruilis, Paul Schlosser, Larry Yankow.

Also present: Law Director Michael Maloney, Mayor Dennis Clough, Clerk Denise L. Rosenbaum.

Absent: Russell Ezolt, William Leonard.

I. Presentation and approval of minutes.

Ms. Mindell moved, seconded by Mr. Schlosser, to approve the minutes of the November 20, 2019, meeting as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

II. Address remaining scorecard issues.

Mr. Maloney commented on the request made in Issue #5 to define Director of Public Safety as mentioned in Article II, Section 2. There is very little information on the definition of this position, and it needs to be more fully described in the ordinances. Any separate powers therein described would have to conform to references in the Charter. Mr. Petruilis stated that it should be left in the Charter as is, but have it defined in the ordinances.

Mr. Maloney mentioned that Issue #82, a recommendation by Service Director Quinn to add city fleet maintenance as one of the director's responsibilities in Article IV, Section 5, had been inadvertently omitted from his colored scorecard. It was briefly discussed that this is a duty the director already does and that if it ever needed to be outsourced, as has been done for rubbish collection and parks maintenance, it could be addressed as needed. The committee's consensus was that no change is needed to the section as it is currently written.

Ms. Mindell moved, seconded by Mr. Schlosser, to recommend no changes to Article IV, Section 5.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Issue #16, questioning the purpose of the need for department inventories in Article IV, Section 8(c), was considered. Ms. Havelka stated that citizens deserve to know where their tax money goes, but the committee agreed that a certain value threshold is reasonable.

Ms. Mindell moved, seconded by Ms. Havelka, to recommend no changes to Article IV, Section 8(c).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

III. Review draft language for recommended amendments.

Mr. Maloney had submitted to the committee members 11 proposed amendments for their consideration based on actions taken to date. He began with the proposed amendments to Article II, Section 2 – powers of the mayor. The changes clarified that the mayor is to appoint his office staff and department heads with the exception of the law director, and to exercise control over and be responsible for the operation of all departments except the department of law. In the second paragraph, it was proposed to add “and Director of Law” so that the second sentence reads: “The Mayor and Director of Law shall see that all laws, ordinances and resolutions are faithfully obeyed and enforced.”

Mayor Clough in the audience objected to these proposed changes stating that the Charter defines the law director’s duties in its own section and that this is crossing lines with and limiting the mayor’s powers. He felt that there is no need to redefine the mayor’s powers; there is no conflict as it is currently written; this matter should have been reviewed by an independent, impartial person; and Council can change this section at any time if need be. As mayor, he is in charge of all departments, and furthermore, as safety director, he is responsible for the police and fire forces.

Mr. Petrulis stated that the committee had already had significant discussions on this matter, and the intent was to clarify that the mayor is not responsible for appointing the law director, as it is currently an elected position. Ms. Havelka stated that adding the law director to enforce all laws should be discussed separately, and Ms. Mindell stated that the intent was to clarify that the law director is not appointed. After discussion, the committee recommended that this section be changed to read that: 1) the mayor be responsible for all departments “except the department of law” and 2) not add the law director language to the second paragraph relating to the enforcement of all laws.

Mr. Olson moved, seconded by Mr. Yankow, to approve the proposed amendments to Article II, Section 2 as presented and revised above.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Next discussed were the proposed amendments to Article II, Section 6, regarding the salary of the acting mayor – to be established by Council – and the reduction of the number of signatures needed for a mayoral candidate petition – from 500 to 250. Mr. Maloney pointed out that the reduction of the number of signatures was also addressed in Issues # 11 and 45 having to do with Article VII, Section 3 – the same requirements for President of Council and Director of Law.

Mayor Clough questioned the need to reduce the number of signatures since it has been that way for 15 years. Mr. Petrulis stated the committee had discussed at the last meeting the fact that the signature requirement for judges is less (50) and that 500 seems excessive.

Mr. Olson moved, seconded by Mr. Bright, to approve the proposed amendments to Article II, Section 6 as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Ms. Mindell and Ms. Havelka mentioned the recommendation to have gender neutral language throughout the Charter, referencing those types of changes in the proposed amendments so far. Despite there currently being a section at the end of the Charter regarding gender references, it's not strong enough, and the committee agreed that this is important. Mr. Maloney will correct it throughout.

Staggered terms were discussed next. These are addressed in Article II, Section 4, for the mayor, and Article III, Section 1, for the Council President and ward councilmembers. There was much discussion on how to implement the staggering, the purpose and history, examples of other cities, which terms should run concurrent and which terms would have a one-time 2-year term as the process is implemented. Various scenarios were discussed, and, ultimately, the committee decided to leave the mayor's term as is, and at the November 2, 2021, election, to make the Council President have a one-time 2-year term, the three councilmembers receiving the highest votes have a 4-year term, and the remaining three councilmembers have a one-time 2-year term.

Ms. Havelka moved, seconded by Ms. Mindell, to approve the proposed amendments to Article III, Section 1 as presented and revised above.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The committee then addressed the start time of Council meetings, Article III, Section 8. The proposed amendment is to allow the start time to be determined at the discretion of Council.

Mr. Olson moved, seconded by Mr. Bright, to approve the proposed amendments to Article III, Section 8 as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Adding departments was discussed next. The committee had recommended adding the recreation department and the community services department. Mr. Olson asked if any other boards or commissions should be added at this time. Mayor Clough mentioned other commissions – youth, recreation and tree commissions – that were created by Council and are in ordinance form. Mr. Petrulis stated it is not necessary to have all commissions in the Charter, mainly only those expected to last beyond the next Charter Review in 10 years.

The proposed amendments to Article IV, Sections 1(a) add the recreation and community services departments as well as clean up the language by including those departments that currently are in the Charter but are not listed (engineering; buildings, structures and inspections; purchasing). In Section 1(b), the proposed combination of the board of building and zoning appeals is added, the formation language for which is still being drafted and will follow at the next meeting.

Mr. Olson moved, seconded by Mr. Bright, to approve the proposed amendments to Article IV, Sections 1(a) and (b) as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The committee then considered the descriptions of each of the departments proposed to be added. Mr. Maloney stated that the recreation department section, Article IV, Section 14, is similar to other departments, and it does not conflict with any existing ordinances relative to that department.

Mr. Petrulis moved, seconded by Ms. Mindell, to approve the proposed new Article IV, Section 14 as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The description for the community services department, Article IV, Section 15, was based on Director Gadd's recommendations. There was discussion on the name of the department, whether it will be Community and Senior Services or simply Community Services center, and whether the responsibilities of the director should include the building itself. Committee members agreed to keeping the description language as presented but suggested clarifying in Section 15(b) that the director "hold" instead of "possess" a current license in social work or counseling, and that said license be an "Ohio" license.

Ms. Mindell moved, seconded by Mr. Schlosser, to approve the proposed new Article IV, Sections 15 as presented and revised above.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Maloney explained the proposed amendments to Article IV, Section 4, incorporating all the committee's recommended changes: the gender references; clarifying "next preceding" to read "immediately preceding"; adding language for the acting law director similar to that of the acting mayor; adding language relative to the number of signatures for a law director candidate petition to be consistent with the 250 requirement proposed for the mayor and council president; and adding language as to petition filing deadlines consistent with other elected officials' requirements by the Board of Elections.

Mr. Olson moved, seconded by Mr. Petrulis, to approve the proposed amendments to Article IV, Sections 4 as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The committee expressed a strong desire for their work on the Charter Review committee to be made public, to be published in some manner. It was explained that meeting notices and minutes are posted to the city's website and are public records, meetings have been open to the public, and a final summary report will be compiled to be submitted to Council. Committee members discussed the possibility of including the final report in the Mayor's newsletter, having a link to it on the city's website or having it published in the newspaper as well as putting in the Charter a requirement to publish. Mr. Maloney stated that it wouldn't be necessary to put it in the Charter and that it would simply be a request of the Charter Review committee. Mayor Clough explained that if the committee wants to publish their work, Council is required to provide monies to do so according to Article X, Section 1. The consensus of the committee was that the summary report should be published, either in the newspaper, the Mayor's newsletter or on the city's website. It was also agreed that the Charter Review Committee be called the Charter Review Commission.

Mr. Olson moved, seconded by Mr. Petrulis, to recommend that the Charter Review Committee be changed to the Charter Review Commission (Article X, Section 1).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

While discussing the proposed amendments to Article X, Section 1, on the chairman's suggestion, the committee revisited a previous vote on the same (See October 23, 2019, meeting minutes) wherein they had recommended that all recommendations made by the Charter Review committee should go to the ballot. Some members felt that, because the Charter Review committee is a recommending body and for various other reasons, not all recommendations may be worthy of going to the ballot as presented and that a review by Council is beneficial. Other members felt the matter should not be voted on again. Mayor Clough stated that he feels all recommendations by the Charter Review committee should go to the ballot.

Mr. Petrulis moved, seconded by Mr. Olson, to revoke the recommendation that all recommendations made by the Charter Review committee should go to the ballot (Article X, Section 1).

VOICE VOTE:

Yeas: Bright, Olson, Petrulis, Schlosser, Yankow.

Nays: Havelka, Mindell; motion carried.

Mr. Maloney recapped the remaining recommendations still being drafted – the combining of the Board of Building Appeals and the Board of Zoning Appeals and the method of public notification – and stated that all final drafts, along with the final report, will be ready for the January 15, 2020, meeting, and presentation to Council at their first meeting in February which is February 6.

III. Adjournment.

Ms. Mindell moved, seconded by Mr. Yankow, to adjourn the meeting at 8:47 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

The next and final meeting of the Charter Review Committee is January 15, 2020, at 7:00 p.m. in the Council Caucus Room.



Denise L. Rosenbaum, CMC, Clerk



Richard Petrulis, Chairman



27700 Hilliard Blvd.
Westlake, Ohio 44145

Phone 440.871.3300
Fax 440.617.4089

**WESTLAKE CHARTER REVIEW COMMITTEE
MEETING MINUTES
JANUARY 15, 2020**

The meeting convened at 7:02 p.m. at Westlake City Hall Council Caucus room.

Present: Committee members Brook Bright (arrived at 7:06), Russell Ezolt, Amy Havelka, William Leonard, Michelle Mindell, Alan Olson, Richard Petrulis, Paul Schlosser, Larry Yankow.

Also present: Law Director Michael Maloney; Mayor Dennis Clough; Councilmembers Lynda Appel and Ken Brady; Clerk Denise L. Rosenbaum.

I. Presentation and approval of minutes.

Ms. Mindell moved, seconded by Mr. Ezolt, to approve the minutes of the December 18, 2019, meeting as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

II. Address remaining scorecard issues.

Mr. Maloney began by addressing the few items that had been discussed at previous meetings but not voted on.

Issue #77, the recommendation by Planning Director Bedell regarding use variances and unnecessary hardships in Article IV, Section 10(b): Mr. Maloney had recently spoken again with Mr. Bedell who stated that this was not important enough for the committee's consideration as a Charter amendment.

Mr. Leonard moved, seconded by Ms. Mindell, to recommend no change to Article IV, Section 10(b) as to use variances and unnecessary hardships.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Issues #49, 15 and 18 relating to Article IV, Section 8(a) and Article V, Section 5, as to state pricing, bid contracts and purchasing programs are all addressed by ordinance and the Ohio Revised Code. Mayor Clough in the audience stated that every year, an ordinance is passed to allow the purchasing department to participate in various purchasing programs. Mr. Maloney confirmed that these topics do not require addressing in the Charter.

Mr. Olson moved, seconded by Mr. Ezolt, to recommend no change to Article IV, Section 8(a) and Article V, Section 5.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Issue #17, adding language to Article IV, Section 9(c), to make the planning commission also the architectural review board, had been briefly discussed when the committee considered requiring an architect on the planning commission. The consensus then was that it would be difficult to attract an architect to volunteer on a commission. If the planning commission were also to be the architectural review board, it would necessitate having one of the members be an architect. Therefore, the committee agreed that the planning commission should not be an architectural review board.

Mr. Olson moved, seconded by Mr. Yankow, to recommend no change to Article IV, Section 9(c).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

For Issue #57, correcting a typo, Court of Common “Peas” in Article XI, Section 10(f), Mr. Maloney strongly recommended that this not be considered as a Charter amendment simply to change one letter. He assured the committee that the spelling would be corrected.

Ms. Havelka moved, seconded by Mr. Bright, to recommend no Charter amendment to correct the typo in Article XI, Section 10(f).

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Issue #51, a request to replace the \$5,000 threshold with the current State of Ohio statutory limit in Chapter 145.03, is actually already addressed in the Charter. Mayor Clough explained that the Charter states (in Article V, Section 5(a)) that public bidding is governed by “...the current statutory limit prescribed by the statutes of the State of Ohio *or* an amount annually established by Council by ordinance...” So there is no need to make this change.

Mr. Leonard moved, seconded by Mr. Schlosser, to recommend no change regarding the threshold in Chapter 145.03.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Mr. Maloney explained the background of the request in Issue #29 regarding double dipping and elected positions in the Charter. He stated that this is already addressed in the codified ordinances where it is prohibited with exceptions for certain positions. Mayor Clough questioned if those ordinances, intended to prevent double dipping in Westlake, could even be upheld because the State allows it. If it were in the Charter, it most certainly would be challenged.

Mr. Ezolt moved, seconded by Mr. Petrulis, to take no action on the matter.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Issue #5, relating to the mention of Director of Public Safety in Article II, Section 2, had been discussed at previous meetings, and it was agreed that the mayor is the Safety Director because he oversees the police and fire departments. Mr. Maloney had surveyed other cities in order to enhance the definition of such a role, but stated it could be addressed by ordinance and not in the Charter.

Mr. Ezolt moved, seconded by Mr. Leonard, to recommend no change to Article II, Section 2, regarding the title of Director of Public Safety.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Having addressed all the outstanding items on the scorecard, Mr. Maloney then discussed the final report of the Charter Review Committee that will be compiled for submittal to Council at their February 6, 2020, meeting. A draft letter from the Chairman, to be included, had been circulated amongst the members for input. A letter from Mr. Maloney, the color scorecard, all of the meeting minutes, and the current Charter will also be included in a format similar to that done in 2010. Copies will be provided for all committee members, Councilmembers, the mayor and directors. Mr. Brady in the audience explained how Council will proceed after receiving the report. Committee members discussed how they would handle any inquiries from the public or media and were assured that the report would be on the city's website for public access. They also discussed options for a summary of the report to be in the mayor's newsletter or an article in the West Life newspaper. Mr. Maloney will use the Chairman's letter to draft a summary for those uses.

III. Review draft language for recommended amendments.

Mr. Maloney distributed to each of the committee members a folder of proposed amendments that had either been acted on and reflected the requested changes or were yet to be acted on:

Article II, Section 2: Powers of the Mayor. This had been voted on at the December 18, 2019, meeting, but there was a question as to the phrase "except the Department of Law" that had been proposed to be added to the end of the last sentence of the first paragraph. The committee recalled that they wanted that phrase not to be included, thus it should be removed.

Mr. Olson moved, seconded by Ms. Mindell, to remove the phrase "except the Department of Law" from the end of the last sentence of the first paragraph of Article II, Section 2.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Ms. Mindell expressed concern that these (and other) requested changes will be made since this is the last meeting. Mr. Petrulis suggested that all proposed amendments in their final form as

well as the minutes from this meeting be circulated to the committee members to make sure they are accurate. This will be done.

Article II, Section 6: Vacancy in office of mayor. Mr. Maloney reviewed the changes that had been requested and made to this section – changing the word “act” to “serve”; gender neutral language; defining the salary of the acting mayor; and reducing the number of signatures for a nominating petition from 500 to 250. These had already been voted on, so no further action was needed.

Article III, Section 1: Staggering the terms of Councilmembers. Mr. Maloney explained that this was the implementation option the committee requested, with the Council President instead of the mayor having a one-time 2-year term and the remaining ward councilmembers staggered based on the number of votes at the 2021 election. Mr. Schlosser noted that the word “Councilmen” at the end of the first paragraph should be gender neutral, either Council persons or Council members.

Mr. Olson moved, seconded by Mr. Bright, to approve the recommended proposed amendments to Article III, Section 1, as presented.

VOICE VOTE:

Yeas: All except Mr. Ezolt who had left the room momentarily.

Nays: None; motion carried.

Article III, Section 8: This allows the start time of Council meetings to be determined at the discretion of Council. This had already been voted on, so no further action was needed.

Article IV, Section 1: Mr. Maloney stated that these proposed amendments simply add the departments that either were already in the Charter and not mentioned in this section, or were requested to be added by the committee. These had already been voted on, so no further action was needed.

Article IV, Section 2: Mr. Maloney explained that the proposed amendments address combining the Board of Zoning Appeals and the Board of Building Appeals as well as the terms of members of boards and commissions, the latter worded such that the current member remains until replaced. Mayor Clough in the audience was opposed to a member continuing until Council approves someone else. He believes a term is a term, that it should be like when there is a vacancy in the office of mayor, the term ends at the end of the term; or when a new mayor comes on and appoints new directors. Mr. Maloney recapped what had happened when the planning commission went without a member for 1½ years. It is very important to have a functioning board and a quorum and to avoid having vacancies on the planning commission. Mr. Petrulis mentioned that the committee had already had extensive discussions on the matter and had already voted regarding this. Mr. Olson stated that the Charter can’t be used to regulate political differences.

Mr. Petrulis moved, seconded by Mr. Olson, to approve the recommended proposed amendments to Article IV, Section 2, as presented.

VOICE VOTE:

Yeas: Bright, Havelka, Leonard, Mindell, Olson, Petrulis, Schlosser, Yankow.

Nays: Ezolt; motion carried.

Article IV, Section 4: Mr. Maloney reviewed the changes that had been requested and made to this section – clarifying “next preceding”; gender neutral language; adding language defining the salary of an acting law director and the process to address a vacancy in office; and reducing the number of signatures for a nominating petition from 500 to 250. These had already been voted on, so no further action was needed.

Article IV, Sections 10 and 11: Mr. Maloney explained that these address the combining of the Board of Zoning Appeals and Board of Building Appeals, thus repealing Article IV, Section 11, formerly for the Board of Building Appeals.

Mr. Ezolt moved, seconded by Mr. Bright, to approve the recommended proposed amendments to Article IV, Sections 10 and 11, as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Article IV, Sections 14 and 15: These add the departments of Recreation as well as Community Services and had already been voted on, so no further action was needed.

Article VII, Section 3: Mr. Maloney explained that this reduces the number of signatures required for nominating petitions from 500 to 250 which was inadvertently not voted on when the same was addressed and voted on in Article II, Section 6.

Mr. Petrulis moved, seconded by Ms. Mindell, to approve the recommended proposed amendments to Article VII, Section 3, as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Article X, Section 1: The committee had requested that the Charter Review Committee be changed to the Charter Review Commission which is reflected in the proposed amendments.

Mr. Olson moved, seconded by Ms. Havelka, to approve the recommended proposed amendments to Article X, Section 1, as presented.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

Article III, Section 13: Mr. Maloney explained the proposed changes to this section to include current methods of publication notice such as on the website and various electronic methods. The language was general enough to allow for technology changes of the future. Some committee members expressed concern that there still needs to be a physical format for those without technology or access to newspapers, suggesting it still include posting at city hall, the library and other locations as determined by Council. Mr. Schlosser asked the high school students in the audience if the wording of the electronic technology formats made sense, and they agreed. After much discussion, the committee recessed at 8:29 p.m. to allow Mr. Maloney to draft the best way to word all that the committee requested. At 8:45 p.m., the committee reconvened and reviewed and further refined Mr. Maloney’s draft amendments.

Mr. Leonard moved, seconded by Ms. Mindell, to approve the recommended proposed amendments to Article III, Section 13, as revised on the floor.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

As the committee concluded their 11-month assignment and diligent work, the members thanked the clerk for her excellent work for the Charter Review committee as well as for Council, and Mr. Maloney for his expert advice and guidance throughout the process. Mr. Petrulis encouraged as many of the committee members who can to attend the February 6, 2020, Council meeting for the presentation of their final report to Council.

IV. Review summary report.

Discussed earlier under Item II.

V. Adjournment.

Mr. Olson moved, seconded by Mr. Ezolt, to adjourn the meeting at 8:56 p.m.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

unapproved
Denise L. Rosenbaum, CMC, Clerk

unapproved
Richard Petrulis, Chairman

**CHARTER
FOR THE
CITY OF WESTLAKE, OHIO**

EDITOR'S NOTE: The Westlake Charter was originally adopted on November 6, 1956. Dates appearing in parentheses following a heading indicate that those provisions were subsequently enacted or amended on the date given.

TABLE OF CONTENTS

PREAMBLE

ARTICLE I. POWERS OF THE MUNICIPALITY

1. Powers.
2. Manner of Exercise.

ARTICLE II. THE MAYOR

1. Qualifications (11-2-10).
2. Powers (11-7-00).
3. Removal (11-2-65).
4. Term of Office (11-6-90).
5. Duties.
 - (a) Attendance at Council Meetings.
 - (b) Execution of Documents.
 - (c) Veto. (11-2-10)
 - (d) Enforcement of Contracts.
 - (e) Reports (11-2-65).
 - (f) Ceremonial Duties.
6. Vacancy in Office of Mayor.
 - (a) Absence (11-7-00).
 - (b) Vacancy (11-2-10).

ARTICLE III. THE COUNCIL.

1. Number and Term (11-7-72; 11-7-00).
2. Qualifications (11-2-10).
3. Duties of Council.
 - (a) General Duties (11-4-80).
 - (b) Validation of Actions (11-7-72).
 - (c) Redividing the City into Wards (11-4-80).
4. President of Council.
 - (a) Separate Office (11-7-72).
 - (b) Duties (11-7-72).
 - (c) Vacancy in Office (11-7-72).
5. Removal (11-2-10).
6. Vacancies.
7. Clerk and Other Employees (11-7-72).
8. Meetings.
 - (a) Regular Meetings (11-7-72).
 - (b) Public Meetings (11-7-72).
 - (c) Special Meetings (11-7-72).
 - (d) Compel Attendance (11-7-72).
 - (e) Emergency Meetings (11-7-72).
9. Quorum.
10. Procedure (11-6-90).
11. Effective Date of Ordinances and Resolutions (11-4-80).
12. Codification of Ordinances.
13. Enactment of Zoning Ordinances (11-2-65).

ARTICLE IV. ADMINISTRATIVE OFFICES

1. Specific Provisions.
 - (a) Departments (11-2-10).
 - (b) Boards and Commissions (11-2-65).
2. General Provisions.
 - (a) Department Heads (11-2-04).
 - (b) Salary of Department Heads (11-7-72).
 - (c) Board and Commission Appointees (11-7-72).
 - (d) Continuation in Office (11-7-72).
 - (e) Reappointment (11-7-72).
 - (f) Vacancy (11-7-72).
3. Department of Finance.
 - (a) General Duties (5-8-84).
 - (b) Appropriations and Reports.
 - (c) Collections.
 - (d) Certification.
 - (e) Funds Subject to Certification.
 - (f) Failure to Comply.
 - (g) Attendance at Council.
4. Department of Law (11-2-10).
5. Department of Public Service (11-2-65).
6. Department of Engineering (11-2-65).
7. Department of Buildings, Structures and Inspections.
 - (a) General Duties (11-2-65).
 - (b) Qualifications (11-6-90).

8. Department of Purchasing.
 - (a) General Duties (11-2-65).
 - (b) Limitation on Purchases (11-2-65).
 - (c) Inventory (11-6-90).
9. Planning Commission.
 - (a) Membership (11-2-65).
 - (b) Vacancy.
 - (c) Duties (11-6-90).
 - (d) Funds.
 - (e) Mandatory Referral.
10. Board of Zoning Appeals.
 - (a) Membership (11-2-65).
 - (b) Powers (11-2-65).
11. Board of Building Appeals.
 - (a) Membership (11-7-00).
 - (b) Powers (11-2-65).
12. Civil Service Commission.
 - (a) Membership (11-2-65).
 - (b) Officers (11-2-65).
 - (c) Classifications of Service (11-7-00).
 - (d) Duties (11-7-00).
 - (e) Funds (11-2-65).
13. Rights Retained by People (5-8-84; 11-7-00).

ARTICLE V. FINANCE

1. Annual Appropriation Estimate.
 - (a) Fiscal Year.
 - (b) Estimates (11-8-60).
2. Appropriation Ordinance.
3. Transfers and Balances.
4. Payment of Claims.
5. Public Bidding.
 - (a) Bidding Required (11-7-00).
 - (b) Waiver of Requirement (11-7-00).
6. Public Improvements.

ARTICLE VI. TAXATION

1. Limitation on the Rate of Taxation (5-8-84).
2. Submission of Extra Levy to Vote (11-4-58).
3. Other Taxes (11-4-58).
4. Levy of Taxes for Police and Fire (11-3-15).
5. Limitation on the Rate of Taxation (11-8-05).

ARTICLE VII. NOMINATIONS AND ELECTIONS

1. Municipal Elections (5-6-03).
2. Nonpartisan Primary Elections (11-7-00).
3. Declarations of Candidacy (11-3-15.).
4. Qualifications of Candidates (11-4-80).
5. Designation of Candidates (11-6-90).
6. Independent Candidates (11-6-90).
7. Election Procedures (11-7-00).

ARTICLE VIII. INITIATIVE, REFERENDUM, RECALL

1. Initiative (5-6-03).
2. Referendum (11-4-80; 5-6-03).
3. Recall.
4. General Provisions (11-7-95).

ARTICLE IX. AMENDMENTS TO CHARTER

1. Indexing.
 - (a) System Used.
 - (b) Severability.
2. Amendments (11-2-10).

ARTICLE X. CHARTER REVIEW COMMITTEE

1. Review (11-4-80).

ARTICLE XI. GENERAL PROVISIONS

1. Effective Date of Charter.
2. Effect of Charter upon Existing Laws and Rights.
3. Saving Clause.
4. Interpretation of Charter.
5. Franchises.
6. Continuance of Present Officers.
 - (a) Continuance of Officers.
 - (b) Abolish Duties.
7. Oath of Office.
8. References to Gender (11-4-80).
9. Conflict of Interest: Personal Financial Interest (11-4-80).
10. Meetings of Governmental Bodies to be Public; Exception. (11-3-81; 11-6-90).

**CHARTER
FOR THE
CITY OF WESTLAKE, OHIO**

PREAMBLE

We, the people of Westlake in the County of Cuyahoga and State of Ohio, grateful to Almighty God for the freedoms we enjoy, in order to secure for ourselves the benefits of municipal home rule and exercise all the powers of local self-government, do adopt this Charter of our Municipality.

**ARTICLE I
POWERS OF THE MUNICIPALITY**

SECTION 1. POWERS.

The Municipality of Westlake shall have all powers of local self-government and municipal home rule now or hereafter granted to municipalities by the Constitution and laws of Ohio.

SECTION 2. MANNER OF EXERCISE.

All such powers shall be exercised in the manner prescribed by this Charter or by ordinance of the Council created hereby. The powers of the Municipality may also be exercised, except as a contrary intent or implication appears in this Charter or in the ordinances of the Council, in such manner as may now or may hereafter be provided by the general laws of Ohio.

**ARTICLE II
THE MAYOR**

SECTION 1. QUALIFICATIONS.

The Mayor shall be a qualified elector of the Municipality and a resident thereof for eighteen consecutive months immediately prior to the date of election. During his term of office he shall continue to be a resident and qualified elector of the Municipality. He shall hold no other public office or full time public or private employment that would interfere with his duties as Mayor of the City of Westlake, except Notary Public or a member of the State Militia or Reserve Corps of the United States. He shall not be interested in the profits or emoluments of any contract, job, work or service with or for the Municipality as provided by the general laws of Ohio. If the Mayor shall cease to be a qualified elector or resident of the Municipality, his office shall immediately become vacant. Failure of the Mayor to possess the other qualifications for office set forth in this section shall be grounds for his removal from office pursuant to Article II, Section 3 of this Charter.
(Amended 11-2-10.)

SECTION 2. POWERS.

The chief executive authority of the Municipality shall be vested in the Mayor. As administrator of the City government, the Mayor shall appoint all department heads and the Mayor's office staff. The Mayor shall exercise control over and be responsible to the electors of the City for the operation of all departments and divisions.

The Mayor shall be chief conservator of the peace within the Municipality and shall serve as its Director of Public Safety. The Mayor shall see that all laws, ordinances and resolutions are faithfully obeyed and enforced. The Mayor shall have the power to appoint, promote, transfer, reduce or remove any officer or employee to the extent and under the circumstances permitted by this Charter or the laws of the State of Ohio, where it is beyond the scope of this Charter to provide. (Amended 11-7-00.)

SECTION 3. REMOVAL.

Council may, by a two-thirds (2/3) vote of the members of Council after public hearing, expel or remove the Mayor from office for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his oath of office; for conviction while in office of a crime involving moral turpitude; for absence without justifiable excuse from three consecutive regular Council meetings; or for mental or physical disability rendering it impossible for him to perform the duties of Mayor. Prior to any such action by Council, the Mayor shall be notified in writing of the charge against him at least ten (10) days in advance of any hearing upon such charge, and he and his counsel shall be given an opportunity to be heard, present evidence or examine any witness appearing in support of such charge. (Amended Nov. 2, 1965.)

SECTION 4. TERM OF OFFICE.

The Mayor shall be elected for a term of four years, to commence the first day of January after his election. The annual salary of the Mayor for the term commencing January 1, 1994 and for each succeeding term thereafter, shall be fixed by Council at least forty-five (45) days prior to the time a person is required to file nominating petitions for the office of Mayor for that particular term, and may be increased but shall not be decreased during the term it was set. (Amended Nov. 6, 1990.)

SECTION 5. DUTIES.

(a) Attendance at Council Meetings. The Mayor shall be an ex-officio member of Council and shall sit with that body, with the right to introduce ordinances, resolutions and motions and discuss all matters coming before Council. He shall not have a vote in Council. The Mayor may require whatever department heads or other officials he has appointed to attend Council meetings and provide advice and opinions as may be requested by the Mayor or Council.

(b) Execution of Documents. The Mayor shall sign, on behalf of the Municipality, all contracts, conveyances, evidences of indebtedness and all other instruments to which the Municipality is a party.

(c) Veto. If the Mayor approves any ordinance or resolution, he shall approve it within ten (10) days after its passage or adoption by the Council. The Mayor may veto any ordinance or resolution passed by Council. The Mayor may approve or disapprove the whole or any item or part of any ordinance or resolution appropriating money, but otherwise his approval or disapproval shall be addressed to the entire ordinance or resolution. In case of a veto, the matter shall be returned to Council with a statement in writing by the Mayor of his objections, which shall be entered into the official journal. Council shall vote on such ordinance or resolution not later than the second regular meeting after receipt of such veto. Council may override the Mayor's veto by a two-thirds (2/3) vote of all Members and upon receiving such an affirmative vote, the ordinance or resolution shall then take effect as if it had received the signature of the Mayor. If any ordinance or resolution shall not be signed or vetoed by the Mayor within ten (10) days after passage, it shall become effective as if he had signed it on the last day of said ten-day period. (Amended 11-2-10.)

(d) Enforcement of Contracts. The Mayor shall see that all terms and conditions imposed in favor of the Municipality or its residents in any franchise or contract to which this Municipality is a party are faithfully kept and performed.

(e) Reports. Reports and advice of all appointed officials, as provided elsewhere in this Charter, shall be submitted first to the Mayor for his written approval. (Amended Nov. 2, 1965.)

(f) Ceremonial Duties. The Mayor shall be recognized as the official and ceremonial head of Government by the Governor for military purposes and by the courts for the purpose of serving civil processes.

SECTION 6. VACANCY IN OFFICE OF MAYOR.

(a) Absence. When the Mayor is temporarily absent from the Municipality or is unable for any cause to perform his duties, the Mayor shall appoint from the department heads presently serving an individual to serve as Acting Mayor with the same rights, powers and duties as the Mayor during the term of his temporary absence. If the event that the Mayor is unable for any reason to make such appointment of an Acting Mayor, the President of Council or the individual acting in the capacity of President of City Council shall make such temporary appointment. (Amended 11-7-00.)

(b) Vacancy. In the event the office of Mayor shall become vacant for any reason, the President of Council shall become Acting Mayor for a period not to exceed six (6) months to permit a duly elected successor to be chosen. In the event the President of Council, for any reason, cannot assume the office of Acting Mayor, the Director of Law shall assume the office. In the event the Director of Law, for any reason, cannot assume the office of Acting Mayor, Council shall select from the remaining Directors one who need not be a resident of the City of Westlake, to act as Acting Mayor. During his term of service an Acting Mayor shall be paid the salary of the Acting Mayor and may retain his original elected or appointed position at no additional compensation. The Council shall, within fourteen (14) days after the vacancy occurs, provide for a special election, with no preliminary primary, to be held within one hundred twenty (120) days from the date of the vacancy to fill such vacancy.

The candidates for the special election shall be chosen in the following described manner:

- (1) Any candidate who files a nominating petition that is signed by not less than five hundred (500) qualified electors shall be a candidate at the special election.
- (2) Unless otherwise provided by the Constitution or the general laws of the State of Ohio, all candidates must file their nominating petitions not later than 4:00 p.m. of the 60th day before the day of the special election. The person receiving the largest number of votes in the special election shall become Mayor and take office upon certification by the Board of Elections, and he shall serve for the unexpired term of office. He may be a candidate to succeed himself. (Amended 11-2-10.)

ARTICLE III THE COUNCIL

SECTION 1. NUMBER AND TERM.

Except as otherwise provided in this Charter and by the Constitution of the State of Ohio, all legislative powers of the Municipality shall be vested in a Council of seven (7) members, consisting of a President and six (6) ward Councilmen.

The term of the six ward Council members shall begin on January 1st following the election and certification by the Cuyahoga County Board of Elections of the results of the election for members of Council and the ward Council members shall serve for a term of four years beginning with the term to commence on January 1, 2002.

The term of President of Council shall begin on January 1st following the election and certification by the Cuyahoga County Board of Elections of the results of the election of the office of President of Council and the President of Council shall serve for a term of four (4) years beginning with the term to commence on January 1, 2002.
(Amended 11-7-00.)

SECTION 2. QUALIFICATIONS.

Each member of Council shall be a qualified elector of his or her ward, a resident of Westlake for eighteen (18) consecutive months immediately prior to the date of the election and, during the term of office, shall continue to be a resident of that ward and a qualified elector. The President of Council shall be a qualified elector and a resident of Westlake for eighteen (18) consecutive months immediately prior to the date of the election, and while in office, shall continue to be a resident and qualified voter. No member of Council shall be directly or indirectly interested in the profits or emoluments of any contract, work or service with or for the Municipality as provided by law.
(Amended 11-2-10.)

SECTION 3. DUTIES OF COUNCIL.

(a) General Duties. All legislative powers of the Municipality, except as limited by this Charter, shall be vested in the Council, and in furtherance thereof it shall originate, introduce and pass ordinances and adopt resolutions; fix the salaries of all employees of the Municipality whether elected or appointed; require and fix bond for the faithful discharge of the duties of office by officers and employees; (the premium of any bond required by Council may be paid by the Municipality); adopt a budget; provide for an annual financial audit by the State; authorize the issuance of bonds under State law; and perform such other duties and exercise such other rights, not inconsistent with this Charter, as now or hereafter granted to the legislative authority of any municipality of Ohio.

Salaries paid to members of Council may neither be increased nor decreased during the term in which such legislation changing the salaries of councilmembers is adopted. Any change in the salaries of members of Council for the succeeding term of Council must be effective at least 45 days prior to the date a person is required to file for candidacy of the office of Council. (Amended Nov. 4, 1980.)

(b) Validation of Actions. All ordinances passed and resolutions adopted by Council shall be signed by the President of Council, or President pro tem., attested by the Clerk and presented to the Mayor within five (5) days after their passage by the Council. (Amended Nov. 7, 1972.)

(c) Redividing the City into Wards. The wards as presently constituted shall remain the same and the Council by the first regular meeting of March, 1983 and, from that point on, each four (4) years and six (6) years respectively shall redivide the City into six wards. The wards so formed shall be compact and contiguous with no more than five percent (5%) variation in population between them. Wherever practical, ward boundaries shall follow natural boundaries or street lines. All votes by Council on ward boundary changes shall be taken only at regular meetings of Council and a two-thirds (2/3) vote of Council is required for passage of said boundary changes.

Upon failure of the Council to redivide the City within the period provided, if redivision is necessary, the Director of Law shall redivide it as herein provided and he shall file such plan with the Clerk of Council within thirty (30) days. This plan shall thereupon become the new division by wards of the City.

The division of the City into wards existing at the time of adoption of this amendment shall continue until changed as provided herein.

No change in ward boundaries by either the Council or the Law Director shall be made in such a manner so as to result in an incumbent Councilperson no longer residing in the ward from which that Councilperson was last elected. (Amended Nov. 4, 1980.)

SECTION 4. PRESIDENT OF COUNCIL.

(a) Separate Office. The President of Council shall be elected by the voters. Candidates for such office shall file specifically for that office in accordance with Article VII of this Charter.

(Amended Nov. 7, 1972.)

(b) Duties. The President of Council shall be vested with all the rights and perform all duties and functions of any member of Council, and in addition, shall preside at all meetings of Council at which he is present. He shall supervise the Clerk of Council and all other employees of Council.

(Amended Nov. 7, 1972.)

(c) Vacancy in Office. In case of a vacancy, the President shall be elected by Council from among its members and the one so elected shall vacate his office as Councilman and shall serve for the unexpired term of such President.

(Amended Nov. 7, 1972.)

SECTION 5. REMOVAL.

The Council shall be the judge of the election and qualifications of its own members, including the President of Council. Council may, by a two-thirds (2/3) vote of the members of Council, after public hearing, expel or remove from office the President or any member of Council for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his oath of office; for conviction while in office of a crime involving moral turpitude; for persistent failure to abide by the rules, ordinances and resolution of Council; for absence without justifiable excuse from three consecutive regular Council meetings; or for mental or physical disability rendering it impossible for him to perform the duties of his office. The charged Council member shall not be entitled to vote as to his own expulsion. Prior to any such action by Council, the President or member of Council so charged shall be notified in writing of the charge against him at least ten (10) days in advance of the hearing upon such charge, and he and his counsel shall be given an opportunity to be heard, present evidence or examine any witness appearing in support of such charge.

(Amended 11-2-10.)

SECTION 6. VACANCIES.

Vacancies in Council shall be filled for the unexpired term by an appointment made by a majority vote of all remaining members of Council. Such appointment shall be made within thirty (30) days after the next regular meeting following receipt of official notification of such vacancy. If Council fails to fill the vacancy within said thirty (30) day period the Mayor shall make the appointment.

SECTION 7. CLERK AND OTHER EMPLOYEES.

(a) Council may, by ordinance, provide for the appointment by its members of a Clerk, fix the terms and conditions of office for such Clerk and compensation and qualifications therefor. Council may employ any other employees it may deem necessary for the proper discharge of its duties. Any person employed by the Council shall serve at the pleasure of the Council.

(b) All notices or other communications to Council shall be presented to the Clerk of Council.

(Amended Nov. 7, 1972.)

SECTION 8. MEETINGS.

(a) Regular Meetings. At eight o'clock p.m. local time (8:00 p.m.) on the second day of January following a regular municipal election, or if such day be a Sunday, on the day following, the Council shall convene and organize. Thereafter, the Council shall meet the first and third Thursdays of each calendar month at eight p.m. (8:00 p.m.) local time, unless the regular meeting shall fall on a legal holiday, then such regular meeting shall be held on the succeeding Tuesday. Council may recess during the month of July or August subject to call of the Mayor.
(Amended Nov. 7, 1972.)

(b) Public Meetings. All meetings of the Council or of its committees shall be open to the public.
(Amended Nov. 7, 1972.)

(c) Special Meetings. Special meetings may be called by the Mayor, President of Council or any three members of Council. There shall be given at least twenty-four (24) hours' notice in writing of such special meeting, served personally on each member of Council or at his usual place of residence. Such notice shall state the subject or subjects to be considered at the meeting and no other subject shall be considered.
(Amended Nov. 7, 1972.)

(d) Compel Attendance. The attendance at any special meeting of the Council shall be considered as a waiver of notice required by the preceding subsection and if all members of Council are present the meeting may proceed as a duly called special meeting.
(Amended Nov. 7, 1972.)

(e) Emergency Meetings. Emergency meetings may be called by the Mayor or President of Council by written notice served personally on each member of Council or left at his usual place of residence at any time up to the time of the meeting. Such notice shall state the subject or subjects to be considered at the meeting and no other subject shall be considered.
(Amended Nov. 7, 1972.)

SECTION 9. QUORUM.

A majority of the members of Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance or resolution. The Council shall adopt its own rules, regulations, and/or bylaws.

SECTION 10. PROCEDURE.

All legislative action shall be by ordinance or resolution except when otherwise required by the Constitution or the laws of the State of Ohio. The Council shall keep a journal of its proceedings which shall be a public record. The vote shall be taken by yeas or nays and entered upon the journal; and no ordinance or resolution shall be passed without the concurrence of a majority of the members of Council. Every proposed ordinance or resolution, before passage, shall be read at

three separate meetings unless two-thirds (2/3) of the members of Council dispense with the rule. All ordinances, resolutions, statements, orders, proclamations, notice and reports required by law, by this Charter, or by ordinance to be published or posted shall be posted at the City Hall and the Porter Public Library for a period of not less than fifteen (15) days prior to the taking effect thereof, or in such manner as Council may hereinafter determine by ordinance, resolution or order; provided, that ordinances or resolutions which, pursuant to this Charter, are to take effect upon approval by the Mayor or upon passage after disapproval by the Mayor, may become effective prior to the expiration of the posting period.
(Amended Nov. 6, 1990.)

SECTION 11. EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.

Each ordinance or resolution providing for the appropriation of money, or for an annual tax levy, or for improvements petitioned for by the owners of a majority of foot frontage of the property to be benefited and specially assessed therefor, and any emergency ordinance or resolution necessary for the immediate preservation of the public peace, health, or safety shall take effect, unless a later time be specified therein, upon its approval by the Mayor, or upon its passage after disapproval by the Mayor, as the case may be. No other ordinance or resolution shall go into effect earlier than thirty (30) days after its final passage by the Council. Each emergency measure shall contain a statement of the necessity for such emergency action and shall require the affirmative vote of five members of Council for its enactment. In the event that an ordinance or resolution containing an emergency clause receives less than five but more than three affirmative votes, the ordinance or resolution shall be effective in the same manner and at the same time as would legislation without an emergency clause become effective. No action of the Council authorizing any change in the boundaries of the Municipality or the surrender or joint exercise of any of its powers, or granting, renewing or extending any franchise or other special privilege, or contracting for the supply to the Municipality or its inhabitants of the product or service of any utility, whether municipally owned or not, or regulating the rate to be charged for its services, shall be designated an emergency measure, nor shall any ordinance referring to zoning or regulating the use or development of land be designated an emergency measure or enacted under suspension of the rule requiring three separate readings of ordinances as provided in Article III, Section 10 of this Charter.
(Amended Nov. 4, 1980.)

SECTION 12. CODIFICATION OF ORDINANCES.

Ordinances may be revised, codified, rearranged and published in book form under appropriate title, chapters and sections and such revision and codification may be made in one ordinance containing one or more subjects.

SECTION 13. ENACTMENT OF ZONING ORDINANCES.

The Council may provide by ordinance for the procedure for the passage and amendment of any zoning ordinance, the maps and regulations thereof, and the publication of notice and public hearing thereof, provided that the minimum notice of the time and place of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the City. In the event it is proposed to re-zone or re-district ten or fewer parcels of land, as listed on the tax duplicate, then, in addition to the newspaper notice hereinbefore provided, notice of the time and place of such public hearing shall be given by first class mail, postage prepaid, ten (10) days before such hearing, to the record title holders of the property within or immediately adjacent to, adjoining, abutting on or directly across the street from such parcel or parcels. Record title holder shall mean the title holder of such property as disclosed by the records of the Auditor of Cuyahoga County, thirty (30) days immediately prior to the date of such public hearing. If the mailing address of such record title holder cannot be reasonably ascertained then the aforesaid newspaper notice of such hearing shall be deemed adequate notice. Nothing herein provided shall be construed as limiting the power of the Council to increase such notice requirements. (Amended Nov. 2, 1965.)

**ARTICLE IV
ADMINISTRATIVE OFFICES****SECTION 1. SPECIFIC PROVISIONS.**

(a) Departments. A Department of Law, Department of Finance, and Department of Public Service are hereby established by this Charter and Council shall provide by ordinance for the organization thereof. Each department shall be headed by a director, except Police and Fire which shall be headed by chiefs. The Council may by ordinance provide for the establishment and organization of other departments or divisions thereof and may provide for the abolishment or combination of any department or division not established by this Charter. (Amended 11-2-10.)

(b) Boards and Commissions. A Board of Zoning Appeals, Planning Commission, Civil Service Commission and Board of Building Appeals are hereby established by this Charter. In addition to the boards and commissions so established by this Charter, Council may by ordinance provide for the establishment of additional boards and commissions and prescribe their powers and duties. Such additional boards and commissions may be abolished by Council. (Amended Nov. 2, 1965.)

SECTION 2. GENERAL PROVISIONS.

(a) Department Heads. All department heads except the Chiefs of Police and Fire, whose appointments shall be governed by applicable civil service laws, rules, and regulations, and the Director of Law, who shall be elected, shall be appointed by the Mayor subject to the confirmation by a majority of the members of Council. Dismissal of any department head by the Mayor, with the exception of the Director of Law who shall be elected, shall require the approval of a majority of the members of Council. The appointment or dismissal of the Police or Fire Chief shall be governed by applicable civil service laws, rules, and regulations. All department heads shall perform such duties consistent with their office as shall be required by this Charter, by ordinance, or as directed by the Mayor. (Amended Nov. 2, 2004.)

(b) Salary of Department Heads. The starting salary of each department head at the time of appointment shall be considered the base salary and there shall be no reduction of salary below the base salary during the appointee's tenure of office.
(Amended Nov. 7, 1972.)

(c) Board and Commission Appointees. Except as otherwise provided by this Charter, the Mayor shall appoint, dismiss, or suspend any members of the various boards and commissions subject to the confirmation of a majority of the members of Council. Such appointees shall be qualified electors of the City and shall reside in the City during their term of office. They shall serve without compensation unless otherwise provided by ordinance.
(Amended Nov. 7, 1972.)

(d) Continuation in Office. On January 1, 1966, the Board of Building and Zoning Appeals shall become the Board of Zoning Appeals. Each present member of the Board of Building and Zoning Appeals, Planning Commission, and Civil Service Commission shall continue to serve until the expiration of his present term or until the appointment of his successor has been confirmed by Council.

The terms of the members first appointed to the Board of Building Appeals shall commence January 1, 1966, and, except as provided in subsection (f) hereof, each member subsequently appointed to said Board and each member appointed to any other board or commission established by this Charter shall be appointed for a term of four years, which term shall commence upon the expiration of the term of his immediate predecessor on such board or commission.
(Amended Nov. 7, 1972.)

(e) Reappointment. A member of any board or commission established by this Charter shall be eligible for reappointment.
(Amended Nov. 7, 1972.)

(f) Vacancy. A vacancy occurring during the term of any member of a board or commission established by this Charter shall be filled for the unexpired term in the manner authorized for an original appointment.
(Amended Nov. 7, 1972.)

SECTION 3. DEPARTMENT OF FINANCE.

(a) General Duties. The Department of Finance shall be headed by the Director of Finance who shall be the chief fiscal officer of the Municipality and of the several departments and offices thereof. He shall keep an accurate account of all taxes and assessments, of all the assets and liabilities of the Municipality, of all receipts and disbursements of the Municipality and of all appropriations made by the Council. He shall examine and approve, if in proper form, and if an appropriation has been duly made therefor, payrolls, bills, and other claims, and prepare and sign all warrants.
(Amended Nov. 2, 1965.)

(b) Appropriations and Reports. He shall be responsible for the preparation and submission of appropriation measures and shall assist the Mayor and Council in the preparation of estimates, budgets and other financial matters. He shall submit to Council through the Mayor at the second regular Council meeting of each succeeding month, a monthly statement showing:

All receipts had during the preceding month.

All disbursements made during the preceding month.

A cumulative statement for each appropriation showing:

Amount of appropriation;

Amount expended against the appropriation at the end of the preceding month;

Balance remaining.

The foregoing statement shall be in such further sufficient detail as may be required by Council to show the exact financial condition of the Municipality.

(c) Collections. He shall be the collector and the custodian of all monies of the Municipality, including license fees, fines, court costs and waivers. He shall receive and preserve such monies in such manner and in such places as the Council shall direct. He shall also receive and disburse all other public monies coming into his hands, pursuant to such requests as may be prescribed by the authorities having lawful control over such funds.

(d) Certification. No contract, agreement or other obligation involving the expenditure of money shall be entered into by any officer of the Municipality, nor shall any ordinance, resolution, or order for the expenditure of money be passed by Council, unless he first certifies to Council or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the treasury, to the credit of the fund for which it is to be drawn, or in the process of collection, and not appropriated for any other purpose, which certificates shall be filed and immediately recorded. The sums so certified shall not thereafter be considered unappropriated until the Municipality is discharged from the contract, agreement or obligation.

(e) Funds Subject to Certification. All monies actually in the treasury to the credit of the fund from which they are to be drawn, and all monies applicable to the payment of the obligation or appropriation involved, that are anticipated to come into the treasury before the maturity of such contract, agreement or obligation, from taxes or assessments or from sales or services, productions or from any City undertakings, fees, charges, accounts and bills receivable, or other credits in the process of collection; and all monies applicable to the payment of such obligation or appropriation, which are to be paid into the treasury prior to the maturity thereof, arising from the sale or lease of lands or other property, and the monies to be derived from lawfully authorized bonds sold and in the process of delivery shall, for the purpose of such certificate, be deemed in the treasury and subject to such certification.

(f) Failure to Comply. All contracts, agreements or other obligations and all ordinances, resolutions and orders entered into or passed contrary to the provisions of subsections (d) and (e) of this section of this Charter shall be void, and no person whomsoever shall have any claim or demand against the Municipality thereunder, nor shall the Council nor any officer of the Municipality waive or qualify the limits fixed by such ordinance, resolution or order or fasten upon the Municipality any liability whatever in excess of such limits, or release any party from an exact compliance with this Charter under such ordinance, resolution or order.

(g) Attendance at Council. He shall attend all meetings of the Council and he shall perform all other duties required by this Charter and by ordinance or resolution of Council.

SECTION 4. DEPARTMENT OF LAW.

The Department of Law shall be headed by the Director of Law and commencing with the regular municipal election in the year 2005, and every fourth (4th) year thereafter, he shall be elected for a term of four (4) years. The Director of Law's term shall commence and he shall assume office on the first day of January following his election and shall serve out his term or until his successor is elected and qualified, whichever occurs last. During his term of office he shall continue to be a resident and qualified elector of the municipality. The Director of Law shall appoint all assistant directors of law and office staff; assistant directors of law shall be subject to confirmation by a majority of the members of Council. The Director of Law shall be a qualified elector at the time of his election, shall have been a resident of the City for at least eighteen (18) months immediately preceding his election, an attorney at law duly admitted to the practice of law before the courts of the State of Ohio, and been engaged in the active practice of law in Ohio for a period of six (6) years next preceding his election. The annual salary for the Director of Law for the term commencing January 1, 2014 and each succeeding term thereafter shall be fixed by Council at least forty-five (45) days prior to the time a person is required to file nominating petitions for the office of Director of Law for that particular term. The annual salary may be increased but shall not be decreased during the term it was set.

He shall serve the Mayor, the various administrative departments, boards, and officers of the Municipality and the Council, as attorney and legal counsel, and shall represent the Municipality in all proceedings in courts of law and before any administrative body. He or his designee shall attend all Council meetings and Committee meetings of Council. He shall perform all other duties now or hereafter imposed by law upon directors of law of cities unless otherwise provided by ordinance of Council. He shall act as the Prosecuting Attorney of the City.

Council may, by a two-thirds (2/3) vote of the members of Council after public hearing, expel or remove the Director of Law from office for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his oath of office; for conviction while in office of a crime involving moral turpitude; or for mental or physical disability rendering it impossible for him to perform the duties of the Director of Law. Prior to any such action by Council, the Director of Law shall be notified in writing of the charge against him at least ten (10) days in advance of the hearing upon such charge, and he and his counsel shall be given an opportunity to be heard, present evidence or examine any witness appearing in support of such charge.

In the event the office of Director of Law shall become vacant, for any reason, the Mayor shall appoint an Acting Director of Law subject to confirmation of Council. The Acting Director of Law shall be an attorney-at-law licensed to practice before the Courts of the State of Ohio but need not be resident of the municipality. The Council shall, within fourteen (14) days after the vacancy occurs, provide for a special election, with no preliminary primary, to be held one hundred twenty (120) days from the date of the vacancy to fill such vacancy. (Amended 11-2-10.)

SECTION 5. DEPARTMENT OF PUBLIC SERVICE.

The Department of Public Service shall be headed by the Director of Public Service who shall manage, supervise and be responsible for the maintenance of public works, City buildings, streets, parks and other properties, and all Service Department equipment under his control. He shall perform such other duties and functions in connection with the public service of the City as provided by ordinance or at the direction of the Mayor. He shall consult with the Director of Engineering on all services concerning matters of utilities, drainage, and general problems where engineering or surveying is concerned. (Amended Nov. 2, 1965.)

SECTION 6. DEPARTMENT OF ENGINEERING.

The Department of Engineering shall be headed by the Director of Engineering who shall be responsible for the general engineering requirements of the City, and shall be a civil engineer licensed by the State of Ohio with a minimum of five (5) years' experience in municipal work. The general and specific duties of the Director of Engineering shall be established by ordinance or at the direction of the Mayor. (Amended Nov. 2, 1965.)

SECTION 7. DEPARTMENT OF BUILDINGS, STRUCTURES AND INSPECTIONS.

(a) General Duties. The Department of Buildings, Structures and Inspections shall be headed by the Director of Inspections who shall be responsible for inspections, issuance of permits and enforcement of building codes with regard to original construction, remodeling and repair of all buildings, fences, signs, billboards and other structures within the City. The Director shall perform such other duties and functions as may be prescribed by ordinance or by the Mayor.
(Amended Nov. 2, 1965.)

(b) Qualifications. The Director of Inspections shall have at least ten years' experience in the building trades or related occupations, and shall be certified by the State of Ohio Board of Building Standards to exercise enforcement authority, to approve plans and specifications, and to make inspections under the Ohio Building Code, and shall, before assuming the duties of his office, execute a bond in such amount as may be fixed by Council.
(Amended Nov. 6, 1990.)

SECTION 8. DEPARTMENT OF PURCHASING.

(a) General Duties. The Department of Purchasing shall be headed by the Director of Purchasing who shall make all purchases of supplies for the City. He shall contract for, purchase on specifications, store and distribute all supplies required by the City. He shall be responsible for the inspection of all supplies and determine quantity, quality, and conformation to specifications. He shall sell any equipment or supplies not needed for public use or that have become obsolete. When an expenditure of the City for the purchase of supplies is required by this Charter to be let by bids, the Director of Purchasing shall advertise for, receive, open, and present all bids to Council.
(Amended Nov. 2, 1965.)

(b) Limitation on Purchases. The Director shall make no purchases except on authority of requisitions submitted by a department head and approved by the Mayor. Before any funds may be expended, the Director of Finance shall first certify that the City has sufficient funds to cover the purchase and that such funds have been lawfully appropriated or authorized. (Amended Nov. 2, 1965.)

(c) Inventory. All department heads shall submit to the Director of Purchasing annually an inventory of all municipal property in their care or control. It shall not be necessary to place valuations on the items in such inventory.
(Amended Nov. 6, 1990.)

SECTION 9. PLANNING COMMISSION.

(a) Membership. The Planning Commission shall consist of one member of Council selected by the President of Council for such a term as Council shall determine, and four electors of the Municipality appointed by the Mayor subject to the approval of a majority of the members elected to Council. Appointed members shall hold no other municipal office or appointment, except one appointed member of the Planning Commission shall be appointed to the Board of Zoning Appeals.
(Amended Nov. 2, 1965.)

(b) Vacancy. A vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for an original appointment.

(c) Duties. The Planning Commission shall meet at least once a month. It shall be the function and duty of the Planning Commission to act as the platting commissioner of the Municipality and as such it shall have control of planning and shall provide regulations covering the platting of all lands within the Municipality so as to secure the harmonious development and to provide for the coordination of streets with other streets and with the official Municipal Plan and to provide for open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population. It shall make such regulations as it deems necessary as to the manner in which streets and other public ways shall be graded and improved; the manner in which and the extent to which water, sewer and other utility mains, piping or other facilities shall be installed, or establish any other conditions precedent to the approval of a proposed plat. The Commission shall make plans and maps of the whole or any portion of the Municipality and of any land outside the Municipality which, in the opinion of the Commission, bears a relation to the planning of the Municipality and to make changes in, additions to, and estimates of such plans or maps when it deems the same advisable. It shall have such powers as may be conferred on it by ordinance of the Council concerning the plan, design, location, removal, relocation and alteration of any public building or structure or those located on public streets or property, the location, relocation, widening, extension and vacation of streets, parkways, playgrounds and other public places, the zoning and rezoning of the Municipality for any lawful purpose and such other powers as now or may hereafter be conferred upon it by ordinance of the Council or the general laws of Ohio. All plans and recommendations made by the Planning Commission shall be submitted to Council for approval before the same shall be considered as official, unless Council shall, by ordinance, specifically waive this requirement and grant to the Planning Commission the power to finally determine any matter properly before it.
(Amended Nov. 6, 1990.)

(d) Funds. A sufficient sum shall be appropriated by the Council each year to carry out the planning provisions of this Charter.

(e) Mandatory Referral. No public building, street, boulevard, parkway, park, playground, bridge, tunnel, publicly or privately owned utility or part thereof shall be constructed or authorized to be constructed in the Municipality, nor shall any street, avenue, parkway, boulevard or alley be opened for any purpose whatsoever, nor shall any street, avenue, parkway, boulevard or alley be widened, narrowed, relocated, vacated, or its use changed, or any ordinance referring to zoning or other regulations controlling the use or development of land, be adopted unless and until it shall have been submitted to the Planning Commission for report and recommendation. Any matter so referred to the Planning Commission shall be acted upon by it within sixty (60) days from the date of referral unless a different period of time be provided by Council. If the Planning Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. Any provision or any resolution, ordinance or order disapproved by formal action of the

Planning Commission shall require a two-thirds (2/3) vote of all members of the Council for adoption or authorization. If any plan, design or other proposal concerning the character, extent, location, or use of any public improvement or public property or change thereof within the territorial limits of the Municipality does not, under the law or Charter provision covering same, fall within the province of the Council or other official or agency of the Municipality, then the submission to the Planning Commission shall be by the State, County, District, School, Township or other official body, board, or commission having jurisdiction over such public improvement or property in accordance with the provisions of the general law of the State of Ohio. The Planning Commission's disapproval may be overruled at any time after seven (7) days' written notice by the excepting body to the Planning Commission stating the reason for such exception. Such overruling disapproval must be adopted by at least two-thirds (2/3) of such excepting body.

SECTION 10. BOARD OF ZONING APPEALS.

(a) Membership. There shall be a Board of Zoning Appeals which shall consist of five (5) members, one of which shall be a member of the Planning Commission, appointed by the Mayor with the approval of a majority of members of Council. Members of this Board shall hold no other municipal office or appointment, except as a member of the Planning Commission. (Amended Nov. 2, 1965.)

(b) Powers. It shall be the duty of the Board of Zoning Appeals to hear and decide applications for exceptions to and variances from the zoning ordinances of the Municipality and to hear and decide all appeals from orders, decisions and regulations of municipal administrative officials or agencies in regard to the zoning ordinances. The Board shall not permit any exception or variance from the zoning ordinances unless it finds that a practical difficulty or unnecessary hardship would exist as a result of the literal application of the zoning ordinances because of some peculiarity of the property in question as distinct from the other properties in the same district. In such cases the granting of the exception or variance must not be detrimental to the public welfare or injurious to the property in the immediate surrounding area, and must be in keeping with the general purpose, intent and objective of the municipal zoning ordinances. (Amended Nov. 2, 1965.)

SECTION 11. BOARD OF BUILDING APPEALS.

(a) Membership. There shall be a Board of Building Appeals which shall consist of not less than five (5) or more than nine (9) members appointed by the Mayor, subject to the approval by a majority of the members of City Council. The members shall be of such experience and occupation as determined by the Mayor and approved by Council. (Amended 11-7-00.)

(b) Powers. The Board shall hear and decide appeals from any order, decision or determination of any administrative official or agency of the Municipality relating to the interpretation or application of the Building Code or such other related ordinances as may be determined by Council. The Board shall have no jurisdiction or authority with respect to the zoning ordinances of the Municipality but shall otherwise have such additional powers and duties as Council may provide by ordinance.
(Amended Nov. 2, 1965.)

SECTION 12. CIVIL SERVICE COMMISSION.

(a) Membership. The Civil Service Commission shall consist of three electors of the Municipality not holding other municipal office or appointment, not more than two (2) members of which shall be members of the same political party. A vacancy occurring during the term of any member of the Commission shall be filled for the unexpired term in the manner authorized for an original appointment.
(Amended Nov. 2, 1965.)

(b) Officers. The Commission shall designate one of its members as Chairman and may appoint a Clerk who need not be a member of the Commission and may hold other municipal office or appointment.
(Amended Nov. 2, 1965.)

(c) Classification of Service. The Civil Service of the Municipality is hereby divided into the Classified and Unclassified Service. The Classified Service shall include: Police Officers, Firefighters/Paramedics and other sworn members of the Departments of Police and Fire. The Unclassified Service shall include all other positions not specifically included in the Classified Service by this provision or other provisions of the Charter of the City of Westlake.

(d) Duties. The Commission shall provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotion in the Classified Service of the Municipality and for appeals from the action of the Mayor or an official designated by the Mayor in any case of transfer, reduction, removal or other disciplinary action in excess of two (2) days suspension from employment, and the action of the Commission on any such appeal shall be final. The Commission shall keep a record of all public proceedings which shall be available for public inspection. Any person who has taken an examination for appointment or promotion in the Classified Service may inspect his own examination paper. The Commission shall have the authority to adopt rules to govern its proceedings and fulfill its duties hereunder and such rules may conflict with provisions of State law and in such event, rules adopted by the Commission shall supersede provisions of State law and shall be determinative and govern the Commission's proceedings. (Amended 11-7-00.)

(e) Funds. A sufficient sum shall be appropriated by the Council to carry out the civil service provisions of this Charter.
(Amended Nov. 2, 1965.)

SECTION 13. RIGHTS RETAINED BY PEOPLE.

(a) Neither the Council, the Mayor, any Board, including Boards of Appeal, or Commissions, appointed pursuant to this Charter, or any ordinance or resolution, whether proposed by Council or by initiative petition, or otherwise, of this Municipality, nor any other agent, employee, person or organization acting for or on behalf of this Municipality, by whatever authority or purported authority, shall by ordinance, resolution, motion, proclamation, statement, legislative or administrative action, or variance effect a change in:

- (1) the zoning classification or district of any property or area in the City of Westlake to allow multi-family dwellings thereon;
- (2) or grant any zoning classification or variation which would increase the density permitted on any property in any residential district;
- (3) or grant a zoning classification or variation or conditional use which would permit commercial development consisting of establishments for retail sales, commonly known as shopping developments, by whatever name called, consisting of thirty (30) acres or more. In computing the acreage for purposes of this provision, the computation shall include contiguous land which is already zoned for shopping center development;

unless the change or grant, after its adoption in accordance with applicable administrative or legislative procedures, is approved at a regularly scheduled general election of the Municipality, State of Ohio or County of Cuyahoga, by a majority vote of electors voting thereon.
(Amended 11-7-00.)

(b) This amendment shall be severable and, if any section, subsection, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the force and effect of any other section, subsection, part, word or application thereof.
(Amended 5-8-84.)

ARTICLE V FINANCE

SECTION 1. ANNUAL APPROPRIATION ESTIMATE.

(a) Fiscal Year. Unless by ordinance otherwise provided, the fiscal year shall be the same as established for municipalities by the general law of Ohio.

(b) Estimates. The Mayor with the assistance of the Finance Director shall prepare and submit to Council not less than one hundred and twenty (120) days before the end of each fiscal year an estimate of revenue and expenditures for the succeeding fiscal year. The head of each department, board and commission shall submit to the Mayor the necessary information for such estimates. The estimate shall consist of: estimate of revenue from all sources and comparative statement for the current year and one preceding year; estimate of expenses of each department and activity of the Municipality and comparative statement for the current year and one preceding year; amount of debt and schedule of maturities of outstanding bonds and notes; value of current inventory or supplies; and amount of unencumbered balance in each bond and improvement fund.
(Amended Nov. 8, 1960.)

SECTION 2. APPROPRIATION ORDINANCE.

Council shall adopt an annual appropriation ordinance within ninety (90) days after the receipt of a Certificate of resources from the County Auditor or from the beginning of the fiscal year, whichever shall last occur. Council may make one or more preliminary appropriations for current expenses until the annual appropriation ordinance is in effect.

SECTION 3. TRANSFERS AND BALANCES.

The Council may transfer any part of an unencumbered balance of an appropriation of any fund allowed by law to any purpose or object for which the appropriation for the current year has proven insufficient, except that no transfer shall be of monies raised or appropriated for the payment of any bond or note of the Municipality until all indebtedness, interest and other obligations which must lawfully be paid from such monies has been paid.

SECTION 4. PAYMENT OF CLAIMS.

No money shall be drawn from the treasury nor shall an obligation for expenditure be incurred except in accordance with appropriations made by Council. Claims shall be approved in writing by the head or acting head of the department for which the obligation was incurred.

SECTION 5. PUBLIC BIDDING.

(a) Bidding Required. Each net expenditure by the Municipality exceeding the greater of the current statutory limit prescribed by the statutes of the State of Ohio or an amount annually established by Council by ordinance, shall be made to the lowest, most responsible and most responsive bidder, after public advertising in a manner prescribed by City Council. City Council shall not be required to accept any bid.

(b) Waiver of Requirement. The Council, by majority vote, may authorize expenditures exceeding the financial limitations established in paragraph (a) above without public advertising in the following specific cases: acquisition, sale, lease or other disposal of real estate; discharge of non-contractual claims against the Municipality; for personal service agreements; for the joint use of facilities with other political subdivisions; for the products or services of public utilities; in situations where the Council has determine that the vendor or supplier is the sole source of the product or service to be purchased; and in the event of an emergency or catastrophe to protect the public health, safety, welfare and property.
(Amended 11-7-00.)

SECTION 6. PUBLIC IMPROVEMENTS.

Public improvements of all kinds may be made by the appropriate department either by the direct appointment of the necessary labor and purchase of supplies and materials in the manner herein provided with a separate account as to each improvement so made, or by contract let as provided in Section 5 of this Article of this Charter either for a closed price or upon a unit basis.

ARTICLE VI TAXATION

SECTION 1. LIMITATION ON THE RATE OF TAXATION.

The aggregate amount of taxes which may be levied by the taxing authority of the City without a vote of the people, on any taxable property assessed and listed for taxation according to value, for all purposes of the City, except as otherwise provided herein, shall not in any one year exceed eight and seven-tenths (8.7) mills for each dollar of assessed valuation. Of said total maximum levy, an amount shall annually be levied sufficient to pay the interest, sinking fund and retirement charges on all notes and bonds of the City heretofore or hereafter authorized to be issued without the authority of the electors, which levy shall be placed before and in preference to all other levies and for the full amount thereof. Of the remaining portion of said total maximum levy, an amount shall annually be levied sufficient to provide the amounts required by law for police and firemen's pensions; and the balance thereof, but not to exceed eight and two-hundredths (8.02) mills, may be levied annually for the purpose of paying the current operating expenses of the City.

There shall be levied annually outside of the eight and seven-tenths (8.7) mill limitation hereinbefore provided, but subject to the ten (10) mill limitation imposed by the Constitution and laws of the State of Ohio, such tax as may be necessary to pay the interest, sinking fund and retirement charges on all notes and bonds of the City authorized to be issued after June 1, 1984, without the authority of the electors in anticipation of the levy and collection of special assessments for improvements contracted for subsequent to such date.
(Amended 5-8-84.)

SECTION 2. SUBMISSION OF EXTRA LEVY TO VOTE.

At least sixty (60) days prior to a general, regular municipal or any special election, Council may declare by resolution, adopted by a vote of two-thirds (2/3) of all the members elected thereto, that the amount of taxes permitted by the Constitution without a vote of the electors will be insufficient to provide an adequate amount for the necessary requirements of the City and that it is necessary to levy a tax in excess of such limitation for any municipal purpose specified in such resolution and permitted by law. Such resolution shall be confined to a single purpose, shall specify the exact amount of additional levy required, the purpose thereof and the number of years, not exceeding five (5), it shall be in effect, which may or may not include a levy on the duplicate for the current year. A majority of those voting thereon in any election will be sufficient for its passage.
(Amended Nov. 4, 1958.)

SECTION 3. OTHER TAXES.

The Council shall have the power to levy such other taxes as may be lawful in accordance with the provisions of the Constitution and the laws of the State of Ohio.
(Amended Nov. 4, 1958.)

SECTION 4. LEVY OF TAXES FOR POLICE AND FIRE.

Commencing with the tax list and duplicate for the year 2016 and for a period of five years thereafter, the taxing authority of the City may levy in each year a tax in an amount not to exceed in each such year (nine-tenths of one mill) 0.9 mill for each dollar of assessed valuation upon all property in the City assessed and listed for taxation according to value for the purpose of providing funds to pay for the salaries and other expenses of the Police and Fire Departments. This amount of taxes in each year so levied pursuant to this section shall not be subject to the limitations on the rate of taxation provided in this Charter and shall be in addition to any taxes levied by Council pursuant to any provision of this Charter or the general laws of the State of Ohio. This tax may be renewed only upon approval by the affirmative vote of a majority of the electors voting thereon. (Amended 11-3-15.)

SECTION 5. LIMITATION ON THE RATE OF TAXATION.

Notwithstanding any other provision of this article or of this Charter, the taxing authority of the City may, by affirmative vote of two-thirds (2/3) of its members, provide that for any City fiscal year the limitations on the rate of taxation set forth in Section 1 shall be those declared necessary by the taxing authority, in its sole discretion, and not to exceed the limitations provided for by this Charter on the date of its amendment on November 4, 1958. (Added 11-8-05.)

**ARTICLE VII
NOMINATIONS AND ELECTIONS****SECTION 1. MUNICIPAL ELECTIONS.**

A general municipal election for the purpose of the election of officers provided for in this Charter shall be held on the first Tuesday after the first Monday in November in odd number years every four years commencing with the year 2001. Elections so held for the purpose of the election of the officers of the City of Westlake provided for in this Charter shall be known as regular municipal elections. Such other elections shall be held as required by law or provided for in this Charter. (Amended 5-6-03.)

SECTION 2. NONPARTISAN PRIMARY ELECTIONS.

Commencing with the year 2001, on the first Tuesday after the first Monday in May, prior to each regularly scheduled municipal election, primary elections shall be held for the purpose of nominating persons without regard to political parties, for elections to offices provided by this Charter. The names of two (2) persons receiving the highest number of votes for each office shall be nominated to be candidates for such office at the next succeeding regular municipal elections. In case there shall not be for any office more than two (2) persons who have filed petitions as provided for in this Charter to be candidates at such primary election, then said persons shall be nominated as the candidates at the next succeeding regular municipal election and the primary for that particular office shall not be held. (Amended 11-7-00.)

SECTION 3. DECLARATION OF CANDIDACY.

Any persons desiring to become a candidate for election to any office to be voted for at the next succeeding regular municipal election shall, not later than 4:00 p.m. of the 90th day before primary election day, file a nominating petition. Such petition shall require signatures of registered electors and shall be accompanied by the written acceptance of the nominees. The petition for offices of Mayor, President of Council and Director of Law shall be signed by not less than five hundred (500) qualified electors. The petition for office of Ward Councilman shall be signed by not less than one hundred (100) qualified electors of the ward in which election is sought. Petitions shall be circulated by a qualified elector of the City of Westlake. (Amended 11-3-15.)

SECTION 4. QUALIFICATIONS OF CANDIDATES.

(EDITOR'S NOTE: The provisions of Section 4 were repealed on November 4, 1980.)

SECTION 5. DESIGNATION OF CANDIDATES.

(EDITOR'S NOTE: The provisions of Section 5 were repealed on November 6, 1990.)

SECTION 6. INDEPENDENT CANDIDATES.

(EDITOR'S NOTE: The provisions of Section 6 were repealed on November 6, 1990.)

SECTION 7. ELECTION PROCEDURES.

(a) Write-in votes for a municipal candidate in the City of Westlake shall not be permitted at a general election unless no person files for a particular municipal office and no person is duly nominated at a municipal primary. The procedures for filing as a write-in when permitted under this section shall be determined by the laws of the State of Ohio and the Cuyahoga County Board of Elections. The ballots used in the primary and general municipal election shall be without party mark or designation. The names of all candidates shall be placed upon the same ballot and should be rotated in a manner provided by the laws of Ohio. Any person may vote in any municipal election if such person is a registered voter with the County election authorities as prescribed by the laws of the State of Ohio.

(b) If a person nominated as a candidate for election to a municipal office in the City of Westlake withdraws as such candidate, is disqualified as a candidate or dies prior to the 45th day before the day of the general election, the vacancy so created shall be filled by a majority of the Candidates Committee created by designation on the nominating petition for that candidate required under Section 3 of Article VII of this Charter. The name and residence address of the replacement candidate shall be certified in writing and under oath to the Cuyahoga County Board of Elections not later than the 40th day before the general election.
(Amended 11-7-00.)

ARTICLE VIII INITIATIVE, REFERENDUM, RECALL

SECTION 1. INITIATIVE.

The electors shall have the power to propose any ordinance or resolution except an ordinance appropriating money or authorizing the levy of taxes and to adopt or reject the same at the polls, such power being known as the initiative. An initiated ordinance or resolution shall be submitted to the Clerk of Council by petition signed by electors of the City, at least equal in number to three percent (3%) of the registered electors as shown by those registered and qualified to vote in the last regular municipal election. When so submitted, the Clerk of Council shall determine the sufficiency thereof and if sufficient the Council shall take final action, either enacting, amending or rejecting the proposed ordinance, within forty (40) days after submission. If Council fails to pass such proposed ordinance or resolution or passes it in some form different from that set forth in the petition therefor, the petitioners through the committee named on such petition within thirty (30) days of action or failure to act of the Council may file an additional petition signed by registered electors of the City of Westlake at least equal in number to three percent (3%) of the registered electors of the City of Westlake as shown by those registered and qualified to vote in the last regular municipal election. Thereupon, Council shall provide for submitting the petitioned ordinance or resolution to the electors at the next county wide general election, or regular municipal election occurring more than ninety (90) days after the filing of such petition. If such petition is signed by at least twenty percent (20%) of the registered electors as set forth herein, the date of such election may be fixed in the petition, which may be a special election to be held at any time more than ninety (90) days after filing of the additional petition signatures. (Amended 5-6-03.)

SECTION 2. REFERENDUM.

(a) Within thirty (30) days after the enactment by Council of any ordinance or resolution which is subject to referendum under this Charter or under the laws of the State of Ohio, a petition signed by registered electors of the City of Westlake at least equal in number to six percent (6%) of the registered electors as shown by those registered and qualified to vote at the last regular municipal election, may be filed with the Clerk of Council, requesting the ordinance or resolution be repealed or submitted to a vote of the electors. When said petition is filed, the Clerk of Council shall first ascertain the sufficiency of the petition, and, if found sufficient, the Council shall thereupon, within thirty (30) days after the filing of such petition, reconsider such ordinance or resolution. If Council fails to repeal said ordinance or resolution within thirty (30) days, the Council shall submit such ordinance or resolution to a vote of the electors at the next countywide general or regular municipal election occurring more than ninety (90) days after the filing of such petition. If such petition is signed by at least twenty percent (20%) of the registered electors of the City of Westlake as shown by those electors registered and qualified to vote at the last regular municipal election, the date of such election may be fixed therein, which may be a special election to be held any time more than ninety (90) days after the filing of such petition. (Amended 5-6-03.)

(b) When a referendum petition is filed with the Clerk of Council, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

1. there is a final determination of insufficiency of the petition; or,
2. the petitioners' committee withdraws the petition; or,
3. Council repeals the ordinance; or,
4. the vote of the referendum has been certified.

(Amended Nov. 4, 1980.)

SECTION 3. RECALL.

Electors shall have the power to remove from office by recall election, any elected officer of the Municipality. After an elected officer has served six months of his term, a petition demanding his recall and removal, may be filed with the Clerk of Council. Such petition shall be signed by at least twenty-five percent (25%) of the total electors voting at the last preceding regular municipal election. If the Clerk shall find the petition sufficient he shall promptly so certify to the Council, shall deliver a copy of such certificate to the officer whose removal is sought and make a record of such delivery. If such officer shall not resign within five (5) days after the day on which such delivery shall have been made, the Council shall fix a day for holding a recall election not less than thirty (30) days, nor more than forty-five (45) days from the date of delivery. If a majority of the votes cast shall be voted affirmatively, such officer shall remain in office. If a majority of the votes cast shall be voted negatively, such officer shall be considered as removed, his office shall be deemed vacant and such vacancy shall be filled as provided in this Charter. The officer removed by such recall election shall not be eligible for appointment to the vacancy created thereby.

SECTION 4. GENERAL PROVISIONS.

An initiative, referendum or recall petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain in the case of the initiative or referendum a full and correct copy of the title and text of the proposed or referred ordinance or resolution, and in the case of the recall, the name and office of the person whose removal is sought and a statement in not more than 200 words of the grounds for the removal. The manner of signing, the method of circulating, the form and requirements as to the affidavit, and the other requirements of the general law regulating initiative and referendum petitions, shall apply in the case of initiative, referendum and recall in this Municipality, except as otherwise provided in this Charter. Each circulation of any such petition must be by an elector of the City of Westlake. (Amended Nov. 7, 1995.)

**ARTICLE IX
AMENDMENTS TO CHARTER****SECTION 1. INDEXING.**

(a) System Used. The indexing system of this Charter shall be as follows: Articles numbered I, II, III, etc.; sections numbered 1, 2, 3, etc.; subsections lettered (a), (b), (c), etc.

(b) Severability. Any word, phrase, clause, sentence, subsection, section, or article of this Charter may be amended as, or in, the manner hereinafter provided.

SECTION 2. AMENDMENTS.

The Council may, by affirmative vote of two-thirds (2/3) of its members, submit any proposed amendment to this Charter or a revised Charter or amended Charter to the electors. Amendments to this Charter shall also be submitted to the electors of the City by the Council when the Council receives a petition setting forth any such proposed amendment signed by qualified electors of a number not less than ten percent (10%) of the number of votes cast at the last preceding general municipal election. Such petitions shall be required to be filed in the manner and form prescribed herein for the submission of ordinances by initiative petition. The amendment shall be submitted to the electors at the next regular municipal election scheduled or otherwise in accordance with the laws and Constitution of the State of Ohio. Not less than thirty (30) days prior to such election, the Clerk of Council shall mail a copy of the proposed amendment or revised or amended Charter to each elector whose name appears in registration books of the last general or regular municipal election held in the Municipality, or give notice of the same in such other manner as may be provided by general law. If any such proposed amendment shall be approved by a majority of the electors voting thereon, it shall become a part of this Charter; except that, if two or more inconsistent proposed amendments on the same subject are submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of this Charter. (Amended 11-2-10.)

ARTICLE X CHARTER REVIEW COMMITTEE

SECTION 1. REVIEW.

At the second meeting of Council in January 1, 1979, and each ten (10) years thereafter, a Charter Review Committee of nine (9) members shall be appointed.

The Committee shall consist of six (6) members to be appointed, one from each ward by the ward Councilman, who shall reside within his ward, and three members to be appointed by the Mayor, for a total of nine (9) members. The Chairman shall be selected by the Committee from its members by majority vote.

The Committee shall review the Charter and submit all recommended changes or alteration to Council for its consideration for submission to the electorate by the first meeting in February of the following year. Council shall review the recommendations of the Charter Review Committee and approve or disapprove each individual recommendation. Council thereafter shall submit to the electors the recommended changes or alterations it has approved, pursuant to Article XVIII, Section 9, of the Constitution of the State of Ohio.

The members shall serve without compensation unless otherwise provided by ordinance. The Council shall provide appropriations for a clerk, and sufficient funds to operate the Committee.

(Amended Nov. 4, 1980.)

ARTICLE XI GENERAL PROVISIONS

SECTION 1. EFFECTIVE DATE OF CHARTER.

For the purpose of nominating and electing officers of the Municipality, including the abolition of primary elections and fixing the compensation of those elected in 1957, this Charter shall be in effect from and after the time of its approval by the electors of the Municipality; and for all other purposes it shall be in effect on and after the first day of January, 1957, and continue in effect regardless of any change of the classification by law of this Municipality.

SECTION 2. EFFECT OF CHARTER UPON EXISTING LAWS AND RIGHTS.

The adoption of this Charter shall not affect any pre-existing rights of the Municipality, nor any right or liability or pending suit or prosecution either on behalf of or against the Municipality, nor any franchise granted by the Municipality nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. Except as a contrary intent appears herein, all acts of the Council of this Municipality shall continue in effect until lawfully amended or repealed.

SECTION 3. SAVING CLAUSE.

The determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

SECTION 4. INTERPRETATION OF CHARTER.

The article and section headings herein have been inserted for convenient reference and are not intended to define or limit the scope of, or otherwise affect, any provision of this Charter.

SECTION 5. FRANCHISES.

The Council may by ordinance grant a nonexclusive franchise to any person, firm or corporation to construct or operate a public utility on, across, under, over or above any public street or real estate within the Municipality for a period not in excess of twenty-five (25) years; and it may prescribe in the ordinance the kind or quality of service or product to be furnished, the rate or rates to be charged therefor, and such other terms as Council shall deem conducive to the public interest. Such franchise may be amended or renewed in the manner and subject to the provisions established by this Charter for original grants. No consent of the owner of property abutting on any public street or real estate shall be necessary to the effectiveness of any such grant, amendment or renewal.

All such grants, amendments and renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for the operation of such utilities with reference to such streets and public real estate, including the right to require such reconstruction, relocation, alteration or removal of structures and equipment used in such streets or public realty as shall, in the opinion of Council, be necessary in the public interest.

SECTION 6. CONTINUANCE OF PRESENT OFFICERS.

(a) Continuance of Officers. All persons who are appointees, employees or nonelected officials of the Municipality at the time this Charter takes effect shall continue in office and in the performance of their duties until provisions shall have been made otherwise in accordance with the provisions of this Charter. When such provisions shall have been made, the term of any such appointee, employee or nonelected official shall expire.

(b) Abolish Duties. The powers which are conferred, and the duties which are imposed upon any appointee, employee or nonelected official, commission, board, department, or division of the Municipality under the laws of the State, shall, if such office, department, or division be abolished by this Charter, be thereafter exercised and discharged by the officer, board, department or division upon whom are imposed corresponding functions, powers and duties hereunder.

SECTION 7. OATH OF OFFICE.

Every elected official or officer of the Municipality shall, before entering upon the duties of his office, take an oath, or affirm, that he will in all respects faithfully discharge the duties of his office, that he will profess loyalty to the Constitution of the United States of America, to the Constitution of the State of Ohio, and that he will uphold this Charter and all the laws of this Municipality.

SECTION 8. REFERENCES TO GENDER.

All references in this Charter to the male gender shall also include and be read as the female gender when and where appropriate.
(Added Nov. 4, 1980.)

SECTION 9. CONFLICT OF INTEREST: PERSONAL FINANCIAL INTEREST.

Any City employee who has a financial interest, either directly as a sole owner, general or limited partner, an associate for business purposes or by ownership of stock in any corporation, or indirectly by reason of a member of the immediate family of the employee being a sole owner general or limited partner, an associate for business purposes or by ownership of stock in any corporation, in any contract with the City, or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a City employee in the making of such sale or in the making or performance of any contract. Any City employee who willfully conceals such a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the City, shall render the contract or sale voidable by the Council.

Council shall provide by ordinance for all procedures necessary to implement and further define, as required, this Charter provision including but not limited to procedures for disclosures of interests and procedures for hearings of an officer or employee charged with a violation of this Charter provision.

(Added Nov. 4, 1980.)

**SECTION 10. MEETINGS OF GOVERNMENTAL BODIES TO BE PUBLIC;
EXCEPTION.**

(a) This Section 10 shall be known as the Sunshine Law and shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings, unless the subject matter is specifically excepted by law.

(b) As used in this section:

- (1) "Public body" means the Council, board, commission, committee (including a Committee of the Council), or similar decision making body of this City.
- (2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members, be it known as a committee meeting, work session, executive session, educational meeting, or by whatever other name called.

(c) All minutes of any public body are declared to be public meetings open to the public at all times.

The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under subsection (e) of this section.

(d) Every public body shall, by rule, establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours advance notice to the news media, except in the event of an emergency requiring immediate official action. In the event of an emergency the member or members calling the meeting shall notify the news media immediately of the time, place, and purpose of the meeting.

The rules shall provide that any person may, upon request and payment of a reasonable fee, obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(e) The members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold such a session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

- (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of his official duties or for his removal from office. If a public body holds an executive session pursuant to the division (e)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (e)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.
- (2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, or private interest is adverse to the general public interest. No member of a public body shall use this diversion as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers. If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bonafide purchasers, lessees, or transferees of the property is concerned.

- (3) Conferences with an attorney for the public body, concerning disputes involving the public body that are the subject of pending or imminent court action.
- (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment.
- (5) Matters required to be kept confidential by federal law or rules or State statutes.
- (6) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.
(Amended Nov. 6, 1990.)

(f) An ordinance, resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. An ordinance, resolution, rule, or formal action adopted in an open meeting that results from deliberation in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in subsection (e) of this section and conducted at an executive session held in compliance with this section.

Any person may bring an action to enforce the provisions of this section. Upon proof of a violation or threatened violation of this section in an action brought by any person, the Court of Common Pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

If the Court of Common Pleas issues an injunction pursuant to this section, the court may award to the party that sought the injunction all court costs and reasonable attorney's fees and also shall order the public body that it enjoins to pay a civil forfeiture of one hundred dollars. If the Court of Common Pleas does not issue an injunction pursuant to this section and the court determines at that time that the bringing of the action was frivolous conduct as defined in division (A) of Section 2323.51 of the Revised Code, the court may award to the public body all court costs and reasonable attorney's fees.

Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

A member of a public body who knowingly violates any injunction issued pursuant to this subsection may be removed from office by an action brought in the Court of Common Pleas for the purpose by the prosecuting attorney or the attorney general.

If any other provision of this Charter, any ordinance, resolution, or rule of this City, any law of the State of Ohio, or any other law, rule or regulation, whether in effect at this time or hereafter in effect, requires greater disclosure or recordation of meetings of governmental bodies than do the provisions of this Section 10, then such other provision shall control. Furthermore, any and all records of this City which are now or subsequently entitled to be open for public inspection under any statute of the State of Ohio or under any other law, rule, or regulation, shall in fact be open to public inspection.

(Amended Nov. 6, 1990.)

(g) This amendment shall be severable and, if any section, sub-section, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the force and effect of any other section, subsection, part, word or application thereof.

(Added Nov. 3, 1981.)

