

# Notice of Meeting

## CHARTER REVIEW COMMISSION

Monday, April 1, 2024

*at or about 6:00 p.m. in the Council Chambers –  
City Hall – 6131 Taylorsville Road*

**The Huber Heights  
Charter Review Commission  
has scheduled a  
Regular Public Meeting**

Distributed – March 24, 2024



**For more information, visit [www.hhoh.org](http://www.hhoh.org)**



**CITY OF HUBER HEIGHTS  
STATE OF OHIO**

**Charter Review Commission**

**April 1, 2024  
6:00 P.M.**

**City Hall – Council Chambers - 6131 Taylorsville Road - Huber Heights, Ohio**

**1. Call Meeting To Order/Roll Call**

**2. Approval Of Minutes**

A. March 20, 2024

**3. Topics Of Discussion**

A. Charter Review Commission Process, Needs, Staff Support, And Other Issues

B. Huber Heights City Charter

\* Article I - Name, Succession, And Boundaries

\* Article II - Form Of Government

\* Article III - Powers

\* Article IV - The Council

**4. Action Items**

5. **Future Agenda Items**

A. Huber Heights City Charter

- \* Article V - Legislation

- \* Article VI - City Manager

6. **Adjournment**

**CITY OF HUBER HEIGHTS  
STATE OF OHIO**

**Charter Review Commission Meeting Minutes**

**Name of Body:** Charter Review Commission

**Date:** April 1, 2024

**Time:** 6:00 P.M.

**Place:** City Hall – Council Chambers – 6131 Taylorsville Road –  
Huber Heights, Ohio

**Members Present:**

Matthew Shomper, Chair  
Angela Summers, Vice Chair  
Nancy Byrge  
Mark Campbell  
Thomas Dillingham  
Richard Dzik  
John Russell  
Jennifer Sirucek  
Don Webb

**Guests Present:**

City Staff Present: Anthony Rodgers

**Topics Of Discussion:**

- Charter Review Commission Process, Needs, Staff Support, And  
Other Issues
- Huber Heights City Charter
  - Article I - Name, Succession, And Boundaries
  - Article II - Form Of Government

- Article III – Powers
- Article IV - The Council

1. **Call Meeting To Order/Roll Call**

Chair Matthew Shomper convened the Charter Review Commission meeting at 6:00 P.M.

Anthony Rodgers took Roll Call of the Charter Review Commission.

Mr. Rodgers administered the Oath Of Office to Richard Dzik and John Russell.

2. **Approval Of Minutes**

The minutes of the March 20, 2024 Charter Review Commission meeting were approved as submitted.

Jennifer Sirucek moved to approve the minutes; Thomas Dillingham seconded the motion. On the call of the vote, Mr. Dillingham, Mr. Russell, Mr. Campbell, Mrs. Byrge, Mr. Shomper, Mr. Webb, Mrs. Sirucek, Mrs. Summers, and Mr. Dzik voted yea; none voted nay. The motion passes 9-0.

This Charter Review Commission meeting was recorded by the City and the recording of this meeting will be posted to the City's website and will also be maintained by the City consistent with the City's records retention schedule.

3. **Topics Of Discussion:**

**Charter Review Commission Process, Needs, Staff Support, And Other Issues**

Mr. Rodgers reviewed the process for public comments. He said as the sections are reviewed; the Chair will ask if there is anyone present who would like to speak on a particular section of the City Charter. He said if there is someone present who would like to speak on a specific section, that person will be asked to come to the podium, state their name, and make their

comments. He read the statement for public comments which included a five-minute time limit for each person.

Huber Heights City Charter

Mr. Rodgers distributed information regarding Articles I, II, III, and IV of the Huber Heights City Charter (see attached).

**ARTICLE I - NAME, SUCCESSION, AND BOUNDARIES.**

***Section 1.01 - Name, Succession, And Boundaries.***

Matthew Shomper asked for public comments.

Mr. Paul Schaeffer asked if the Charter Review Commission would consider requiring a public vote for extension of the City's boundaries by annexation.

Mr. Rodgers said he hopes that the Law Director will be in attendance at the next meeting. He said he understands what Mr. Schaeffer is proposing, but he does not know if this section is the appropriate section of the City Charter to accomplish that goal. He said this suggestion would be a legal question. He said he will log this item as an action item in order to get a legal opinion on Mr. Schaeffer's proposal. He said there could be discussion on Mr. Schaeffer's rationale for requiring a public vote amongst the commission members.

Mr. Schaeffer said if the determination is made by the Law Director that this is the appropriate section to propose a vote on annexation, he would like the opportunity to return and discuss it further.

Mr. Richard Shaw asked why the commission is not reviewing the Preamble to the City Charter.

Mr. Rodgers said the Preamble was not discussed, but the Preamble could be discussed under Article I.

Mr. Shaw said in 2016, the Preamble was discussed and there was a suggestion to remove the second paragraph in accordance with other communities like Kettering, Beavercreek, and Vandalia. He asked if this would be an action item for the new Law Director to opine on and consider moving forward.

Mr. Rodgers said he is unclear as to what Mr. Shaw is asking.

Mr. Shaw said it would be best for him to submit his request in writing to Mr. Rodgers.

Mr. Rodgers said the Charter Review Commission will need to look at Mr. Shaw's submission as the members will make the recommendation as to whether this item is something the commission will invest time in. He asked Mr. Shaw to submit his recommendation, and he will forward his proposal to the commission members.

Mrs. Sirucek confirmed with Mr. Rodgers that when the commission receives the information from Mr. Shaw, this topic will come back as a discussion point at the next meeting.

Mrs. Byrge said with respect to the comment Mr. Shaw made on the Preamble, removing the paragraph would eliminate an anti-discrimination paragraph, so she hopes Mr. Shaw will include his rationale for the removal of the paragraph.

There were no suggested edits to Section 1.01 from the Charter Review Commission.

Mr. Shomper thanked the community members and said he looks forward to reviewing the Law Director's input and the written submission from Mr. Shaw.

## **ARTICLE II - FORM OF GOVERNMENT**

There were no public comments and no suggested edits from the Charter Review Commission on Article II.

## **ARTICLE III - POWERS**

Mr. Shomper said Article III has three sections. He asked for public comments.

There were no public comments and no suggested edits from the Charter Review Commission on Article III.

## **ARTICLE IV - THE COUNCIL**

### ***Section 4.01 – Powers.***

There were no public comments and no suggested edits from the Charter Review Commission on Section 4.01 of Article IV.

### ***Section 4.02 - Number, Selection, and Term.***

Mr. Paul Schaeffer submitted written comments and suggestions to the Charter Review Commission (see attached). He said he is specifically addressing the part on terms. He said his proposal is to amend Section 4.02 to add a section regarding term limitations for the Mayor and the Councilmembers. He said the argument for term limits is that limits ensure greater fiscal responsibility and lower taxes. He said the longer politicians stay in office; the more tax dollars are spent. He said term limits reduce the likelihood of corruption and open the government to new people with new ideas. He listed both pros and cons of term limits. He said instituting term limits needs to be considered carefully. He said the City founders embedded in the City Charter process the requirement of regular Charter Review Commissions to evaluate and update the City Charter. He reviewed the results of his Facebook survey regarding term limits. He asked the commission members and the City Council to recommend and approve a resolution proposing term limitations for the Mayor and the City Council by amending Article IV of the City Charter and that such amendment be submitted to registered voters at the November 5, 2024 general election. He read his suggestion for the City Charter amendment wording.

Mr. Dan White said he is in favor of term limits. He said he is not sure how the proposal would be worded, but the electors of Huber Heights deserve a voice in how government officials are elected and how long the officials serve. He said this issue was a topic eight years ago in the Charter Review Commission, and the suggestion was nixed early on. He said he hopes this body does not nix the suggestion without discussion and consideration.

Mr. Richard Shaw said he supports term limits. He said Mr. Schaeffer has done an amazing job outlining the proposed language and providing the pros and cons. He requested that each of the commission members explore how term limits have worked in the State of Ohio. He said there are many cities operating in Ohio with term limits with no issues, and ten of the largest cities in the United States have term limits. He said he has a whole list of the pros and cons and the arguments to be made for term limits. He said this matter



was discussed in great length by the last Charter Review Commission in 2016. He asked the commission members to review the video from May 4, 2016, the last time this topic was discussed. He asked Mr. Rodgers if the amendments do make it to the November ballot, what would the cost be to taxpayers per each recommendation?

Mr. Rodgers said he does not have that information. He said there is a cost associated with elections that the Board of Elections passes on to the City. He said it is less impactful when there are general elections with a number of items on the ballot. He confirmed for Mr. Shaw that the cost would be less during a general election than during a primary election.

Mr. Shaw encouraged the Charter Review Commission to review this issue and give the public an opportunity to opine on this measure and to finally put this issue to rest or codify the issue in the City Charter.

Mr. Shomper asked Mr. Schaeffer to clarify his survey and asked how many people are in the forum?

Mr. Schaeffer said there are 627 people in the forum, but a person does not have to be a member to review the website, and there have been 200 visitors.

Mr. Rodgers asked if Mr. Schaeffer had a way to identify how many of those people are residents of Huber Heights.

Mr. Schaeffer said he can cross-reference the names against registered voters.

Mr. Shomper said he was just curious about the statistics and he asked for commission member input.

Mrs. Sirucek asked if there is information as to whether in the last three elections people ran contested or if it was just a one-person race for either the Mayor or Councilmember positions.

Mr. Rodgers said he can get that information. He said in the last election there were three uncontested races and one contested race.

Mr. Dillingham asked what happens if an official had already served the limited terms and there is no one to fill the seat?

Mr. Rodgers suggested the Charter Review Commission consider the proposals and initiatives and then determine whether in concept the Charter Review Commission wants to look at drafting something to address those types of issues. He said he does not think a lot of time and resources should be spent chasing something down or writing something the Charter Review Commission is not going to ultimately support. He said first the commission members should discuss the item and come to a consensus on how they would like to proceed with the item, and from there the details would be worked out. He said there are a lot of different options on how to present this proposal.

Ms. Summers said she reviewed Mr. Schaeffer's proposal and she said she did not see anything where an elected official could come back after a certain number of years. She asked if that is something Mr. Schaeffer would be open to?

Mr. Schaeffer said he had a statement proposing a two-term lifetime limit and he removed that provision because he decided the commission members should address that issue.

Mr. Rodgers said the fact that Mr. Schaeffer's proposal states no more than two terms consecutively implies that an official could run for office after an absence of some period.

Mr. Dzik said the citizen members' input on this topic is most valuable, but as a City employee on this commission he does find some consistency in leadership to be of value. He said other people come in from the outside and lean on experienced members of both the City Council and City Staff to understand the inner workings of the City and of its government. He said he appreciates all of Mr. Schaeffer's proposals because the proposals provide pros and cons. He said he understands both sides of this issue, but as a City Staff member he finds some experience in the government to be of significant value.

Mrs. Byrge said having served on the last Charter Review Commission, the consensus at that time is an election is the decider and is its own term limits process. She said Mr. Schaeffer's commented that term limits ensure greater fiscal responsibility and lower taxes, but he has no information to support that statement. She said this City has great fiscal responsibility as is proven

by the audits every year. She said the poll Mr. Schaeffer used is not statistically significant because there are 43,000 people in the City and only a handful of residents know this Facebook forum exists. She said she does not support term limits and she believes the voters decide and give Council the responsibility and trust to do the job.

Mr. Webb asked that the commission members disregard Mr. Shaw's question regarding the cost of placing this issue on a ballot. He said the Charter Review Commission should not be making decisions on the basis of what it might or might not cost. He said he does not care what it costs; and if there are good suggestions that are brought forward, he does not think cost is a valid argument. He said he does not mean to offend Mr. Shaw, but he does not think cost should be a consideration when the commission members are deliberating on making changes to put before the voters.

Mr. Shomper said he keeps waiting for a president to run on, "I'm going to put term limits in." because he gets tired of the lifetime politicians at the national level. He said when he looks at the local level, in the last election there were four positions that were open and there was only one incumbent and three non-competitive races. He said at this time setting term limits may not be the best for the City of Huber Heights because there is not as much interest right now. He said when the City has two election cycles where a primary is needed and at least two people running for every position in November, then he thinks what Mr. Schaeffer has put forth needs to be considered because it is the founding fathers that asked that the City Charter be reviewed every ten years or so. He said he does not know that it is the best time to institute term limits given recent history with the last election.

Mr. Dzik asked if the Law Director could be consulted about language cleanup and removing historical language. He cited several examples. He said that language seems antiquated.

Mr. Rodgers said he would make a note. He said he knows that when the discussion was had during the last Charter Review Commission process, the Law Director then stated this language was there for historical reference and should remain.

Mrs. Byrge asked when an issue is placed on the ballot, do people understand what the intent of that amendment is or even care.

Mr. Rodgers said at some point there has to be voter education. He said typically the more complicated the issue is, the harder it is to get passed.

Mrs. Summers asked, given the fact there has been very little interest in running for the City Council, what if all Councilmembers were at large. She said she has done some research, and she asked if this body would be interested in discussing this topic. She reviewed her pros that an at large Council would ensure representation of the entire community, may foster a sense of unity and common purpose across the City, would be less susceptible to gerrymandering, and Council could focus on Citywide issues without being tied to specific districts.

Mrs. Byrge said she is not opposed to that discussion but there is not a single person on Council that does not feel like they already represent the whole City. She said any resident can go to anyone they feel comfortable with about any issue. She said she is not sure what the overall benefit of an at large Council would be.

Mr. Shomper said the benefit is it would then become a Citywide election for each person and not within a specific neighborhood.

Mrs. Byrge agreed and she said more signatures would be required to run, and then there would be a mass election.

Mr. Shomper said in a situation like that one, he would envision taking the top four vote getters in November to earn the four open positions and there would be no need for a primary.

Mr. Rodgers said that is how it is done in a lot of communities.

Mrs. Summers said she agrees with what Mrs. Byrge said about being able to approach anyone on Council, but she feels people may be more hardened in their stance regarding "this is my ward".

Mr. Dillingham said he sees where that issue comes into play if someone wants something done in their ward and they may hold something back if it is not getting done in their section of town. He said an at large Council makes sense on one side and on the other hand you know you have a representative for your area, and you know something is going to get done if you talk to that person.

Mr. Shomper discussed how this change would work and he discussed the term limits.

Mrs. Sirucek said with construction going on across the street, she can call Mr. Webb and he is a few minutes away and he can come check it out. She said given the ridiculous amount of conversation that happened around who is sitting on the Charter Review Commission, she thinks an at large Council would only fervor conversation and silly conspiracy theories like three of the four are north of I-70 versus representing the entire community. She said unifying Council makes good sense as the City is growing, but keeping wards squashes some of the silliness that happens outside of these types of meetings.

Mr. Webb said he believes the wards were created so there would be representation from across the City. He said even so, currently you could have two at large Councilmembers, a ward representative, and the Mayor all from Ward 2 for example. He said at least with the ward system the City is guaranteed representation north of I-70, south of I-70, in center of town, and from each side of town. He said with an all at large Council, every member of the Council including the Mayor could be from Carriage Trails or Ward 5. He said that grouping is not beneficial to the people and could consolidate representation in one particular part of town. He said it is not cheap to run a campaign, and an at large campaign requires more funding than a ward campaign. He said you might be pricing people out of the market to run for Council.

Mr. Dillingham said based on the voting record in Huber Heights, there will not be much turnout anyway. He said the at large title gives everyone a sense of community in that the community is going to get together and vote, but the residents are not going to show up and vote.

Mr. Russell said he likes the ward system. He said he does not know that people in Carriage Trails understand everything that goes on in Ward 5. He said it is important to keep some interest in all sections of the City. He said an entire street could run for City Council and be on Council for however long, and that is a dangerous proposition long term.

Mrs. Sirucek thanked Mrs. Summers for bringing this topic up and she said bringing fresh ideas for discussion is the whole point of this process.

Mr. Campbell said this discussion is nothing new and this topic has been brought up at other Charter Review Commissions, and this topic warrants discussion.

Mr. Rodgers said he would like some direction for City Staff as far as what the commission members would like to see with the issue of term limits. He asked if the commission members want to bring what was presented back for future discussion. He said if the commission is going to invest time and resources in drafting something the commission members would like to see, then he would prefer that be done by a motion of the Charter Review Commission. Otherwise, he said term limits could be scheduled for further discussion at the next meeting after commission members have had time to digest what has been presented and to do their own research.

Mr. Webb said he would like to dig up some research. He said Mr. Shaw mentioned some statistics and he would like to know more about what communities have done that have term limits in place and what it looks like in the charter language.

Mr. Shomper said he agrees with that viewpoint.

Mr. Shaw said he is glad to hear this issue will be discussed at another meeting and he can present his research.

Mrs. Sirucek said she would appreciate more information but not just statistics. She said she would like to see comparable neighborhoods, what other communities the size of Huber Heights have done, what was the cause of moving to term limits, and what were the terms before the limit. She said she would like to see what is comparable to Huber Heights as far as age, size, economic status, and so on.

Mr. Shomper requested this item be placed on the May 6, 2024 meeting agenda to give Mr. Shaw more time to get things to the commission members and to email the information to Mr. Rodgers ahead of time to give the commission members the opportunity to discuss the topic.

Mr. Shaw asked if the Charter Review Commission would allow him to meet with Mr. Rodgers as Mr. Rodgers has a wide range of clerk connections and ways to access information.

Mr. Rodgers said Mr. Shaw's input is valid and important, and he said the Charter Review Commission should not just rely on one source of information. He said if there are other means or people have individual connections from whom they can obtain some information, they should bring the information to the Charter Review Commission. He said certainly City Staff can do some research and he can make the discussions and the video recordings on term limits from the last Charter Review Commission in 2016. He said some of that information might not be as current, but it would provide some rationale behind the decisions made during the last process. Mr. Shaw asked if the commission members just want information on Ohio or nationally.

Mr. Shomper said he would like to keep the information just to this area.

Mrs. Summers said the City Charter states a candidate is required to be a resident for at least one year. She said she thinks that requirement should be increased to two years as it takes a while to understand the City.

Mr. Shomper said the City has changed quite a bit and he has no issue with that recommendation.

Mr. Russell said he thinks the City is making it harder and harder to get candidates. He said he does not hate two years and he agrees one should have knowledge of the City, but he said it is something to consider.

Mr. Rodgers said the commission members will have to be able to explain the rationale to the voters for any proposed amendments.

Mrs. Summers said she would be interested in knowing how long those on Council lived in Huber Heights before getting on Council.

Mr. Rodgers said most Councilmembers have lived in the City a significant amount of time.

Mr. Webb confirmed with Mr. Rodgers that the one-year requisite is mirrored with the requirement to serve on City boards and commissions. He asked if it would also be a requirement to change the period for boards and commissions.

Mr. Rodgers said it would not be a requirement. He said to Mr. Russell's point, if the Charter Review Commission recommended raising the residency eligibility for running for Council, then keeping the board and commission residency requirement to one year would be a way for newer residents to get involved in City government before running for elected office.

Mr. Shomper said this item will be moved to next month's Charter Review Commission for further discussion.

Mr. Campbell clarified for Mr. Webb that a ward representative would be required to live in the ward two years and an at large representative would be required to live in the City two years if the residency requirement was changed.

#### ***Section 4.04 - Mayor And Vice Mayor.***

Mr. Shomper said he does not know if this is the section to discuss this issue, but as a community member he was frustrated with a year of stagnant voting. He said a Councilmember would be absent and nothing could happen because Council could not get the fifth vote. He said to have nine months or a year and have no movement by the City Council is not doing a service to the community. He said that issue needs to be addressed and fixed where if a Councilmember is absent, the Mayor can vote instead of waiting for a 4-4 tie. He said he is not sure if this is the section to address that point, but he would like to see some change, and he does not care what side Council is on because one year it was one side and another year it was the other side. He said it is frustrating as a community member seeing no movement, especially in hiring a position as big as the City Manager in a City Manager form of government which no one questioned or wanted change in Article II. He said he would like to see some form of movement to address contentious topics.

Mrs. Sirucek said she also has similar comments, but she has those comments listed for Section 4.12.

Mr. Shomper said he did not know where to place this conversation as Section 4.04 talks about the Mayor voting when a vote is tied at 4-4.



Mr. Rodgers said depending on the nature of the changes around voting, there would be the potential that there would be a number of sections that would be impacted. He said the best approach is to keep those thoughts out there and to have general discussions moving forward and then maybe have a catch all discussion to see how the commission members want to pull that all together and in what direction. He said if that was the direction the commission members wanted to move in, then the commission members would have to look at the various sections to see what the impact of those decisions would be.

#### ***Section 4.05 - Judge Of Qualifications.***

There were no public comments and no suggested edits from the Charter Review Commission on Section 4.05 of Article IV.

#### ***Section 4.06 – Prohibitions.***

Mrs. Sirucek said she has a question about Section 4.06(B) – Appointment And Removal. She said it states City Council can express its views freely and openly with the City Manager and not directly speak to a City employee. She said it feels open to interpretation, and she can see the potential for retaliation and/or intimidation. She said it feels very heavy handed on the Council side. She said she is not implying that anyone on Council has acted improperly, but she could see a situation where someone from the City does something that Council does not like, Councilmembers have the right in writing to go and speak to someone about that employee and that City employee has very little say so in that fact. She asked if she is reading that statement wrong.

Mr. Rodgers said it is like a check and balance. He said the City has a modified Council/Manager form of government which means except for the Clerk Of Council, the City Manager, and the Law Director, every other employee reports to the City Manager. He said only the City Manager has the right to discipline or terminate the employment of those employees outside of the three individuals that work directly for Council. He said on the other hand, this section says that if Council has some concern about the employee, Council can bring it to the City Manager's attention and that would not be the same as having the power to remove that employee, it

would just be to offer feedback, insight, or input into the actions of an employee.

Mrs. Sirucek said she thinks what is missing is what happens with that employee. She asked if an investigation is done because it feels like if a Councilmember has something to say, they can say it, but what she is missing is the employee's ability to speak on their own behalf about something.

Mr. Dzik said when it comes to the bulk of the City Staff which are unionized City employees, there is a process that has to be gone through. He said when it comes to non-unionized employees, even the City Manager has checks and balances to go through before removal. He said regardless of a discussion with a Councilmember that might bring an issue to light, things would have to go through a specific process. He said there are a number of employees who are considered at will employees who can be removed, but the City mirrors that process for any discipline or removal of at will employees as well. He said one complaint does not equal discipline or removal, and the City Manager is held to a code of ethics that ensures a City Manager is managing appropriately. He said this section does not concern him and, in fact, in some ways it allows Council to bring to him information he might not otherwise have because he cannot be everywhere in the City at once. He said he appreciates Mrs. Sirucek's attention to this issue, but he thinks there are a number of checks and balances in place that would prevent the improper discipline or removal of an employee.

Mrs. Sirucek said just the way the section is written; it feels very open.

Mr. Rodgers said there is a Personnel Appeals Board, a citizen appointed board, that is a step in the process of appeal for non-bargaining unit employees as an outside check and balance.

Mrs. Sirucek said with the additional information, she is comfortable with the language as it is.

Mr. Dzik said the item he has concerns with is in Section 4.06(C). He said he used to be a firefighter and he is a big chain of command kind of guy. He said he has noticed that the City Council is very diligent in working all of their concerns through him. He said what he would like to ask the commission members, particularly the Councilmembers, are there some

instances where Councilmembers are simply information gathering. He said he would be open in his role to consider language if Council wanted it where a Councilmember can reach out to a department head to get information without having to go through one or two steps. He said he just wanted to open that discussion, but he is also fine with how the language is today.

Mrs. Byrge asked if the City Charter needs to be changed, or can it just be a relationship between the City Manager and the Council? She said the City Charter establishes the highest level of control, but the City Manager has the authority to specify the limits on that interaction.

Mr. Dzik said he thinks that point is true as well. He said he wants to relieve any Councilmembers of any fear of other people accusing Councilmembers of not working through the City Manager.

Mr. Dzik said he does not want Council to feel they are restricted more than any other community members and he gave examples. He said he thinks the purpose of Section 4.06(C) is to prevent Council from dictating orders or giving direction to City Staff member. He said he just wants to make sure he can verbally have that discussion with Council or if it needs to be clarified in the City Charter.

Mr. Webb said he agrees with Mr. Dzik. He said as one reads the paragraph, the sentence says Council or its members shall deal with City officers or employees who are under the direction and supervision of the City Manager solely through the City Manager and the following line says neither Council or its members shall give any orders to any such officer or employee. He said he thinks all know giving orders means exactly what it sounds like, but "deal with" can get muddy. He said Council has had that issue come up before. He said "deal with" is just a vague enough term that it can mean whatever someone wants it to mean. He said the Charter Review Commission should clean that language up a little bit.

Mr. Dzik said the words he wrote were "information gathering". He said that activity is appropriate for any citizen or Councilmember. He said it does say "solely through the City Manager", so he thinks there would be some hesitancy on the part of Councilmembers to communicate at all with department heads.

Mr. Shomper asked Mr. Dzik to write up how he would like to see this section rewritten and bring it back next month to be reviewed by the commission members.

Mr. Webb said there are sound reasons for this paragraph to be in the City Charter. He said he is apprehensive to call any department head to ask anything for fear of interfering with the City Administration.

Mr. Campbell said that section has been weaponized in the past and he appreciates this topic being brought up to see if this language can be reworked because the paragraph states that Council is going to deal with employees directly through the City Manager.

Mr. Shomper corrected his earlier statement and he asked Mr. Dzik to bring his recommendations to the next meeting on April 23, 2024.

***Section 4.07 -Vacancies; Forfeiture Of Office; Filling Of Vacancies.***

Mr. Rodgers said this section was amended in the last Charter Review Commission process to clarify language that after the 30 days had expired if Council failed to fill the vacancy, the Mayor could make the appointment as soon as they saw fit and it was very vague. He said there was a situation where it dragged on for a while, so the change last time was that the Mayor only had 8 calendar days to make the appointment after Council failed to do so.

There were no public comments and no suggested edits from the Charter Review Commission on Section 4.07 of Article IV.

***Section 4.08 - Clerk Of Council.***

Mr. Rodgers said this section is deliberately vague in that his position requires him to be a jack of all trades. He said it is appropriate to give Council the flexibility to change the role or roles Council wants the Clerk Of Council to play. He said the amendment last time was to change the wording about the supervision of the Deputy Clerk Of Council. He said previously the Deputy Clerk Of Council reported to Council directly and the change was made to have the Deputy Clerk Of Council report to the Clerk Of Council.

There were no public comments and no suggested edits from the Charter Review Commission on Section 4.05 of Article IV.

***Section 4.09 - Investigations.***

There were no public comments and no suggested edits from the Charter Review Commission on Section 4.05 of Article IV.

***Section 4.10 - Compensation.***

Mr. Rodgers said this section is a stringent provision for how Council compensation can be changed. He said one of the results of this section was that Council went for over twenty years without any adjustment in the rate of pay for Councilmembers. He said this issue is also tied to the benefit Councilmembers get as part of the OPERS system for service credits. He said he would recommend consideration of revising this section so that Council compensation is automatically adjusted similarly as to what is done for employees or for a cost-of-living adjustment. He said the reason for this is the State of Ohio recently started a change with the pension system that there is a benchmark and if one is not paid over a certain amount, then that person receives a prorated amount of the service credit for the pension for elected officials. He said the policy used to be regardless of what an elected official was paid, they received a full year of service credit. He said one option would be to have a provision that allows for an adjustment based on some measure that is fixed and consistent but tied to what is done for other employees in other positions rather than this convoluted process where Council has to approve its own increase and can only do it in a five-month period at the beginning of an election year. He said this recommendation would take compensation increases out of the political realm and put it into an orderly transitional process.

Mrs. Sirucek asked what the process is for employees. She said she is okay with this revision as long as Council is showing up for meetings and votes.

Mr. Dzik asked if a Councilmember's absence is not excused, is the Councilmember paid?

Mr. Rodgers said there is no provision for that situation.

Mr. Dzik explained to the commission members the bargaining agreement process. He asked if it would be reasonable to say that Council will be at the rate that receives a full service credit unless otherwise voted by Council?

Mr. Rodgers said even if it just moved with the baseline, it would be some progress where Council would not have to take action and the compensation would automatically adjust.

Mr. Shomper said he would like to see language written up on that issue for the commission members to take into consideration at the next meeting.

Mr. Dzik said he and Mr. Rodgers will work together to rewrite the language.

#### ***Section 4.11 – Independent Audit.***

Mr. Dzik confirmed for Mrs. Byrge that the City has an independent audit every year and is ahead of the curve on this City Charter requirement. He said the two-year requirement gives the City space if there are delays or it takes 14 to 15 months to complete the audit.

There were no public comments and no suggested edits from the Charter Review Commission on Section 4.11 of Article IV.

#### ***Section 4.12 – Quorum And Majority Votes.***

Mr. Campbell expressed to Mr. Rodgers that he would welcome some language options and further discussion on this section.

Mr. Rodgers said that discussion is possible and there are a lot of models out there in other communities. He said some municipalities have where the rules for the number of votes required changes based on the number of either Councilmembers then holding office or the number of Councilmembers present at a meeting. He said there is a number of different ways for this section to be rewritten to allow some flexibility; and some ways to address the points that Mr. Shomper made but also just to deal with vacancies, vacations, and other issues. He said it has sometimes been problematic to have the necessary votes to have a quorum or to pass legislation.

Mr. Shomper said he would love to see some language that will help address these issues.

Mrs. Sirucek said before she sees language she would like to see the options first. She said she would like to see what other communities similar to Huber Heights have done when Councilmembers are intentionally not voting, like consequences or no confidence votes on that person, and what it would look like.

Mr. Rodgers said the City wants to have a system that works good but does not attach consequences that are not enforceable.

Mrs. Sirucek said if an employee chooses not to show up for work, at some point there are consequences; and if an elected official chooses not to work there should be a consequence.

Mr. Shomper said maybe this topic can also be addressed in Section 4.10, when building the compensation piece maybe add in provisions for an unexcused absence that the person loses some pay for the unexcused absence.

Mrs. Sirucek said there should be parameters, in one absence maybe the Councilmember is sick, a family member is sick, or for vacation. She said she is thinking more like two, three, four in a row or an intentional no show to delay work from progressing.

Mrs. Byrge said it is in the City Charter if a Councilmember misses three meetings there can be action, but maybe if a Councilmember misses three meetings, their pay is prorated.

Mr. Dillingham asked how intentionality is defined? He said one absence could be vacation, one could be a sickness, one could be a funeral, and he asked if that is intentional. He said if one chooses to be a public servant, one is choosing to sit on the dais and do a job. He said if someone does not show up for a big vote you can decipher that based on logic, but not to punish someone for a life event.

Mrs. Sirucek said that absence would be considered an excused absence. She said she is talking about someone who is supposed to be there but does not show up with no reason and no approval.

Mrs. Byrge asked how do you prove an unexcused absence?

Mr. Dillingham discussed scenarios and options for voting quorums and he asked what is the number to be at to vote or to allow the Mayor to vote. He said would that be an item that has been on the agenda for three meetings and at a point where a decision needs to be made and is that when you give the Mayor the ability to vote?

Mrs. Sirucek said she agrees it would be hard to prove, but she does not think the current state is acceptable.

Mr. Shomper gave a personal example of a situation where he will be taking an unpaid day off work for what is a good reason for an excused absence but it does not fall in the Ohio Revised Code for his position. He said he has to make that decision if it is worth losing salary for that day. He said there should be the same consequences for Council. He said he would like to see those options.

Mr. Rodgers said some cities pay Council by the meeting versus a flat rate. He said regarding excused versus unexcused absences, under the current City Charter the only effect is if a Councilmember has three consecutive unexcused absences, it is one of the grounds for removal of office, but it still requires six people to remove that person. He said sometimes all of the intents of the City Charter do not line up. He said he will come back with options on quorum and voting in the context of the discussion and present options with respect to how Section 4.10 could be impacted with compensation and the role of the Mayor's vote into those options as well. He said that effort may take a little work, so maybe this item should be pushed out two meetings.

Mr. Shomper said this item will be reviewed at the meeting May 6, 2024.

Mr. Webb said there have been cases where a Councilmember has missed multiple meetings and it was not to influence a vote, they just did not show up. He said at that point, that is what the intent was. He said let us say a Councilmember gets bored with Council and decides he/she would rather stay home. He said missing three meetings in a row is a great thing to take action against. He said he does not think there is tough enough language to handle some of the situations that have occurred. He said this language needs to be cleaned up. He said any kind of option where missing a meeting



allows any section of Council to sway the vote either way should be taken away. He said he knows why this provision was written and he understands the original intent of getting rid of someone who is not showing up. He said if one wants to skew a vote, Councilmembers can take turns being absent and there will never be three consecutive absences.

Mr. Dillingham asked if there is a way to write language for a final vote if a piece of legislation has been on the agenda for months.

Mr. Shomper said Mr. Rodgers will cover the options and bring back some information.

Mrs. Byrge said this area is a paragraph where the commission can fix a lot. She said the three consecutive absences could be taken out because it has no teeth.

There were no public comments on Section 4.12 of Article IV.

#### ***Section 4.13 – Council Meetings.***

Mr. Richard Shaw said in light of the recent conversation, he would welcome the continued conversation and debate from Mr. Webb. He said with regards to Councilmembers missing meetings, unfortunately Section 4.13 has no parameters set forth if a City Council Meeting is canceled with less than 24 hours' notice by the Mayor at his sole discretion as therefore not set within the powers of the City Charter under this section. He requested the commission members take a look at that issue and put some teeth per se or direction in there as those instances have also occurred previously.

Mr. Shomper asked if Mr. Shaw is referring to Section 4.13(B) specifically?

Mr. Shaw said the entire section needs to be revised.

Mr. Rodgers said Section 4.13(B) with the 24-hour notice applies in relation to the Ohio Open Meetings Act which was adopted after the City Charter was adopted. He said the City has to give a 24-hour notice of any meeting unless it is an emergency meeting. He said to Mr. Shaw's point about the Mayor making decisions about the meeting, some of that issue has been cleaned up in the recent changes to the Rules Of Council. He said those Rules Of Council specify a process for the Mayor to cancel a meeting in

certain situations; but if it is not an emergency, it has to be done through a vote of Council. He said the other thing with last minute cancellation of meetings, the cancellation is frequently tied to the fact that Council knows there is not going to be a quorum. He said in that situation it is not the Mayor actively canceling the meeting, it is that the Mayor is announcing the reality of the situation.

Mr. Shaw said the Section 4.13 and Section 4.14 conversations go hand in hand. He said Section 4.14 states the Rules Of Council shall not conflict with the City Charter. He said Section 4.13 uses the language updated in 2016 stating, "shall hold one meeting each month", however, there is no teeth if Council does not hold that one meeting per month. He said that recently happened with no hopes of rescheduling the meeting, and the business of the community was not done at the sole discretion of the Mayor. He said Section 4.13 does not provide any teeth or validity to that conversation.

Mr. Rodgers said in his 17 years of employment with the City of Huber Heights, he can only recall one time which was the most recent example where there was not at least one City Council Meeting in a month. He said the Mayor did not cancel the meeting at his sole discretion, there were indications there would not be a quorum.

Mr. Shaw said that goes back to certain commission members' conversation on intent. He said you cannot prove the intent, it just happens; so how do you write the City Charter where, no matter what side you are on, the City Charter needs to be an open-minded document moving forward for all people.

Mrs. Byrge said if in 17 years canceling a meeting has only happened once, that does not demand changing the City Charter.

Mrs. Sirucek said if meetings are cancelled because there is no quorum, the City should have the meetings because if consequences are going to be tied to absences, maybe Council should meet just to say there is no quorum.

Mr. Dzik said there was an emergency meeting last year. He said he does not see a provision in the City Charter for emergency meetings, and he does not want to fix what is not broken, and he asked if Council just defaults to the Ohio Revised Code?

Mr. Rodgers said the City follows the Open Meetings Act. He said in the recent changes to the Rules Of Council, a section on emergency meetings was adopted. He said the City does not want to get too strict in defining the types of meetings in the City Charter because if the Ohio Revised Code or the Open Meetings Act is amended, that could necessitate a change in the City Charter as well.

Mr. Dzik said he said he researched other cities who have completed recent City Charter reviews and amendments. He said during the pandemic, the State of Ohio relaxed the in-person meeting requirements. He asked if there is any desire to create some provision in the City Charter for virtual meetings for specific reasons?

Mr. Rodgers said he thinks might be able to be done under home rule authority, but he would need to research that issue further. He said he knows of communities that operate that way even though it is not in the City Charter. He said he would need to consult with the Law Director.

#### ***Section 4.14 – Rules Of Council.***

Mr. Schaeffer provided a proposal for changes to the Rules Of Council (see attached). He said the Rules Of Council should be amended to make it clear that the rules are not guidelines but are mandatory and are to be followed unless appropriately amended. He said that in deposition testimony, Council and the Mayor have referred to the Rules Of Council as guidelines to try to operate within. He asked the Charter Review Commission to consider and propose amending the City Charter wording to remove the ambiguity with regards to the Rules Of Council being guidelines to ensure it is clear the rules are not optional.

Mrs. Byrge asked Mr. Schaeffer why the commission members would need to change the Rules Of Council in the City Charter versus tightening the language in the Rules Of Council?

Mr. Schaeffer said the Rules Of Council are identical to the words in the City Charter, and yet Council is interpreting the Rules Of Council to be guidelines yet the words are the same words as in the City Charter.

Mrs. Byrge asked if the word “shall” was put in the Rules Of Council section, would that change accomplish what Mr. Schaeffer is suggesting.

Mr. Schaeffer asked if that revision would change Mrs. Byrge’s perception of the Rules Of Council as being guidelines. Hearing a yes from Mrs. Byrge, he said that change would be sufficient.

Mr. Rodgers said Council has to act as a body on anything and that includes the Rules Of Council. He said one individual such as the Mayor alone cannot provide the interpretation of how the Rules Of Council exist or apply and that Council acts as a body. He said there is a provision in the Rules Of Council that allows Council to suspend any of the Rules Of Council temporarily or permanently for a period of time. He said there is some flexibility, but one person cannot dictate the application of the Rules Of Council.

Mr. Schaeffer said one person is interpreting how the Rules Of Council are to be applied in various situations. He said some do not involve sitting here with Council and could be actions associated with email. He said he could give specifics, but he would prefer not to do so.

Mr. Shaw said this section states that the Rules Of Council cannot conflict with the City Charter; however, nowhere in the section does it state what happens if the Rules Of Council conflict with the City Charter. He said there are sections of the Rules Of Council that conflict with the City Charter. He said additionally there are sections of the Rules Of Council left open to interpretation, so back to Mr. Schaeffer’s question, who makes the interpretation? He asked is it the Attorney General, the Law Director, the Clerk Of Council who makes the interpretation? He said the Rules Of Council are a set of rules to govern Council. He said if Council takes the rules and governs itself. He said the City Charter is set forth by the people to govern the elected officials. He said that type of language is not set forth in this section.

Mr. Rodgers said the City Charter sets the rule that Council establishes its own rules. He said if there are some examples of where Mr. Schaeffer and Mr. Shaw think there are conflicts with the City Charter and the Rules Of Council, he would be interested to look at that information. He said he thinks the ultimate interpretation on a day-to-day basis is the Law Director

determines whether Council or members of Council have acted in appropriate accordance with the Rules Of Council and the City Charter.

Mr. Russell said he does not read the Rules Of Council as optional. He said he sees “shall” repeated throughout the document, and he does not read it as a guideline. He said maybe there are some examples that need to be looked at by the Law Director to bring the interpretation in line as to the Rules Of Council and the City Charter.

Mr. Rodgers asked for clarification as he understands Mr. Schaeffer is more concerned about the document, the Rules of Council itself, creating an ambiguity.

Mr. Schaeffer said there is no teeth in the current language to ensure that the Rules Of Council comport with the City Charter. He said in this case, the Rules Of Council say “shall”, but the interpretation as recorded in testimony under oath by at least two Councilmembers is interpreted as a guideline.

Mr. Rodgers asked Mr. Schaeffer to confirm that he is not talking about a City Charter change, instead he is talking about the application of the Rules Of Council.

Mr. Schaeffer said either that application or the teeth in the City Charter to make sure the Rules Of Council comport with the City Charter. He said he finds it incredibly difficult to believe that the City Charter says “shall” and that the interpretation is a guideline. He said that issue is a problem.

Mr. Rodgers said the City Charter does not speak to “shall” in the application in the individual provisions of the Rules Of Council.

Mr. Webb read the last sentence of this section. He said if one takes out member composition and the part about committees and appointments, it states the Rules Of Council shall provide for other matters as Council determines to be necessary for the proper functioning and government of the Council. He said when one talks about what is here in the City Charter as it speaks to the Rules Of Council, he thinks it is accurate in looking at the City Charter language. He said if talking about an interpretation, that would be properly handled by the complaint process in the Rules Of Council. He said the complaint process is listed in the Rules Of Council as to how to address that situation. He said he does not know that a lot can be added to the section that is going to change what is enforceable and not enforceable

within the Rules Of Council. He said the teeth is in the enforcement of a claim of violation of the City Charter through the investigative process.

Mr. Dillingham said it is his understanding that the Rules Of Council are rooted in disciplinary actions, and the City Charter just establishes that Council makes the Rules Of Council.

Mr. Rodgers said there is a complaint process in the Rules Of Council. He said there is really not a disciplinary process because Councilmembers are elected officials. He discussed examples of breaking rules without any consequences. He said there are a lot of provisions that ultimately the only recourse is to remove someone from office.

4. **Action Items**

The Charter Review Commission did not review the Action Items Tracking Form as the previous meeting was the first meeting of the Charter Review Commission.

5. **Future Agenda Items**

The Charter Review Commission agreed that the following articles of the City Charter would be reviewed at the April 23, 2024 Charter Review Commission meeting:

- Article V - Legislation
- Article VI – City Manager

**Other Business**

There was no other business conducted at the Charter Review Commission meeting.

6. **Adjournment**

Chair Matthew Shomper adjourned the Charter Review Commission meeting at 8:01 P.M.

**AI-9965**

**Topics of Discussion**     **B.**

**Charter Review Commission**

**Meeting Date:** 04/01/2024

Huber Heights City Charter - Articles I, II, III, And IV

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** None     **Date(s) of Committee Review:** N/A

**Audio-Visual Needs:** None     **Emergency Legislation?:** No

**Motion/Ordinance/** N/A

**Resolution No.:**

---

**Agenda Item Description or Legislation Title**

Huber Heights City Charter

- \* Article I - Name, Succession, And Boundaries
- \* Article II - Form Of Government
- \* Article III - Powers
- \* Article IV - The Council

**Purpose and Background**

Review and discussion of the following Articles of the City Charter (see attached):

- \* Article I - Name, Succession, And Boundaries
- \* Article II - Form Of Government
- \* Article III - Powers
- \* Article IV - The Council

---

**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

---

**Attachments**

City Charter - Article I  
City Charter - Article II  
City Charter - Article III  
City Charter - Article IV

---

## ARTICLE I NAME, SUCCESSION AND BOUNDARIES

### Section 1.01 Name, succession and boundaries.

The City shall be known as the "City of Huber Heights", shall continue under this Charter to be a body politic and corporate, and as such shall have perpetual succession. The City shall have the same boundaries existing at the time of adoption of this Charter, with the power and authority to change its boundaries and annex territory thereto in the manner authorized by the laws of the State of Ohio.



## ARTICLE II FORM OF GOVERNMENT

### Section 2.01 Form of government.

The government provided by this Charter shall be known as the modified Council-Manager form.

## **ARTICLE III POWERS**

### **Section 3.01 Powers.**

The City shall have all powers to which a city is entitled under the Constitution and laws of the State of Ohio, either expressly or by implication, as fully and completely as though specifically enumerated in this Charter. The enumeration of specific powers in this Charter or the reference in this Charter to specific powers granted by the Constitution or laws of Ohio shall not be construed to be exclusive, and the City may determine to exercise any power in the manner provided under this Charter or in the manner provided under the ordinances or resolutions of the City or in the manner provided under the Constitution or laws of the State of Ohio. Unless otherwise specified by ordinance or resolution, powers shall be exercised in the manner provided under this Charter. It is the intention of the people by the adoption of this Charter that a substantial compliance with the Charter's provisions shall be sufficient to sustain any action taken under this Charter.

### **Section 3.02 Construction.**

The powers of the City under this Charter shall be construed liberally in favor of the City. As applied in this Charter, unless the context otherwise requires, the singular includes the plural; the plural includes the singular; words of one gender include the other gender; and words in the present tense include the future tense.

### **Section 3.03 Intergovernmental relations.**

The City may exercise any of its functions, and participate in the financing thereof, including the incurrence of debt, jointly or in cooperation, by contract or otherwise, with one or more political subdivisions, States or civil divisions thereof, or the United States or any agency thereof.

## ARTICLE IV THE COUNCIL

### Section 4.01 Powers.

Except as otherwise provided under this Charter, all legislative and other powers of the City shall be vested in the Council. The Council shall have the power to enact ordinances, resolutions and other measures, and to take any other action it determines to be necessary to implement this Section, including the distribution or allocation of authority and responsibility to exercise powers and to carry out municipal functions among; (i) the City's administrative departments, divisions and offices, or subunits thereof, (ii) the City's boards and commissions; and (iii) the City's officers and employees.

### Section 4.02 Number, selection and term.

Except for the transition period beginning January 1, 1984, and ending December 31, 1985, the Council shall consist of nine (9) members elected by the qualified voters of the City by nonpartisan ballot: one of whom shall be separately elected as the Mayor and shall serve for a four (4) year term of office; two of whom shall be elected by the electors of the City at large for overlapping four (4) year terms of office; and six (6) of whom shall be elected by districts for overlapping four (4) year terms of office; except as such terms are modified by Section 14.01 of this Charter. The regular term of office of Councilmembers and the Mayor shall begin the first day of January following their election. They shall serve until their successors are duly elected or appointed and are qualified. If a member of Council-elect, other than the Mayor, fails to qualify, dies, or resigns, prior to taking office, the office shall be filled according to the provision of this Charter for vacancies in the Council.

### Section 4.03 Eligibility.

Candidates for the offices of Councilmember and Mayor shall be qualified electors of the City at the time of filing their nominating petitions, shall have maintained their residency in the City at least one (1) year immediately preceding the election, and shall maintain residency during their term of office. Candidates for the offices of Councilmember to be elected by districts shall have resided in their respective districts for at least one year immediately preceding the election and shall maintain such residency during their term of office. Councilmembers, including the Mayor, who cease to meet the preceding eligibility requirements during their term of office shall forfeit their offices pursuant to Section 13.08 of this Charter.

### Section 4.04 Mayor and vice mayor.

- (A) *Mayor.* Beginning with the regular municipal election to be held in 1985, the Mayor shall be elected by separate ballot from the City at large for a four (4) year term of office. The Mayor shall be a member of Council but shall not have the right to vote on issues before Council except in the cases where the vote for the remaining members of Council results in a tie vote, in which cases the Mayor must cast the deciding vote. The Mayor shall have the power to veto any ordinance or resolution enacted by Council except (i) those enacted as a result of the Mayor's casting the deciding vote, and (ii) those enacted by a vote of at least two-thirds (2/3) majority of Council.

In addition to the powers, rights and duties as a member of Council as provided under this Charter, the Mayor shall preside at meetings of Council, shall serve as a non-voting member of all Council appointed committees, and shall be recognized as head of the City Government for all ceremonial and non-administrative purposes, and by the Governor for military purposes. The Mayor shall have judicial powers and the other powers and privileges to which

---

Mayors are entitled under general law and the Constitutions of the State of Ohio, provided such other powers and privileges are consistent with the provisions of this Charter. The Mayor shall also exercise those powers and perform such duties as described by ordinance or by resolution of Council, consistent with the provisions of this Charter.

- (B) *Vice Mayor.* Council shall, at the first regular meeting in January following its election and every year thereafter, choose, by a vote of no less than five (5) members of Council, one of its members as Vice Mayor, who shall act as Mayor during the absence or disability of the Mayor. If a vacancy in the Mayor's office occurs, the Vice Mayor shall serve as Mayor until the next regular municipal election. At such election a Mayor shall be elected to serve for the unexpired or a full term, as appropriate. At least ten (10) days prior to the date for filing for the office of Mayor at such election, the Vice Mayor who assumed the office of Mayor shall file with the Clerk of Council a written statement indicating whether such person will become a candidate for Mayor at such election or will reassume office of Councilmember, and such person shall be bound by such decision. If such decision is made in favor of reassuming the office of Councilmember, then upon the election of a Mayor and upon assumption of the office by the person so elected, the Vice Mayor shall reassume the office previously held as councilmember for the remainder of the unexpired term to which elected. In the event of a vacancy in the office of Mayor whereby the Vice Mayor assumes the office of Mayor under this Section, the Council shall select a person to fill the vacancy in Council as provided in Section 4.07 of this Charter; however, the person so chosen to fill the vacancy in Council shall serve only until a Mayor is elected as provided herein, if the Vice Mayor elects to reassume office as a councilmember for the remainder of the unexpired term as provided for in this Section.

(Amended November 8, 2016)

#### **Section 4.05 Judge of qualifications.**

Council shall be the sole judge of this Charter's prescribed qualifications of its members-elect and its own members, and the grounds for forfeiture of office as listed in Section 13.08 of this Charter.

#### **Section 4.06 Prohibitions.**

- (A) *Holding Other Office.* Except as authorized by this Charter, neither a Councilmember nor the Mayor shall hold any other City office or City employment during the term for which said Councilmember or Mayor was elected or appointed to Council, and no former Councilmember or Mayor shall hold any compensated appointive City office or City employment within one (1) year after the expiration of the term for which elected or appointed. In addition, neither a Councilmember nor the Mayor shall hold any other elected public office during the term for which said Councilmember or Mayor was elected or appointed to Council, except the office of State or County Central Committee member of a political party or the office of delegate or alternate to a political party convention.
- (B) *Appointment and Removal.* Neither Council nor any of its members, including the Mayor, shall in any manner except as otherwise provided under this Charter, dictate the appointment or removal of any City officers or employees whom the City Manager or any subordinates are empowered to appoint or remove; however, Council may express its views, and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.
- (C) *Interference with Administration.* Except for the purpose of investigations under Section 4.09 of this Charter and inquiries, Council or its members shall deal with City Officers and employees who are under the direction and supervision of the Manager, solely through the Manager. Neither Council nor its members shall give any orders to any such officer or employee, either publicly or privately.

---

#### **Section 4.07 Vacancies; forfeiture of office; filling of vacancies.**

(A) *Vacancies.* The office of a member of Council shall become vacant upon the member's death, resignation, forfeiture of office, or removal from office.

(B) *Disability.* On questions of disability involving the Mayor, Vice Mayor or Councilmembers, all decisions as to the confirmation, time and duration of disability shall be determined by an affirmative vote of at least three-fourths (3/4) of the members of Council then holding office and not under such consideration. Such determination shall include the authority to declare said office vacant in order to allow for the filling of a vacancy as set forth in Division (C) herein.

(C) *Filling of Vacancies.* Vacancies in the office of Councilmember shall be filled within thirty (30) days by vote of a majority of the remaining members of Council. If a vacancy occurs in an office of Council-elect, the Council for the new term shall appoint, by a majority vote of the members then holding office, an elector of the City. If Council fails to fill any vacancy within thirty (30) days following the occurrence of the vacancy, the power of Council to fill the vacancy shall lapse and the Mayor shall fill the vacancy by appointment within eight (8) calendar days. Any appointee under this Section must qualify under the provisions of this Charter. If the vacancy occurs subsequent to ten (10) days before the date when candidates for the office of Councilmember must file their nominating petitions or if two (2) years or less remain in the term of the incumbent who created the vacancy, the person so appointed shall serve for the unexpired term. If the vacancy occurs ten (10) or more days prior to the date when candidates for the office of Councilmember must file their nominating petitions and more than two (2) years remain in the term of the incumbent who created the vacancy, the person so appointed shall serve until a successor is elected at the next regular municipal election and such successor assumes office on the first day of January following the election. The person elected at the regular municipal election shall serve for the remainder of the unexpired term.

(Amended November 8, 2016)

#### **Section 4.08 Clerk of council.**

Council shall appoint an officer of the City who shall have the title of Clerk of Council and serve at the pleasure of Council. The Clerk of Council may hold other office or position of employment with the City. The Clerk of Council shall be the direct supervisor of the Deputy Clerk of Council. The Clerk of Council shall give notice of Council meetings to its members and the public, keep the journal of its proceedings, and shall have such powers and perform such duties as are provided under this Charter, the rules of Council or by ordinance or resolution.

(Amended November 8, 2016)

#### **Section 4.09 Investigations.**

Council may make investigations in coordination with the City Manager into the affairs of the City and the conduct of any City office, department or division, a subunit thereof, or any board or commission. Council may establish investigative procedures by ordinance or resolution. Council shall provide, by ordinance or resolution, the penalties for the failure or refusal of any person to obey a lawful order issued in the exercise of its investigative powers and may establish procedures for the enforcement of such a lawful order.

#### **Section 4.10 Compensation.**

Council may increase or decrease the compensation of its members by ordinance or resolution. No member of Council shall benefit from any increase in compensation enacted during such member's current term of office; except that should the costs of providing fringe benefits increase or decrease, such increased or decreased costs

---

shall not be considered an increase or decrease in the cost of the benefit. The initial compensation of Councilmembers under this Charter shall be that compensation established and in effect on January 1, 1984, and if none has been established, the Council first serving under this Charter shall establish such compensation within ninety (90) days. Any ordinance or resolution changing the compensation of members of Council shall be adopted no later than June first of any odd numbered year. Councilmembers may, pursuant to policies established by ordinance or resolution, receive their necessary and reasonable expenses incurred in the performance of their official duties.

#### **Section 4.11 Independent audit.**

Council shall provide for an audit of the affairs and accounts of the City by a certified public accountant or firm of such accountants, at least once every two (2) years, subject to the requirements of Ohio law.

#### **Section 4.12 Quorum and majority votes.**

A quorum of Council shall be present to conduct official business. Five (5) voting members of Council, other than the Mayor, shall constitute a quorum. Faced with the lack of quorum, a smaller number of such members of Council may convene, and may compel the attendance of absent members in the manner, and subject to the penalties prescribed by ordinance or resolution, and may adjourn meetings to a subsequent date. In determining a majority vote, a two-thirds (2/3) vote, or a three-fourths (3/4) vote, the office of Mayor shall be counted in arriving at the total membership of the Council, but the Mayor shall not have a right to vote on issues before the Council except as permitted by Section 4.04 of this Charter.

#### **Section 4.13 Council meetings.**

- (A) The Council shall determine, by a majority vote of its members then holding office, the frequency, dates and times of regular meetings of the Council in order to properly conduct its business, but it shall hold at least one (1) regular meeting each month.
- (B) Special meetings of the Council may be called, for any purpose, by the Mayor or any five (5) Councilmembers upon at least twenty-four (24) hours notice to the Mayor and each Councilmember, which notice may be served personally or left at their usual place of residence. Councilmembers and the Mayor who attend special meetings of the Council or who are present at another regular or special meeting where a special meeting is announced by the presiding officer need not receive notice of the special meeting. Councilmembers and the Mayor may waive receipt of notice of a special meeting either prior or subsequent to the meeting.
- (C) Any regular or special meeting of the Council may be adjourned or recessed to another time, date or place without giving the notice required in Division (B) of this Section.

#### **Section 4.14 Rules of council.**

The Council shall be a continuing body. The Council shall adopt, by a majority vote of its members then holding office, its own Rules which shall not conflict with this Charter and which shall remain in effect until amended, changed or repealed by a majority vote of the members of the Council then holding office. The Rules shall go into immediate effect unless a later date is specified, and shall not be subject to initiative or referendum. The Rules of Council shall provide for the number, composition and manner of appointment of committees of the Council, and such other matters as the Council shall determine to be necessary for the proper functioning and government of the Council.

## **Proposal to amending Article IV of the City of Huber Heights Charter to add term limitations for the Mayor and Council**

Below is suggested wording for an amendment to Article IV of the City Charter to add term limits for the City Council and Mayor positions.

The argument for Term Limits is that it ensures greater fiscal responsibility and lower taxes. The argument continues that the longer politicians stay in office, the more of our tax dollars they spend. Term Limits reduce the likelihood of corruption and open our government to new people with new ideas to solve our country's problems.

Opponents of term limits argue that it will harm the political process or turn away outstanding and experienced elected officials or deny voter choice.

Term limits for city council members and Mayor, like any political measure, come with their own set of advantages and disadvantages. Here are some of the pros and cons for your consideration:

### **PROS:**

1. **Promotes Fresh Perspectives:** Term limits prevent the entrenchment of long-term incumbents, allowing new voices and ideas to enter the political arena. This can lead to fresh perspectives and innovative solutions to city issues.
2. **Reduces Incumbency Advantage:** Without term limits, incumbents often have a significant advantage in elections, making it difficult for new candidates to challenge them. Term limits level the playing field and make elections more competitive.
3. **Prevents Corruption and Power Concentration:** Long-serving politicians may become entrenched in power and more susceptible to corruption or undue influence from special interests. Term limits can help prevent this by ensuring turnover in leadership and reducing the concentration of power in the hands of a few individuals.
4. **Encourages Civic Engagement:** With turnover in leadership, citizens may feel more empowered to engage in local politics, knowing that there are regular opportunities for new candidates to enter the political scene.

### **CONS:**

1. **Loss of Experience and Expertise:** Term limits can result in the loss of experienced and knowledgeable leaders who have developed a deep understanding of city issues and governance over time. This loss of institutional knowledge may hinder effective decision-making and

governance. An effective mitigation strategy for this is to document plans, goals, priorities, visions, decisions, analysis, and such in easily readable and accessible repositories such as an electronic library.

2. **Disruption of Effective Leadership:** Just as experience can be an asset, sudden turnover in leadership due to term limits may disrupt continuity and stability in city governance. It takes time for new leaders to learn the ropes and build relationships necessary for effective governance. An effective mitigation for this concern is having and retaining the overlapping terms of council members ensuring there is continuity of intellectual capital during transition periods.
3. **Potential for Constant Campaigning:** Knowing that their time in office is limited, council members may be more focused on campaigning for re-election or positioning themselves for higher office rather than focusing on the needs of their constituents and effective governance.
4. **Limited Voter Choice:** Term limits can restrict voters' choices by preventing them from re-electing politicians they believe have done a good job representing their interests. This limitation on voter choice may lead to dissatisfaction among constituents. This of course is a counterpoint to the pros of reducing the incumbency advantage and encouraging increased civic engagement.

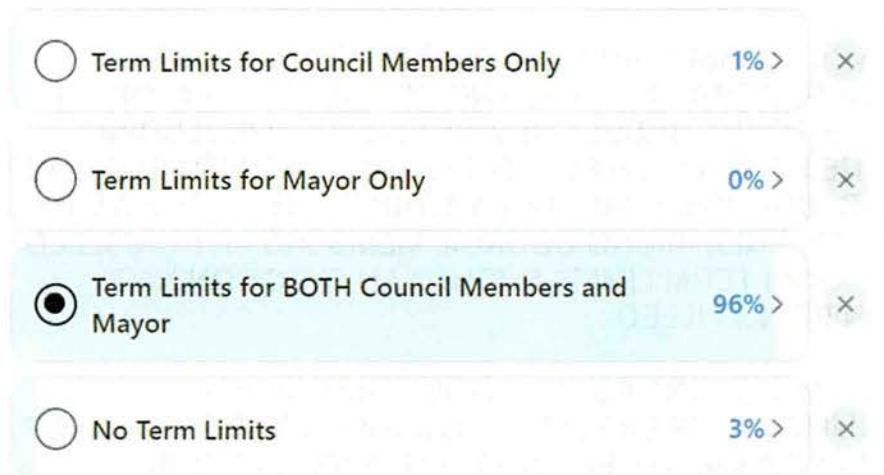
Term limits can help prevent political stagnation and reduce the risk of corruption. They can also result in the loss of experience, disruption in leadership, and limit or expand voter choice. The effectiveness of term limits depends on various factors including the specific context of the city and its political culture. We should recognize that what may be a pro today, may be a con tomorrow, and vice-versa, so instituting term limits needs to be considered carefully. Our city founders embedded in our city charter processes that allow us to address this concern by requiring regular Charter Review Commissions to evaluate and update our charter, ensuring the flexibility to address this concern.

The following question was put to the readers/followers of the Huber Heights Community Forum group on Facebook on 21 February 2024:

In your opinion, should the Huber Heights Charter Review Commission discuss and explore establishing term limits for City Council Members or the Mayor of Huber Heights, both, or neither?



The results of that survey are as follows:



There were 110 votes (or 96% of the votes) for Term Limits for BOTH Council Members and Mayor and four votes (or 3% of the votes) for No Term Limits.

*Note: The 1% number in the survey for “term limits for council member only” is an artifact of the polling tool and does not represent real votes. It represents the combined fractional numbers truncated from the other selections reported percentages, ensuring that the total percentages for the survey add up to 100%.*

The survey can be found at

<https://www.facebook.com/groups/566505482177241/announcements> Reader comments are included on Facebook.

**Considering all of this, I make the following motion for your consideration:**

I move the Charter Review Commission and the City Council recommend and approve a resolution proposing term limitations for the Mayor and the Council by amending Article IV of the City Charter and that such amendment be submitted to the registered voters for approval or rejection at the regular election to be held on November 5, 2024.

**PROPOSED CHARTER WORDING/AMENDMENT:**

NOTWITHSTANDING ANY OTHER PROVISION IN THIS CHARTER, NO PERSON SHALL BE ELIGIBLE TO SERVE MORE THAN TWO (2) TERMS CONSECUTIVELY AS A COUNCILMEMBER OR MORE THAN TWO (2) TERMS CONSECUTIVELY AS MAYOR. ELECTION OR APPOINTMENT TO SERVE THE UNEXPIRED PORTION OF A TERM SHALL NOT BE CONSIDERED A FULL-TERM FOR THE PURPOSES OF SUCH LIMITATIONS IF THE REMAINING TERM IS LESS THAN TWENTY-FOUR (24)

MONTHS. ELECTION OR APPOINTMENT TO SERVE THE UNEXPIRED PORTION OF A TERM SHALL BE CONSIDERED A FULL TERM FOR THE PURPOSES OF SUCH LIMITATIONS IF THE REMAINING TERM IS EQUAL TO OR MORE THAN TWENTY-FOUR (24) MONTHS.

EACH INCUMBENT COUNCIL MEMBER AND MAYOR POSITION WILL BE VACATED ON THE 31<sup>ST</sup> OF DECEMBER AT THE END OF THE 2<sup>ND</sup> TERM OF AN INCUMBENT REGARDLESS OF THE RESULT OF ANY ELECTION INCLUDING RESULTS THAT LEAVE THE POSITION UNFILLED. CONSISTENT WITH SECTION 4.07(C) OF THIS CHARTER, COUNCIL SHALL FILL WITHIN THIRTY (30) DAYS BY VOTE OF A MAJORITY OF THE REMAINING COUNCIL MEMBERS ANY UNFILLED VACANCIES RESULTING FROM TERM LIMITS SHOULD AN ELECTION NOT RESULT IN THE POSITION BEING FILLED.

ALL CITY COUNCIL POSITIONS COUNT AS THE SAME POSITION FOR CALCULATION OF TERM LIMITS. FOR EXAMPLE, A COUNCIL MEMBER CANNOT GO FROM TWO (2) TERMS AS A WARD REP AND THEN HAVE ADDITIONAL TERMS AS AN AT-LARGE REP. MAYOR AND COUNCIL REPRESENTATIVE POSITIONS WILL BE CONSIDERED TWO (2) INDEPENDENT POSITIONS SUCH THAT A TWO (2) TERM COUNCIL MEMBER COULD BECOME A TWO (2) TERM MAYOR, OR A TWO (2) TERM MAYOR COULD BECOME A TWO (2) TERM COUNCIL MEMBER WITH NO MORE THAN FOUR (4) COMBINED CONSECUTIVE TERMS.

**SUBMITTED BY:**

Paul Schaeffer  
5932 Oak Creek Trl  
Huber Heights, OH 45424  
(937) 266-3984

Section 4.14 - Rules of Council should be amended to make it clear that these rules are not guidelines but are mandatory and are to be followed unless appropriately amended. Numerous times in the recent past, including in deposition testimony provided by city council members, the council has characterized the rules of council as guidelines. For example, in sworn testimony during a recent deposition of Mayor Jeff Gore he said, and I quote, "But my understanding would be it (*referring to the Rules of Council*) would be a set of guidelines to try to operate within." With emphasis added to the words guidelines and try.

I ASK THE CHARTER REVIEW COMMITTEE TO CONSIDER AND PROPOSE AND AMEND CHARTER WORDING THAT WOULD REMOVE ANY AMBIGUITY ABOUT THE RULES OF COUNCIL BEING GUIDELINES. THE AMENDED WORDING MUST ENSURE IT IS CLEAR THAT THESE RULES ARE NOT OPTIONAL AND MUST BE FORMALLY AMENDED SUCH THAT ALL MEMBERS OF COUNCILS ACTIONS ARE CONSISTENT WITH THE COMMON LEGAL INTERPRETATION OF THE RULES.

SUBMITTED BY:

Paul Schaeffer  
5932 Oak Creek Trl  
Huber Heights, OH 45424  
(937) 266-3984

CHARTER REVIEW COMMISSION - ACTION ITEMS TRACKING FORM

Tracking No.	Description	Who Assigned	Date Assigned	Due Date	Status	Date Closed
2024-AI-001	Research with Law Director to determine if Article I is the appropriate section of the City Charter to review a public vote on annexation as it pertains to boundaries.	A. Rodgers	04/01/2024	04/20/2024		
2024-AI-002	Review Mr. Richard Shaw's forthcoming submission regarding removing the second paragraph from the preamble of the City Charter.	CRC Law Director	04/01/2024	04/20/2024		
2024-AIV-003	Provide information regarding last three City elections (contested vs. uncontested).	A. Rodgers	04/01/2024	04/20/2024		
2024-AIV-004	Prepare information regarding term limits based on research with other cities.	A. Rodgers	04/01/2024	04/20/2024		
2024-AIV-005	Continue discussion on Article IV, Section 4.02 – Number, Selection And Term.	A. Rodgers	04/01/2024	04/20/2024		
2024-AIV-006	Continue discussion on two-year residency requirement for candidates for City Council and Mayor.	A. Rodgers	04/01/2024	04/20/2024		
2024-AIV-007	Provide a proposal for amendments to Article IV, Section 4.06(C) – Interference With Administration.	R. Dzik	04/01/2024	04/20/2024		
2024-AIV-008	Provide a proposal for amendments to Article IV, Section 4.10 – Compensation.	R. Dzik A.. Rodgers	04/01/2024	05/06/2024		
2024-AIV-009	Provide information regarding quorums and majority votes related to Article IV, Section 4.12 – Quorum And Majority Votes based on research with other cities (including consequences and/or compensation consequences for missing meetings).	A. Rodgers	04/01/2024	05/06/2024		
2024-AIV-010	Review proposal from public comments to rewrite Article IV, Section 4.13 – Council Meetings.	CRC	04/01/2024	04/20/2024		

[illegible]