

**MINUTES OF THE MEETING OF THE CHARTER REVIEW COMMISSION
OF THE CITY OF NORTH OLMSTED
MARCH 25, 2015**

Present: Commission members Brake, Gareau, Neuzil, Seelie, Smith, Spiezio and Tallon

Also Present: Director of Law Gareau and Clerk of Council Gallo

Guests: Council members Barker, Brossard, Hemann, Limpert and Schumann; Jim Burns

Chairman Gareau called the meeting to order at 7:00 p.m. in the Council Caucus room.

The Charter Review Commission meeting minutes of March 11, 2015 were approved as written.

(All Charter recommendations are attached to these minutes)

Article IX Section 4 Nominations and Elections; Designation of Candidates

Law Director Gareau said that this section dates back to the original form of government that the city utilized up until the 1990's when it switched from a partisan form of government to a non-partisan form of government. There are three at-Large seats, and the primary was used to reduce the total number of candidates running to six – three Democrats facing off with three Republicans. Currently, there is a primary if there are more than six candidates running. He is not sure if the primary is effective or necessary under a non-partisan form of government. Furthermore, there has been a drop off of people running for office in the last fifteen years. The City of North Olmsted is also required to pay for a primary election. He asked Finance Director Copfer to look into the cost of a primary election. Rather than have a primary, the thought is to have everyone run and the top three win the at-Large seats. There was an attempt to have slotted at-Large seats during the last Charter Review cycle, but the amendment failed when it was placed on the ballot. Neuzil said the whole idea of a primary is intra-party and, since North Olmsted is not partisan, the primary doesn't improve this at all. Spiezio said he understands that there have been less people running. But, if twelve people end up running a few years from now, the top three could have only twelve percent of the vote. This is unlikely, but is this a concern or a potential issue? Chairman Gareau said it's possible, but it doesn't make a lot of sense the way it is now. Law Director Gareau said he would suggest that the filing deadline remain the same deadline it is now which would be in June. Smith asked if this affects any of the other elected offices. Law Director Gareau said it does not. Seelie asked since the form of government was changed, have the top three candidates historically end up the top three in the general election? Law Director Gareau said they haven't seen any primaries because there have been less people running. Last time the current at-Large Council members ran, they ran unopposed. Chairman Gareau opened the floor for public comment. Councilman Barker said this amendment would not only save time, but it would save money for the city. Councilman Limpert suggested capping the number of people running. For instance, if the number of candidates reaches twelve, then there would be a primary to narrow it down to six. Chairman Gareau asked what the "magic number" would be that would determine a

primary election. Law Director Gareau said an analogy would be school board races which are city-wide and do not have a primary. Law Director Gareau asked guest and former Finance Director, Jim Burns, if he recalls the cost of a primary election. Burns said it costs around \$25,000 to \$30,000 to hold a primary election if that is the only item on the ballot. Brake asked if there are any thoughts on whether or not this change would entice more people to run. Chairman Gareau said this could be more attractive because the candidates would be running in one election instead of both a primary and an election.

Neuzil made a motion to submit to North Olmsted City Council the recommendation of Article IX Section 4 Nomination and Elections; Designation of Candidates. The motion was seconded by Seelie and passed unanimously by a vote of 7-0.

Article IV, The Council; Section 2, Qualifications

Law Director Gareau said every ten years, the Charter requires City Council to redistrict (redraw the four Wards based on the U.S. Census population numbers). This happened in 2011 which was based off of the 2010 Census. At this time, there was a Ward race and an individual pulled petitions to run in his new Ward which was created when the Ward lines were redrawn. However, even though this individual did not change his address, he did not meet the one year residency requirement in this new Ward. Eventually, this individual withdrew his name as a candidate because he couldn't run in his old Ward either. Chairman Gareau said this is important because someone was deprived the right to run for office because of the "glitch" in the Charter. People should be given the opportunity to run and not be denied this opportunity because a Ward boundary line changes. Brake asked if there is existing language that would grandfather the candidate and Law Director Gareau said there is not. Law Director Gareau said he believes an issue would be a sitting Councilperson could possibly lose their Council seat if they were redistricted out of their Ward. They have not seen this happen, but it would be a significant issue because the Charter says a Councilperson has to maintain their residency in their Ward. Smith gave the example about Dennis Kucinich and Marcy Kaptur being redistricted into the same Ward and one of them getting eliminated. Law Director Gareau said he would look into the effective date of redistricting to clarify which election it would take place. Chairman Gareau opened the floor to public comment. Councilman Barker said this all came about when he ran last time and his opponent that was redistricted into his Ward had to pull out of the election because he didn't meet the residency requirement. Councilwoman Hemann presented Charter information from the following municipalities: Strongsville, Fairview Park, Rocky River, Middleburg Heights, Bay Village and Westlake. None of these municipalities have a secondary requirement for redistricting except for the city of Westlake. Westlake has a subheading in their Charter about redrawing their Wards, and they resolved it in a matter that says when redistricting occurs, that address of a sitting Councilperson will not be redistricted. Chairman Gareau asked if the city hires somebody to redistrict and Law Director Gareau said yes. Tallon said he was fortunate to sit in on a redistricting process and he was very impressed with the gentleman that the city hired to oversee the process. The only problem they ran into was natural boundaries, but the process was very fair and unbiased. Chairman Gareau asked Law Director Gareau to get the Commission more information and clarification on the issue of the effective date of new Ward boundaries due to

redistricting. Clerk Gallo distributed a copy of the Westlake Charter language to the Commission members.

Tallon made a motion to submit to North Olmsted City Council the recommendation of Article IV, The Council; Section 2, Qualifications. The motion was seconded by Brake and passed unanimously by a vote of 7-0.

Proposed Merger of the Board of Building Code Appeals and the Board of Zoning Appeals to create a Building and Zoning Board of Appeals (BZBA)

Planning Director Wenger reviewed the types of issues that are heard before the BBCA and BZA. She explained the skill sets of the members of each Board are similar, such as knowledge of construction and design standards, ability to read plans and the Code and to hear advice and testimony from various individuals. She feels the two Boards overlap in areas so they can be merged and streamlined. Attracting talented individuals to serve on these Boards is difficult, and to have seated members on the BBCA which hasn't met since 2012 does not give these members a substantial opportunity to participate. Law Director Gareau said the last time the city went to a state hearing on a commercial issue was a couple of years ago. Chairman Gareau asked if individuals are sent down to appear before the Board of Building Standards if there is an issue our local Code does not address. Director Wenger said yes. Brake distributed a chart outlining the BBCA activity over the last several years including types of issues that have come before the Board. Spiezio asked if there should be any type of member qualifications added to the proposed language. Director Wenger said she wouldn't object to some type of classification of the skill sets of members as long as the skill sets are broad enough. Chairman Gareau gave an example that he recalls an appointment to a board/commission being denied because the individual did not have the qualifications relevant to the board/commission. Tallon spoke to the amount of research that used to be involved when issues came before the BBCA when he was a member, but now the state covers a lot of these issues. Tallon asked Director Wenger if the two Boards are merged, are the qualifications merged as well? Director Wenger replied that they are. Tallon said then there has to be members on the Board that have qualifications for both Boards. Brake said it would be in the city's best interest to have a member(s) with enough technical knowledge to know what they don't know. For example, having someone that will say the Board doesn't know enough about storage tanks and the Board needs to get someone before them that can provide them with more information. Law Director Gareau said it's difficult to find people with specific, unique sets of skills to serve on the merged Board. So difficult, that maybe membership would be opened to individuals outside the City of North Olmsted. Director Wenger objected stating that she would not want the language to be so limiting that they would have to look outside of the city for members. There are currently good members that serve on both the BBCA and BZA that have backgrounds in construction, engineering, law and planning. Law Director Gareau suggested using "education or experience" language to broaden the qualifications.

The Commission unanimously agreed to table the proposed merger of the BBCA and BZA. Planning Director Wenger agreed to revise this recommendation with regard to member qualification language.

Article VII Section 2, Planning and Design Commission, (e) Mandatory Referral to Electors

Planning Director Wenger explained that this recommendation is to repeal mandatory referral to electors. It was her recommendation in 2005 and she still believes that this section of the Charter does not serve the best interest of the City of North Olmsted. The best way to manage growth and development is through a strong Master Plan and strong zoning regulations and guidelines that allows for some flexibility as the community changes over time. This current section does not adequately address current trends in planning and zoning. When it was written, mixed-use didn't exist at the time like it does now. So, this current section does not address mixed-use. She also said perhaps at the time this was written, there was a fear that a bunch of apartment buildings would be built. She feels there are already checks and balances in place such as the planning and design or zoning process. Chairman Gareau said in the 1970's the city hired Regional Planning who came up with the classification office/residential, and the entire Lorain Road was proposed to be rezoned office/residential. People were worried that there would be a bunch of apartment buildings erected. So, Director Wenger is right. He referenced resident Dennis Lambert's Charter recommendation to have everything go before the voters. He said Lambert's comments he made about the city's Planning Director were inexcusable. Director Wenger said there is so much staff time and review that goes into any type of development or zoning proposal. There is already resident involvement at every step of the process. The Planning and Design Commission is composed of residents. City Council members are residents. The public hearing process allows for resident participation and input. Why would the city want to make the process more cumbersome and burdensome for a developer that has an innovative project that has to go through the zoning process with checks and balances that are already in place? Developers shouldn't have to pay for and campaign to gain support for their own project through a ballot initiative. This is not helpful to the planning process. These are property owners that have rights to change their land and invest in the community. Brake asked Director Wenger for the percentage of the multi-family dwellings in the city. Director Wenger said she is currently researching that data, but they are past the 80/20. Smith said he served on BZA while he was on Council. It costs a lot of money to bring something before the BZA, and it would cost money on top of that to mount a political campaign. The city needs to welcome people to the community and rebuild and develop the community better, not put up more hurdles that will scare development off. Chairman Gareau opened the floor for public comment. Councilwoman Hemann said Director Wenger needs a clean slate to be able to pursue re-development in the Master Plan. So, the city doesn't really have an opportunity to have a developer come with a plan and say "let's see what the voters have to say about this". Director Wenger has been hired for a purpose, and the Master Plan is structured to help move things forward. Otherwise, the city stays the way it is built now and how it will stay unless we attract good opportunities, which is what Director Wenger is trying to accomplish with this change. Spiezio asked if an alternative would be to increase the percentage. Everything makes sense to him and it's a great idea, but if people don't have the information, the people will think the city is taking something away from them. He is not sure that striking the entire section is the right approach. Smith agreed that it would be difficult to get the electorate to approve this. Tallon said the problem is you have people with a voice and no vote. They don't want to lose their right, and does the Commission want to pass something on that they

know is going to fail? Director Wenger said she shares the same concern as well. A percentage change would not resolve her concerns. Law Director Gareau pointed out that the current language could very well preclude a multi-family dwelling unit. There is an exemption of senior housing, and other exemptions could be added. He said that this was about concern over apartments. It was never about mixed-use developments which didn't exist at the time this was written. Brake asked if this has gone before the voters before and Director Wenger said no. Brake said this is a taking away of rights regardless of how it's written. Would it be better to strike the entire section? Or, should they change the percentage or a line or two which may raise more suspicion or ire than striking the entire section? Councilman Schumann asked if it would be possible to say a certain mixed-use by definition doesn't apply. Brake said it makes sense but he's not sure it fits the need of the proposal. There was further discussion on density and language for exclusions, etc. Smith said he thinks that if the entire section is repealed, the electorate will vote it down immediately. Director Wenger said she would be happy to bring more options with regard to the language of this recommendation. Councilwoman Hemann and Law Director Gareau gave additional suggestions for language, such as repealing and redefining the section.

The Commission unanimously agreed to table the recommendation to repeal Article VII, Section 2(e) Mandatory Referral to Electors.

Public Recommendations

Smith made a motion to reject recommendation 3 **Article IV Section 14 Enactment of Zoning** submitted by resident, Dennis Lambert. The motion was seconded by Seelie and passed unanimously. Recommendation rejected 7-0.

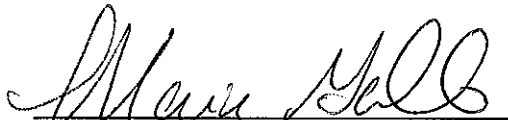
Jim Burns, 3978 Dover Center Road submitted a proposal to the Commission to enact a **two-year sunset for legislation introduced and not acted upon by Council**. Chairman Gareau suggested incorporating this into the Rules of Council instead of the Charter which is the city's Constitution. Councilman Barker stated that currently he and the Clerk review legislation that has not been acted upon and present the information to Council. Clerk Gallo said that pursuant to the Rules of Council, the clerk is required to submit a list of pending legislation to Council every year. Brake asked for the meaning of "acted upon". Councilman Barker explained that legislation is discussed in committee can be held in committee or Council can vote on the legislation. Chairman Gareau and Tallon stated that "acted upon" means that Council is voting on or tabling legislation. Burns explained that part of the problem is the public. If legislation is acted upon by Council months after it's introduced, the public forgets about it or doesn't know what it's about. Law Director Gareau said in his experience, legislation that is introduced and tends to be around for awhile is generally controversial. There is a reason why they were not immediately acted upon one way or another. There was clarification of the term "table". Chairman Gareau and Councilman Barker explained that legislation that is tabled is never brought back for discussion or acted upon by Council. Councilman Brossard asked Burns if this recommendation was based on a particular piece of legislation. Burns said this is based on his experience when he served as Clerk of Council for two years. There was legislation that wasn't acted upon for five years, and no Rule of Council that Clerk Gallo mentioned existed at the time. Law Director Gareau

said he would be happy to look at language to add to the Rules of Council to incorporate this recommendation.


Spiezio referenced Article IV Section 9 Rules and Journal of Council and the language regarding a "minority party" and asked that this be reintroduced to this Commission and recommended striking "minority party". Law Director Gareau does not recall a referral to strike this back in 2010 and stated that this is nonsubstantive language. The Commission agreed to place this on the agenda for their next meeting for discussion.

Chairman Gareau briefly reviewed Lambert's remaining recommendations which will be discussed at the next meeting. Law Director Gareau stated that he does not know the origin of Lambert's recommendation regarding Article V Section 2 Director of Law, and this is not based on any violation that is currently happening. Chairman Gareau asked that the Clerk distribute the Code of Ethics to the Commission members to review before the next meeting. Councilman Barker voiced his objection to Lambert's recommendation to codify the Rules of Council. Director of Law Gareau pointed out that the Mayor can veto the Rules of Council if they were codified. So, there is a separation of powers issue. Why would the Mayor be in a position to be able to exercise veto authority over the way Council governs themselves and conducts their business? There is also an issue of referendum. Brake asked if the Rules have ever been "changed on a whim" as Lambert states in his recommendation. Councilman Barker replied no. Director of Law Gareau also stated that the Rules of Council are subject to suspension as well. Councilman Schumann added that the Rules of Council are never changed on a whim.

With no further business to come before the Charter Review Commission, the meeting was adjourned at 9:10 p.m.



Marie Gallo, Clerk of Council



Tim Smith, Secretary to the Charter Review Commission

**Potential Charter Amendments
Submitted by the Administration**

From Planning & Development Director Wenger

ART. VII, SEC. 2. PLANNING AND DESIGN COMMISSION

Current:

(e) Mandatory Referral to Electors. Whenever the number of dwelling units in multifamily dwellings exceeds twenty percent (20%) of the total of all dwelling units in the municipality, any rezoning or zoning for multidwelling use, by whatever name classified, approved by the Planning Commission, must be submitted to Council for its consideration. If the Council approves said rezoning or zoning, it shall submit the same to the electorate at the next general election or at a special election within ninety (90) days of Council's approval. Nothing contained herein shall be construed as requiring the zoning or rezoning of land to Senior Residence Use be submitted to the Electors for approval. If the requested change is instituted by an applicant, other than a municipality, the applicant may request a special election to be held within ninety (90) days and Council shall so submit the requested change to the electorate, but only after the applicant agrees to assume all costs of the special election including advertising, and further posts a bond with the Director of Finance of the City of North Olmsted. Notice of the election for the requested land use change shall be published in at least two (2) newspapers of general circulation three (3) separate times prior to the election, the first notice shall appear not less than five (5) weeks prior to said election, and the last at least ten (10) days prior to said election. Approval by a majority of the electors voting thereon is mandatory for the zoning or rezoning to pass.

Proposed:

~~(e) Mandatory Referral to Electors. Whenever the number of dwelling units in multifamily dwellings exceeds twenty percent (20%) of the total of all dwelling units in the municipality, any rezoning or zoning for multidwelling use, by whatever name classified, approved by the Planning Commission, must be submitted to Council for its consideration. If the Council approves said rezoning or zoning, it shall submit the same to the electorate at the next general election or at a special election within ninety (90) days of Council's approval. Nothing contained herein shall be construed as requiring the zoning or rezoning of land to Senior Residence Use be submitted to the Electors for approval. If the requested change is instituted by an applicant, other than a municipality, the applicant may request a special election to be held within ninety (90) days and Council shall so submit the requested change to the electorate, but only after the applicant agrees to assume all costs of the special election including advertising, and further posts a bond with the Director of Finance of the City of North Olmsted. Notice of the election for the requested land use change shall be published in at least two (2) newspapers of general circulation three (3) separate times prior to the election, the first notice shall appear not less than five (5) weeks prior to said election, and the last at least ten (10) days prior to said election. Approval by a majority of the electors voting thereon is mandatory for the zoning or rezoning to pass.~~

From Director of Law Gareau

**ARTICLE IX., SEC 4, NOMINATIONS AND ELECTIONS;
DESIGNATION OF CANDIDATES.**

Current:

§4 The number of candidates for the office of Mayor, President of Council, Director of Finance, Director of Law, and Council-by-Ward at any regular municipal election in the City shall be the two (2) candidates on the primary election ballot receiving the highest number of votes at the primary election. The number of candidates for the office of Council-at-Large at any regular municipal election in the City shall be the six (6) candidates on the primary election ballot receiving the highest number of votes at the primary election.

In case there shall not be more than two (2) persons who shall have filed petitions for the office of Mayor, President of Council, Director of Finance, Director of Law, and Council-by- Ward, as provided for in this Charter, then said persons shall be the candidates at the regular municipal election and the primary election for the office not exceeding two (2) persons shall not be held. In case there shall not be more than six (6) persons who shall have filed petitions for the office of Council-at-Large as provided for in the Charter, said persons shall be the candidates at the regular municipal election and the primary election for Council-at-Large shall not be held.

Anyone who has not properly filed a petition for the appropriate primary election as provided for in this Charter, shall be ineligible as a designated candidate in the regular municipal election.

Proposed:

§4 The number of candidates for the office of Mayor, President of Council, Director of Finance, Director of Law, and Council-by-Ward at any regular municipal election in the City shall be the two (2) candidates on the primary election ballot receiving the highest number of votes at the primary election. The number of candidates for the office of Council-at-Large at any regular municipal election in the City shall ~~be the six (6) candidates on the primary election ballot receiving the highest number of votes at the primary election.~~ **equal the number of candidates filing a valid petition for the nomination of a candidate for the Office of Council-At-Large. The filing deadline for such petition for nomination of a candidate for the Office of Council-At-Large shall be the deadline established by the general law of the State of Ohio, as may be amended from time to time, to appear on a ballot at a primary election.**

In case there shall not be more than two (2) persons who shall have filed petitions for the office of Mayor, President of Council, Director of Finance, Director of Law, and Council-by- Ward, as provided for in this Charter, then said persons shall be the candidates at the regular municipal election and the primary election for the office not exceeding two (2) persons shall not be held. ~~In case there shall not be more than six (6)~~ **All persons who shall have filed petitions for the office of Council-at-Large as provided for in the Charter, said persons shall be the candidates at**

the regular municipal election. ~~and the primary election for Council at Large shall not be held.~~

Anyone who has not properly filed a petition for the appropriate primary election as provided for in this Charter, shall be ineligible as a designated candidate in the regular municipal election.

ARTICLE IV, THE COUNCIL; SEC. 2, QUALIFICATIONS

Current:

No person shall be eligible to be a member of Council unless he shall have been a resident for at least two years immediately prior to the date of his/her election and during his/her term of office shall continue to be a resident of the City of North Olmsted and a qualified elector thereof. In addition, no person shall be eligible to serve as a ward Councilperson unless he shall have been a resident of the ward from which he is elected at least one year immediately prior to the date of his/her election.

Except as otherwise provided in this Charter, no member of Council shall hold any other municipal office or employment by the City of North Olmsted. A member of Council shall not directly or indirectly solicit, contract for, receive, or be interested in any profit or emolument from or on account of any contract, job, work, or service with or for the City.

Any member of Council who ceases to possess any such qualification, or moves from his/her ward, if elected from a ward, or from the City, if elected from the City at large, shall forfeit his/her office.

The provisions of this section governing the qualifications of members of Council shall be equally applicable to the President of Council.

Proposed:

No person shall be eligible to be a member of Council unless he shall have been a resident for at least two years immediately prior to the date of his/her election **or appointment** and during his/her term of office shall continue to be a resident of the City of North Olmsted and a qualified elector thereof. In addition, no person shall be eligible to serve as a ward Councilperson unless he shall have been a resident of the ward from which he is elected at least one year immediately prior to the date of his/her election **or appointment**. The one year ward residency requirement **shall be deemed satisfied for any person redistricted to another ward as a result of the redistricting process set forth in Article IX, Nominations and Elections, Sec 5, provided that person has maintained the same residence location, regardless of ward designation, one year immediately prior to his / her election or appointment in the new ward.**

Except as otherwise provided in this Charter, no member of Council shall hold any other municipal office or employment by the City of North Olmsted. A member of Council shall not

directly or indirectly solicit, contract for, receive, or be interested in any profit or emolument from or on account of any contract, job, work, or service with or for the City.

Any member of Council who ceases to possess any such qualification, or moves from his/her ward, if elected from a ward, or from the City, if elected from the City at large, shall forfeit his/her office.

The provisions of this section governing the qualifications of members of Council shall be equally applicable to the President of Council.



CITY of NORTH OLMSTED

Mayor Kevin M. Kennedy

Kimberly Wenger, AICP | Director, Department of Planning and Development

A 6200 Dover Center Road | North Olmsted, Ohio 44070 P 440-716-4118 F 440-777-5889

To: North Olmsted Charter Review Commission

CC: Mayor Kevin Kennedy, Director of Law Michael Gareau, Jr.

From: Kimberly Wenger, AICP, Director of Planning & Development *KW*

Date: February 11, 2015

Re: Charter Amendment Proposal

Proposal:

Merge Board of Building Code Appeals and Board of Zoning Appeals to create a new Building and Zoning Board of Appeals (BZBA).

Existing North Olmsted Charter:

SEC. 1. BOARD OF BUILDING CODE APPEALS.

(a) There is hereby established in the municipality a Board to be known as the Board of Building Code Appeals composed of five (5) members all of whom are qualified electors and residents of the City of North Olmsted, and not holding any other municipal office in the City of North Olmsted, and who are qualified by experience and training to pass upon matters pertaining to building construction, with particular knowledge of standardized building codes adopted by the State of Ohio and the City of North Olmsted from time to time. Said members shall be appointed by the Mayor for a term of five (5) years, subject to the approval of a majority of the members of Council, excepting that of the members first appointed, one shall be for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Upon expiration of the term of office of a member of the Board, his/her successor shall be appointed for a term of five years. Any vacancy shall be filled in the same manner for the unexpired term of five years. Any vacancy shall be filled in the same manner for the unexpired term. Continued absence of any member from regular meetings of this Board, shall render such member liable to immediate removal from office.

(b) Powers and Duties. The Board of Building Code Appeals shall have the power to hear and decide appeals from any order, decision, requirement or determination of the Building Administrator or in varying the application of any provision of the Dwelling House

Code or Building Code or ordinances of the City relating to the Dwelling House Code or Building Code or in modifying an order of the Building Administrator relative to the application of any provisions of the Dwelling House Code or Building Code or other ordinances of the City relating thereto.

In the performances of its duties the Board may reverse or affirm in whole or in part, or modify such order, requirement, decision or determination of the Building Administrator as in the opinion of the Board ought to be made in the premises.

The Board in its deliberations shall be limited by the provisions of the Dwelling House Code, Building Code and other ordinances of the City relating thereto and in making its determination in any particular case, shall apply, vary or modify the provisions of the said applicable codes to the end that the enforcement thereof would not result in manifest injustice, impose unnecessary hardship, or would be contrary to the intent and purpose of the Building Code or Dwelling House Code or ordinances of the City regulating thereto, or public interest.

(c) To review, upon motion of any member of the Board, any rule, regulation or decision of the Board, but no such review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified.

To exercise with respect to buildings situated in the City the same powers as are exercised by the Board of Building Standards under the laws of the State of Ohio to the extent that it is competent for this Charter so to authorize the Board.

To formulate and submit to the City Council, proposed changes in and amendments to the Building Code, which the Board determines to be desirable for the proper regulation of all buildings and structures and the equipment therein and appurtenances thereto, in the City. (Amended 11-2-10.)

SEC. 4. BOARD OF ZONING APPEALS.

(a) Membership. The Board of Zoning Appeals shall consist of five (5) members, who shall be qualified electors of the municipality not holding other municipal office, who shall be appointed by the Mayor, subject to approval by the majority of the members of Council. The term of the present members of the Board shall terminate on December 31, 1959. Those members appointed to this Board, shall be appointed for a term of five (5) years, except that of the five appointed for the term beginning January 1, 1960, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and the fifth member for a full term of five years. Any member of the Board of Zoning Appeals may be removed for any cause by a vote of two-thirds of the members of Council. Any vacancies occurring during the term of any member of the Board, shall be filled in a manner authorized for an original appointment. (Amended 11-5-02.)

(b) Jurisdiction. The Board of Zoning Appeals shall have the power to hear and decide appeals for exceptions to and variances in the application of ordinances, orders or regulations of administrative officials or agencies governing zoning in the municipality. The Board of Zoning Appeals shall have such additional powers as may be granted to it by

ordinance of the municipality. Procedure before the Board of Zoning Appeals shall be in accordance with the rules and regulations established by the Board of Zoning Appeals.

Replace with:

SEC. 1. BUILDING AND ZONING BOARD OF APPEALS

(a) **Membership.** The Building and Zoning Board of Appeals shall consist of five (5) members, who shall be qualified electors of the municipality not holding other municipal office, who shall be appointed by the Mayor, subject to approval by the majority of the members of Council. Those members appointed to this Board, shall be appointed for a term of five (5) years, except that of the five appointed for the term beginning January 1, 2016, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and the fifth member for a full term of five years. Any member of the Building and Zoning Board of Appeals may be removed for any cause by a vote of two-thirds of the members of Council. Any vacancies occurring during the term of any member of the Board, shall be filled in a manner authorized for an original appointment.

(b) **Jurisdiction.** The Building and Zoning Board of Appeals shall have the power to hear and decide appeals for exceptions to and variances in the application of ordinances, orders or regulations of administrative officials or agencies governing building and zoning in the municipality. The Building and Zoning Board of Appeals shall have such additional powers as may be granted to it by ordinance of the municipality. Procedure before the Building and Zoning Board of Appeals shall be in accordance with the rules and regulations established by the Building and Zoning Board of Appeals.

Rationale: Streamline Review Processes, Government Efficiency

Both boards' jurisdictions deal with the application of code standards to the built environment. BZA addresses uses, layouts, sizes, heights, setbacks, etc. BBCA addresses construction standards, systems, maintenance, etc. In some cases, there is overlap between the two, fencing for example. The zoning code contains provisions for location, height and opacity of fencing on residential property. The building code contains provisions for type, location and construction of fencing, as well.

The desired skill sets of BBCA and BZA members are much the same: ability to understand building and development plans and specifications; ability to read and understand code standards; ability to take testimony of the applicant, public officials, and other impacted parties and to make finding based on facts and standards of law.

Both boards are quasi-judicial in nature. They have court like proceedings and render final determinations at the municipal level. Both boards have five members.

Workload of the Board of Building Code Appeals is extremely light. Over the five year period between 2010 and 2014, only 11 BBCA meetings were called, though the Board is scheduled to meet monthly.

BBCA meetings
2014 - 0
2013 - 0
2012 - 2
2011* - 4
2010 - 5

*Note: A code change midway through 2011 regarding fencing all but eliminated the need for regular meetings of the BBCA. (Ord. 2011-93)

Seating five qualified members of the Board of Building Code Appeals is challenging given the infrequency of meetings and the desire of many board volunteers to more actively participate. The board currently has two vacancies on a five member board.

The City bears an administrative workload to staff the Board of Building Code of Appeals in maintaining board membership, posting or cancelling meetings, staffing meetings, providing materials to members (code updates, new member binders, etc.), despite the fact meetings rarely occur.

Precedent:

City of Mentor, Ohio - Board of Building & Zoning Appeals

City of North Canton, Ohio - Zoning and Building Standards Board of Appeals

March 24, 2015

From: Dennis M. Lambert
25057 Carey Ln., North Olmsted

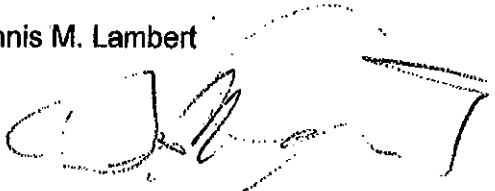
lambert4olmsted@yahoo.com
440-777-8172

To: Members of the Charter Review Commission
Via Clerk of Council, Marie Gallo
[Please print and distribute this to all members]

To: All members of the Charter Review Commission

The following 3 pages contain 5 recommendations that I believe should be decided by the voters of the City of North Olmsted. The purpose is not to correct any current situations but to establish good ground-rules for the future of North Olmsted that are in the spirit and purpose for which this Charter was originally intended. Please read these 3 pages carefully and thank you for your consideration. If I can be of further assistance, I am available to discuss any issues that you may have.

Dennis M. Lambert



Recommendation 1: Amend Article 4, Section 6, SALARIES AND BONDS

Right now a portion of Section 6 reads as follows: *"The Council shall have the power to fix its own compensation and the compensation of each employee of the City"* This simply means that members of City Council, by Ordinance, can pay themselves and others any amount they choose. Since the Mayor must approve the Ordinance, he too has the power of the pen to control his own pay as well. Seriously, I know of no other business operation where the employees have the authority to establish their own rate of compensation.

I therefore propose that this section be amended AS FOLLOWS: *"The Council shall have the power to fix its own compensation and the compensation of each employee of the City with the exception that the annual salaries established for the Office of Mayor shall not exceed \$100,000, the members of City Council shall not exceed \$12,000, the office of Director of Finance shall not exceed 80% of that of the Mayor, and the office of Director of Law, shall not exceed 67% of that of the Mayor."*

The object is to cap the salaries so when these ELECTED positions decide to raise their own salaries, they can do so only within the limits of the cap. To further increase their salaries, they would need to put that issue on the ballot for

approval of the citizens. The 3 reasons for establishing the Director of Law and the Finance Director's salaries by percentage of the Mayor are (1) they are not in a position to raise their own salaries, (2) it simplifies the process by requiring no more than 2 issues needing to go to the voters, and (3) the percentages would establish parity based on their duties and responsibilities in relationship to that of the Mayor.

Based on the amounts as suggest in the initial Charter Amendment, the salary of the Finance Director could not exceed \$80,000 and the salary for the part-time position of Director of Law could not exceed \$67,000. These caps are suggested as a starting point for the initial amendment to this section of the Charter. Thereafter, by Ordinance, Council could propose higher cap limits as amendments to this section. If their proposal is unreasonable, you can always vote it down, but if they are within reason, I see no reason why they would not be approved.

And again, these caps are the highest limits. Council still would have the power to establish by Ordinance, any amount within these limits. So let's say the people vote for a cap of \$120,000 for the Mayor, but council decides they only want to pay the Director of Finance \$85,000. They can do that because that amount is less than the \$96,000 cap (80% of the mayor's salary).

It is simple and it is fair and it place the power to ultimately determine the value of these elected position on the people they serve. Very much like asking your boss for a raise.

Recommendation 2: Charter Amendment to ART. 5 Sec. 2 -- THE DIRECTOR OF LAW.

I propose that the Charter restrict any Director of Law from having a business interest in or affiliation with any Law Firm that represents Employees of the City of North Olmsted, clients involved in litigation with the City of North Olmsted, individuals or businesses that make applications to the City or appear before Boards and Commissions in the City of North Olmsted and including but not limited to clients dealing with North Olmsted for the sale or purchasing of land, equipment, or supplies. The reason is obvious, Conflict of Interest! Sure, The Director of Law can remove himself from representing the City when such circumstances occur, but in my opinion, this would be Dereliction of Duty. Simply put, no Director can serve 2 masters!

Recommendation 3: Charter Amendment to ART. 4 Sec 14 -- ENACTMENT OF ZONING.

I propose that the Charter require that any change in the status of Zoning of

Property within North Olmsted be by Affirmative Vote of the Electorate. In the past when North Olmsted was vastly underdeveloped, the idea of Zoning by Council action made sense when developing a Master Plan for the city. Today, North Olmsted is almost fully developed and Zoning proposals are the Re-Zoning of land that has already been established. Sometimes these proposals encroach on Residential Property and impact entire neighborhoods. Rezoning can certainly impact what we all pay in taxes both in the present and the future.

The final decision to Rezone property should be up to the Citizens of North Olmsted, and not some disinterested City Planner whose purpose is expediency for an Administration or some Special Interest whose interest is not in the Best Interest of the Residential Property Owners.

Recommendation 4: Charter Amendment to ART. 4 Sec. 9, RULES AND JOURNAL OF COUNCIL.

I propose that the Rules Governing Council be Codified by Ordinance. Right now, City Council Rules are literally made up to suit the politics of the moment. They can be change with a whim. The only difference in having the rules Codified, is that they will need to go to Committee in Ordinance Form, read 3 times, and passed by the majority. The practical side to all this is that you will be given an opportunity to have input into the Rules of Council and should the Rules of Council become so restrictive as to shut out the Citizens from the process, the Citizens can petitions to Change the Ordinance dealing with the Rules of Council. Some will say that this is a solution looking for a problem, but I consider it a good policy for avoiding political agendas.

Recommendation 5: Amend Article 4, Section 1, NUMBER AND TERMS, OF COUNCIL

I propose that the term served by Members of City Council be amended from a four (4) year term to two (2) year term. Four years is just too long for a Representative of the People to go without some sort of review of performance by the people. This is the principle applied to both your Congressional Representative and your State Representative. Both face election every 2 years. Then there is the "Memory Factor". This simply means that the average citizen has a memory for specific events that spans just about 2 years. Events and situations that are more than 2 years old are often regarded as "old news". A politician needs only to be on his/her best behavior for the last 2 years of his/her term. Recall is virtually impossible and 4 years is just too long to wait to remove a bad representative. Now, the most compelling argument against reducing the 4 year term is that a 2 year council term has the council person in "Election Mode".

A rather lame excuse and my reply is simply this, "If you are doing a good job representing the people you serve, they will want to want you back." A good Representative will always get re-elected. Remember, the only things that require a "hard sell" are things that haven't earn your confidence.

To: North Olmsted Charter Review Commission Members

CC: Mayor, Law Director, Clerk of Council

From: James A Burns, 3978 Dover Center Rd

Re: Charter Amendment Proposal

Proposal:

A two year sunset for ordinances introduced and not acted upon by council

Existing Charter Provision:

None

Proposed Amendment:

Currently, ordinances are introduced by council and go through a committee process where pros and cons are heard. Usually, council agrees to the content, original or amended, and forward the ordinance to council with a recommendation as to approval. The vast majority of ordinances are passed by council with a small portion voted down. There are, however, a hand full of ordinances that do not make it out of committee. These ordinances linger, sometimes for years, without council taking action. Eventually they may be placed on council's agenda to be "tabled." Council believes that tabling an ordinance kills the ordinance; however, Robert's Rules would permit a tabled ordinance to be placed back on the agenda for a vote. This could happen with an ordinance that is say five years old and of which the public has forgotten what issues the ordinance addresses. In addition, the Clerk of Council is sitting on old ordinances that are years old.

My suggestion is that an ordinance would automatically become void at a date two years after the date that ordinance is introduced. If after this time council believes that the ordinance should be considered, they could re-introduce it. This procedure is simple and would place all council members and the public on notice that this topic is being reconsidered. It would also require the ordinance to go back through the committee process. It would improve the efficiency of the Clerk of Council's office as she would no longer have to track old ordinances. Nothing in the legislative process would be compromised and the public would be better informed as to when topics are re-introduced and reconsidered.

The U S Congress and the Ohio legislature have sunset provisions in place. Bills introduced during the two year Congressional or state legislative sessions that are not acted upon during that session, are automatically killed. If the legislative body wants to continue addressing the issue included in the killed legislation, a new bill is introduced. There is no reason why the city should not have the same sunset provision.