

NOTICE OF PROCEEDINGS
CHARLES D. BEARD COMMUNITY ROOM
631 PERRY STREET – DEFLANCE, OH 43512

CHARTER REVIEW MEETING
MONDAY MARCH 30th, 2009
OPENING COMMENTS – 6:30 p.m.

I. Call to Order

II. Review of purpose of Charter Review Committee

III. Article I

INCORPORATION, POWERS, FORM OF GOVERNMENT, GENERAL PROVISIONS

Section 1.01 Name and Boundaries.

The inhabitants of the City of Defiance, Defiance County, Ohio, within the corporate limits as established at the time of the adoption of the Charter, or as thereafter established in the manner provided by law, shall be and continue to be a municipal corporation, under the name of "The City of Defiance". The corporation will hereinafter be referred to as the City.

Section 1.02 Form of Government.

The form of government provided in this Charter shall be known as the "Mayor-Council Plan." The powers and functions of the City government shall be distributed among the City, its citizens, and various officers, bodies, boards and commissions as provided in this Charter.

Section 1.03 Powers Granted.

The City shall have all the powers, general or special, governmental or proprietary, that may now or hereafter be possessed lawfully or exercised by municipal corporations under the Constitution and laws of the State of Ohio.

Section 1.04 Manner of Exercise of Powers.

All such powers shall be exercised in the manner prescribed in this Charter, or if not prescribed herein, in such manner as shall be provided by ordinance of the Council, and when not prescribed in this Charter or provided by ordinance of Council, then such powers shall be exercised in the manner provided by the general laws of the State of Ohio until the Council shall provide a different manner of exercising such powers by ordinance.

Section 1.05 Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers stated in the article.

1.06 CHARTER 4

Section 1.06 Amendment to Charter.

This Charter and any section thereof may be amended as provided by the Constitution of the State of Ohio, by submission of the proposed amendment or amendments to the electors of the City. If any such proposed amendment shall be approved by a majority of the electors voting thereon, it shall become a part of this Charter, except that if two or more inconsistent proposed amendments on the same subject shall be submitted at the same election, only the one of such amendments receiving the higher number of affirmative votes, not less than a majority, shall become a part of the Charter. In the event that two conflicting amendments to the Charter are approved at the same election by a majority of the total number of votes cast, the one receiving the higher number of affirmative votes shall be the amendment to the Charter.

1. *Ability to amend Charter by initiative petition. Charter Section 1.06. After researching this proposal I believe this is possible already, because the Charter says that it may be amended as provided in the state's constitution. Article XVIII Section 9 of the state constitution references amendment of municipal charters by petition.*

Section 1.07 Charter Review.

In January, 1989, in January each five (5) years thereafter, the Council may appoint five qualified electors of the City, holding no other employment in the government of the City, as members of the Charter Review Commission. Such Commission shall review the Charter of the City, and within six (6) calendar months after such appointment, recommend to Council such alterations, revisions and amendments, if any to the Charter, as in its judgment are desirable. The Council shall submit to the electors any such proposed alterations, revisions or amendments to this Charter in accordance in each instance with the provisions of the Constitution of Ohio. The members appointed to the Charter Review Commission shall serve without compensation. Meetings of the Charter Review Commission shall be open to the public.

1. *The charter review commission should be have at least 2 women, at least 2 men, 2 Democrats, 2 Republicans and 1 independent. Charter Section 1.07.*

Section 1.08 Effect of Partial Invalidity.

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

Section 1.09 Meetings Open to the Public.

All regular and special meetings of Council and all boards and commissions of the City government shall be subject to the Ohio Revised Code on Open Meetings.

Section 1.10 Interpretation.

The Article and Section titles herein have been inserted for convenience in reference and are not intended to define or limit the scope of or otherwise affect any provision of this Charter.

Except as otherwise expressly provided in this Charter I or as the context otherwise requires, the masculine term or pronoun includes the feminine, the singular term includes the plural and the plural term include the singular. The time within or by which any action is to be taken is required to be done by any of the provisions of this Charter shall be computed by excluding the first day and including the last day, except that when the last day falls on Saturday, Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Saturday, Sunday or a legal holiday.

In order that a ready means may be at hand for reconciling any conflicts, resolving any inconsistencies and clarifying any obscurities which may be discovered in the language of the Charter, the power is hereby vested in the Council to interpret the various sections and parts of the Charter in harmony with the spirit thereof, by ordinance, resolution or other measure of said Council adopted by the affirmative vote of at least two-thirds (2/3) of its members.

Section 1.11 Removal from Office.

Whenever in this Charter certain acts on the part of City officials or employees are described as constituting malfeasance or misfeasance in office, the procedure for complaint, trial and judgment thereon shall be that prescribed in the Ohio Revised Code.

IV. Article II

THE CITY COUNCIL

2.05

Section 2.01 Number, Selection, Term.

All legislative authority, expressed or implied, shall be vested in the elected Council of the City of Defiance. .

There shall be three members elected at-large and one member from each of the existing wards. All Council members shall be elected for four (4) year terms, beginning January 1 following the Municipal elections, except as provided in Article IX, Section 9.01.

Section 2.02 Qualifications.

No person shall be eligible to be a member of Council unless he or she shall have been a qualified elector of the City for one (1) year immediately prior to his or her election or appointment, and no member shall serve as a member of Council unless he or she shall continue to reside in and be an elector of the City and, in the case of a ward Council member, of the

respective ward which he or she represents throughout the term of office. Except as otherwise provided herein, no member of Council shall hold any other public office, or any other office or employment with the City of Defiance.

Council, by a majority vote, shall be the sole and final judge of the qualifications of its members. Any member of Council who shall cease to possess or who violates any of the qualifications herein enumerated shall forfeit his or her office. Removal of a Council member shall follow the procedures set forth in Section 1.11 of this Charter. Failure of any member of Council to maintain said qualifications shall not render void or ineffective any action of the Council taken during the time he or she was not qualified.

1. *All council members' phone numbers should be in the phone book. I don't know which specific charter provision this would go with, but I assume somewhere in Section 2.*

Section 2.03 Organization.

Within seven (7) days after January 1 following the Municipal elections, as provided herein or as determined by a majority of Council members, the Council shall meet for the purpose of organization and shall elect one of its members to serve as its President Pro Tem, who shall preside at meetings in the absence of the President of Council.

Section 2.04 Vacancies.

Should a vacancy occur on Defiance City Council (including the President of Council), those Central Committee members living in the City from the same political party of the vacated member shall name a person to fill that vacancy for the remainder of the term. If no person is named within thirty (30) days, the Council shall select a replacement. If the person to be replaced is an independent, then the replacement will be selected by Council? All vacancies must be filled with the consent of Council.

If a majority of the Council, for any reason, shall vacate their positions on Council, any elector of the City may appeal to the Court of Common Pleas of Defiance County to appoint the required number of new members from the list of registered voters to fill the vacancies on Council. The new members shall serve until the end of the terms of the former Council members whose positions they fill by Court appointment.

Section 2.05 Quorum.

A majority of the members of Council shall constitute a quorum for the transaction of business at any meeting of Council, but a number less than a quorum may adjourn the meeting from time to time and compel the attendance of absent members in such manner and under such penalties as Council may prescribe. At any meeting at which a quorum is present, any action may be taken by the affirmative vote of a majority of the members of Council present, except that the passage of ordinances and resolutions shall require a majority of those elected or appointed to Council.

2.06 CHARTER 6

Section 2.06 President of Council and Duties.

The President of Council shall be elected from the City-at-large during the regular Municipal election in November 1983. The term of office shall be for four (4) years beginning January 1 after the Municipal election. The President of Council shall preside at all meetings of Council, but shall render a vote only in case of a tie. When the Mayor is absent or for any reason unable to perform the duties of Mayor, the President-of Council shall become the acting Mayor and, during such periods, shall be invested with the same powers and be required to perform the same duties as Mayor. While the President of Council is absent from office or acting Mayor, the President Pro Tem shall perform the duties of President of Council.

Section 2.07 Compensation.

The salary of Council members shall be established by ordinance, but no member of Council, at the time of the enactment of any ordinance increasing such salaries, shall receive the benefit of any such increase during his or her then current term of office. Any change in the salary of members of Council shall be effective commencing with the terms of office of members of Council elected at the next regular Municipal election; said ordinance provide for a change in salary shall be passed on or before the filing deadline for declaration of party candidacy for members of Council.
(Amended November 7, 1989)

1. *If a council person misses a meeting they should not get paid for that week. I don't know which specific charter provision this would go with maybe Charter Section 2.07?*
2. *Charter Section 2.07 should add language stating that council member compensation should be a minimum amount to at least afford council members one year's PERS credit.*
3. *Clean up the language in Section 2.07 that specifically states that individual councilmember's compensation cannot be raised or lowered within their own term of office; this would be consistent with state law. The Law Director believes the current language is open to interpretation. See attachment regarding discussion of this issue in Law Director's opinion dated January 25, 2007.*

Section 2.08 Council Employees.

Council shall appoint a Clerk of Council and may appoint other employees who shall serve at the pleasure of Council and shall perform such duties as Council may require. Compensation shall be determined by Council for all employees of Council.

Section 2.09 Rules and Journal of Council.

Council shall adopt its own rules and shall keep a journal of its proceedings. Voting upon any ordinance or resolution shall be by roll call and the vote of each member shall be entered upon the journal.

Section 2.10 Meetings and Special Meetings.

After the meeting for organization, the Council shall meet at such times as may be prescribed by its rules, regulations or ordinance, but it shall hold regular meetings at least twice during each calendar month.

Special Meetings: Special meetings may be called by a vote of the Council taken at any regular or special meeting thereof, or shall be called by the Clerk upon the written request of the Mayor or President of Council or of three members of Council. Any such request shall state the time, place and date thereof and the subject or subjects to be considered at the meeting and no other subject or subjects shall be considered. Notice, in writing, of each such special meeting called, except by vote of Council, shall be given to each member of Council and the Mayor by serving the same on each of them personally or by leaving a copy thereof at his or her usual place of residence not less than twenty-four (24) hours prior to such meeting. Public notice of such meetings must comply with the Ohio Revised Code. Service of such notice may be waived in writing and shall be deemed conclusively to be waived by attendance at such a special meeting.

In the event that a special meeting is called by a vote of Council at a meeting from which the Mayor or any member of Council is absent, written notice of such special meeting shall be given each absentee in the manner hereinbefore described.

Section 2.11 Ordinances and Resolutions.

1. Each proposed ordinance or resolution shall be introduced in written or printed form and the adoption, effective date, revision or amendment and signing thereof, shall be in the manner provided by the laws of the State of Ohio except as otherwise in this Charter provided.

7 CHARTER 2.12

2. Ordinances and resolutions of a general or permanent nature, or granting a franchise, or creating a right, or involving the expenditure of money or the levying of a tax, or the purchase, lease, sale or transfer of property, shall be published once in a newspaper of general circulation in the City, except that in the case of such an ordinance or resolution containing more than 1,000 words in the recitals and text thereof, it shall be sufficient to publish an abstract of the ordinance, except the annual budget of the City of Defiance which shall be published in total. If there is no newspaper of general circulation in the City, Council may prescribe some other method of publication or giving notice of ordinances and resolutions.

1. *Relaxation of the ordinance publication notice in Charter Section 2.11(2) to allow for electronic publication and availability for inspection at City Hall only.*

3. Council shall establish an Administrative Code, prescribing the manner of giving notice of all other ordinances, resolutions, orders, proclamations, reports and notices required by law or by this Charter or by ordinance to be published and any other acts or proceedings of the City which Council deems it proper to publish or give notice.

4. The Council may adopt model or standard codes prepared and published by public or

private agencies on such matters. as building construction, plumbing, heating, ventilating, air conditioning, electric wiring, smoke regulation, fire prevention and other similar regulatory subjects by reference to the date and source of the code without reproducing the same in full in the ordinance. In all cases in which such a code shall be adopted by reference, publication of the code, at length, by the City, shall not be required. At least six copies of all such codes shall be kept in the office of the Clerk of Council for reference and consultation by interested persons during regular office hours, and additional copies shall always be available for sale, at cost, by the Clerk of Council.

5. All proposed ordinances shall be reviewed and/or revised by the City Law Director before enactment of the same.

6. In all appropriation ordinances, the purpose and the amount must be stated in the ordinance.

7. All ordinances must have the following enacting clause wording ("Be it enacted by the Council of the Municipality of Defiance that... "). Resolution wording should be ("Be it resolved by the Council of Defiance that. ... ").

Section 2.12 Powers of Council.

Council as a body shall have and possess the authority to:

1. Create, change and abolish additional boards and commissions not created by this Charter. Members of created boards and commissions shall be appointed by the Mayor with the advice and consent of a majority of Council.

2. Advise and consent to the appointments by the Mayor of members of boards and commissions created by this Charter. A majority vote of Council shall be required to approve.

3. Adopt an Administrative Code which shall provide in detail the organization of the Municipal Government, define the powers and duties of each organizational unit and define the administrative procedures to be followed, subject to the provisions of this Charter, and after consultation with the Mayor. Amendments to and revisions of the Administrative Code shall be made by Council after consultation with the Mayor. Where the Administrative Code is silent, with such exceptions as provided by this Charter, the officers and employees of the City shall have, and may exercise, all powers and duties provided for similar officers and employees by General Law.

3.01 CHARTER 8

4. Fix the number of employees in the various departments of the City and fix the rate of their compensation and may require any officer, employee or member of any department, board or commission of the City, whether elected or appointed, to furnish a bond for the faithful performance of their duties and provide for payment by the City of the premium for such bond.

5. Employ a qualified accountant to make an audit of the financial affairs of any office or department of the City whenever such audit is deemed necessary by Council.

6. Inquire into the conduct of any office, department or agency of the City.

7. Make investigations of any office, department or agency of the City.

8. Cause subpoenas to be issued for witnesses and require the production of books and papers which may be necessary in the conduct of any hearing or investigation.

9. Refer any criminal violation within City Government to either the City or County Prosecutor for the appropriate court action.

10. Provide, by ordinance, the procedure to be adopted in all bidding in which the City of Defiance is involved.

11. Purchase, lease, sells and disposes of property.

Council shall have power to do all things necessary and proper to enforce the provisions of this Charter.

1. *All council seats should be nonpartisan.*

V. Next meeting

VI. Adjournment

Charter Review Clerk
Lisa Elders

