

CITY OF WICKLIFFE CHARTER REVIEW COMMISSION

TUESDAY, APRIL 8, 2008

Meeting Minutes

The Wickliffe Charter Review Commission held its meeting on Tuesday, April 8, 2008 in Council Chambers. The meeting was called to order at 7:06 p.m. by Chairperson Cindy Marino.

Commission Members present: Cindy Marino, James Schall, Nancy Cole, Don Contenza, Ron Ely, Joe Oboczky, Cookie LoSchiavo, Mary Ann Surtz and Judy Powers. Mayor Ruffner, Council President Bill Margalis and Building Commissioner Ray Sack were also in attendance.

Cindy Marino asked if there were any additions or corrections to the minutes from the March 25 meeting. Mary Ann Surtz made a motion to accept the minutes as published; seconded by Judy Powers. All were in favor.

Mayor Ruffner passed out a copy of the State of Ohio requirements for public bidding. Basically, it says we have to get contract bids to bid out anything over \$25,000. Referring to the Charter on Page 19, Section 7 Purchases, Contracts and Public Bidding, in 1999, while he was on City Council the ceiling of public bidding was raised from \$5,000 to \$10,000. Then, as now, the main reason for the ceiling raise was because of inflation and what it would buy. Today, the State's recommendation for the bidding process is that it's not necessary to bid out anything under \$25,000.

It will be 9 years this November that this dollar amount has not been raised. This is not a dollar amount that gives the Mayor more latitude to spend money; it allows the city to save money on projects that cost between \$10,000 and \$24,000. He is not sure what inflation has been since 1999, but they had 2 incidents this past year that they're sure, because of the limitation of this process, the city literally probably spent more money, (that is tax dollars), than was necessary for certain objects/equipment that were close to \$10,000. In order to get a qualified vendor for anything over \$10,000, they have to have a bond, it has to be advertised, and it is a longer process. This costs the city time and money. This costs us 10%, 20% or 30% depending on how much advertising costs, how long we get and we have to get a bond. Wickliffe has checks and balances where our administrators will go to qualified vendors and get 3 or 4 bids but as the state recommends, things under \$25,000 are not required to go through this trying process which could cost you more in the long run.

Mayor Ruffner recommends that the Commission discuss this with Council President and Council to see if they are in agreement because this is a decision that they would make. They have to approve any bid over \$10,000 and in the meantime the city is

actually paying for more projects between \$25 and \$10 than we need to. It's not where the Mayor can spend more money; it is where the city can get better value for their dollars. That is why he recommends that the Charter Review Commission look at this, discuss it, bring it up to Council and see what their opinion is. Judy Powers asked if this saves time and money because of the bidding process. Mayor Ruffner answered that the bidding process takes a little longer because the contractors have to have a bond, we and they have to do paperwork and it is very laborious and we lose some of the simpler, smaller businesses that can do the job for us and you get the larger more costly businesses to bid.

Mary Ann asked what the process is for projects under \$10,000. Mayor Ruffner's response is that the City goes out and finds 2 or 3 or 4 bidders, comes back with detailed information and they make a decision based on that. They hope to find a local retail provider that would be close to the lowest price. When the engineers go out to do anything over \$10,000 they have to find qualified vendors, so there is research done and the lowest has to be accepted. Joe Oboczky asked for anything under \$10,000 is the City obligated to take the lowest bid or can you choose a Wickliffe company that may be 2nd lowest. Can we award the project to the local company? Mayor Ruffner replied yes, if it is within a certain percentage (10% or 12%). Then, they are literally helping a business that is giving Wickliffe tax dollars.

Bill Margalis noted that if a product or service is under \$10,000 it is up to the Mayor to make the decision; he thinks where it comes into play is as the cost of things go up there are more items now between the \$10,000 and \$20,000 range. Security bonds are not easy to get and are expensive so the small contractors are totally out of that business. Legal ads are very expensive and we have to advertise it three times at \$300 apiece. On an \$11,000 item you're adding 10% just for advertising. And there really is no way of getting around that because if we were to use the internet to cut the cost of advertising, you may exclude a lot of those businesses that may not even know about it. You want as many people as you can to get bidding on these to get the better price. So the internet is available to use but he doesn't think that you want to eliminate the newspaper. Cindy noted that was not this commissions intention; it is to just put a smaller ad in the newspaper and refer them to the website.

Bill Margalis said if this limit is raised to \$25,000, it doesn't mean that the Mayor has an open checkbook up to \$25,000. Mayor Ruffner noted that ceiling could be any ceiling that you see fit; you could raise it \$5,000. You can check with other cities and discuss with Council. Joe clarified that it could be stated as anything over \$25,000 has to go out for public bidding; however, anything over \$10,000 still must be approved by Council. Both Mr. Margalis and Mayor agreed that this could be a way to raise the limit. That would be the checks and balances.

Cindy Marino mentioned the idea of using the internet to post the Public Bid information. It is so expensive to put the bids in the newspaper and if we could condense the advertisement and refer the contractor to the website for the rest of the information it may lower the cost. Mayor Ruffner thinks that this is a legal question. The Mayor suggested that if the Charter Commission really feels strongly about this issue, get the legal answers and maybe start a trend.

Joe Oboczky asked again approximately how many contracts are actually awarded in a year that fall between the \$10,000 and \$25,000 limit. Mayor Ruffner stated that he could get that information from the Finance Department. Mary Ann asked if the quality of the work/products always plays into the price. Bill Margalis noted that it is how the specs are written to a specific quality; the engineer always qualifies the contractor if over \$25,000. If under \$10,000 it is the due diligence of the administration to handle that.

Ron Ely asked each administrator present what they feel are the risks of raising this to \$25,000. Mayor Ruffner stated that the person who is in charge of getting the low bid around the City or County could miss someone in the bid process that might have bid on it if you didn't advertise it. But many times, because the equipment that a city needs is so unique, they have a hard time finding bidders. They literally have to call a business to get a bid. Bill Margalis said when there is a unique item they may need, they may have one company that has the resources to go into bidding and they may have the other small companies that can offer the same but they won't bid on it because they cannot come up with the bond. Mayor Ruffner noted that sealed bids cannot be negotiated, where others can be. Ray Sack believes that our tax dollars can be better used somewhere else. They do not see that there would be an abuse of this process.

After discussion, Mr. Margalis stated that raising this limit to \$25,000 would make our tax dollars go further. Many communities follow the State Charter. Mayor Ruffner noted that an option for the city of Wickliffe Charter would be to follow the State's charter, so every time the state raises the limit, the City's will change with it. Judy Powers asked Mayor Ruffner if he would be comfortable following the state limits all of the time. He responded, yes, he does believe so.

Judy Powers asked if the departments that do purchasing have Quality Assurance procedures in place. Mayor Ruffner responded that each council person reads every bid that is provided to the City; there are seven people that take that seriously. They don't just pass bids. If they see a contractor that they have had a problem with in the past or are not sure about the quantities, etc. they catch it. When they have a product or service that does not live up to our standards, they document it in writing and the next time around we know. The city cannot disqualify a contractor unless it is

documented in writing. Our administrators are very thorough when they are looking for products or services.

At this point the meeting moved on to discuss Council terms. The Commission would like Mayor Ruffner's comments regarding term changes. Mayor Ruffner said that the last Charter Review Commission discussed staggering terms versus keeping as is. Wickliffe is one of very few cities that have the same terms for Mayor and Council. His opinion is that if you have staggered terms you could create what is called 'running for safe elections'; you can run from your Council seat for Mayor or for another seat and even if you lose, in a staggered situation, you keep your seat. He/she can run for a higher office and have his/her safe seat and not risk anything. The way it is now, when you run for Mayor and lose, you cannot fall back on your seat. With staggered terms, you've got a person who may have lost for Mayor still sitting on Council with the Mayor that won and there may be bad blood over that election because things are said and done.

Judy Powers asked what the possibility is of every councilperson's term ending at the same time. If that happens, you run the risk of a totally inexperienced Council. That would be the only reason to have staggered terms that she can think of. Mayor Ruffner said this Commission has to think of the likelihood of this happening. What are the odds of all 7 councilpersons choosing not to run? In his situation in the last 20 years, everybody wants to keep running. You do not see many new candidates. He believes the odds are most people would want to stay in their seat. Bill Margalis has been on Council 16 years and has worked with different people. He thinks that is what makes our Council unique here. In his years, he hasn't seen the different factions of Council that you may see in other cities. Mr. Margalis reiterated what Mayor Ruffner said regarding a Councilperson losing a Mayoral election and still having their seat. If you want to get things done, the cooperation between Council and Mayor is very important. You can't have an adversarial relationship or you will just never accomplish anything. He thinks what has been a success in Wickliffe is that Council has been able to get a lot of things done.

In regards to changing the Mayor residency from 1 year to 3 years, Mary Ann Surtz thinks that the Mayor should know more about our city than a person that has only lived here for 1 year. Judy does not believe that someone that lives here for only 1 year would get elected. Joe agrees. So far, nobody has done that. Joe believes that it would have to be an extraordinary circumstance for someone that has lived here for only 1 year to actually get elected. He doesn't think that it is worth changing the Charter.

The question regarding Appropriation Ordinances was presented to Bill Margalis who stated that the city budget has never taken 180 days to be approved. It is fixed by general law by March 31 which is the State Law. Prior to January 1 Council passes a temporary budget that will take them through the first 90 days of the year and then by

March 31 they have to have a permanent budget in place. The state auditors would not allow it to go past March 31. We will ask Bill Gargiulo to check this and clarify it for us. Judy Powers is not comfortable that this charter states 180 days...that is not acceptable, but if the State of Ohio would not allow it, then she is okay with it.

Mr. Margalis also stated that this commission should be very careful with how many Charter changes it will recommend. He asked that this committee narrow down the changes that this group would like to see. Do not do an expansive amount of changes. His opinion is to narrow down to 2 to 3 items then prioritize which would most affect the city. He would hate to jeopardize the things that we really want to get changed and have them get clouded in the fact that we put too much on the ballot.

Page 14. Section 4. Director of Public Safety. Ray Sack is requesting that the Commission consider adding the position of Building Commissioner to the Civil Service due to the fact that he has the power to arrest a violator and take them to court to file criminal charges and fines. This does not give him any more authority than he already has. It just gives him the backing of the Civil Service Commission. He believes it would help him to do his job. Bill Margalis asked why Ray believes this needs to be changed. Ray stated he thinks the need for the change is that whoever has this position may need Civil Service reinforcement similar to the Police and Fire Departments. This is just one more step for someone to go through if there is a problem. Cindy asked Ray to walk the Commission through the steps when he cites somebody. His example was: A gentleman was running an illegal business on commercial property and he would not stop; Ray had to get a warrant out for him to go to court. Another example is that a resident needed paint their house. Ray would issue a 30 day notice and if after the 30 days, he doesn't hear from them or they haven't complied, he would take them to court. That person then meets with the prosecutor and usually it is settled without a trial or it will go to trial. Cookie LoSchiavo agrees that this position would be best served under Civil Service. Mayor Ruffner thinks it is better respect for the Building Commissioner to have the Civil Service behind him. Judy Powers doesn't have an issue with it; Cookie agrees. If he is Civil Service there is an appeals process to fire the Building Commissioner otherwise it would take 2/3 vote of Council. Judy stated that this is protection for the position and it is a psychological thing as far as support. Bill Margalis would like to know if it is legal to just deem somebody Civil Service. Judy Powers stated that means that theoretically he/she would have to qualify for this position; does that mean that Ray would be grandfathered in and the next person would have to take the Civil Service test? Mayor Ruffner noted that this is a question for Mr. Gargiulo and maybe for the Civil Service Commission. Mr. Margalis asked if there are other Lake County communities where the Building Commissioner is Civil Service and how is it handled. Willoughby has Civil Service for every position.

Mayor Ruffner noted that the question for the Commission is should Wickliffe's Building Department be hired and handled by Civil Service. Think about whether it makes sense to do that. You're setting the Charter for the City of Wickliffe for the next 10 years. Don thinks that Ray has one of the toughest jobs that the city might have. Cookie believes it is a critical issue and it is getting worse. She thinks that is one of the biggest issues this city has. Mayor Ruffner says this makes sense but it is a legal issue.

Joe Oboczky mentioned that a significant number of ordinances are Emergency Ordinances at the Council meetings. What is the purpose? He understands for the health, welfare, benefit of the city that they can be deemed Emergency. Is that just to cut down on the time of implementation or is there another reason. Isn't the reason that it is declared an emergency supposed to be explained at the meetings? In the Charter it says that it must be explained. Jim Schall says that they never verbalize it at the meetings. Mayor Ruffner stated when it affects the residents it takes three readings (6 weeks) to pass an ordinance; when they are buying the salt, for example, it is not really an emergency but because many contracts will not hold their prices for 90 days, Council issues it as an emergency. Zonings and new laws will always take three readings. This Charter Review Commission is questioning why it is not verbally explained. Mr. Margalis stated and pointed out where the reason for the emergency is noted on the ordinance in writing. The Commission is satisfied with this.

Jim Schall motioned to adjourn at 8:50 p.m.; Mary Ann Surtz seconded. All were in favor.

Maria Matiyasic, Secretary

Cindy Marino, Chairperson

Next Meeting: April 29, 2008

Notes: Judy Powers will not be at April 29 meeting. Nancy Cole will not be at May 13 meeting.