

**REPORT  
of  
Charter Review Committee  
City of Middletown**

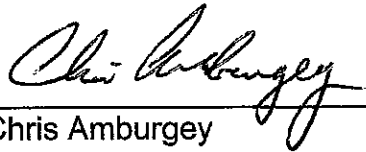
Submitted: June 16, 2009

## **BACKGROUND**

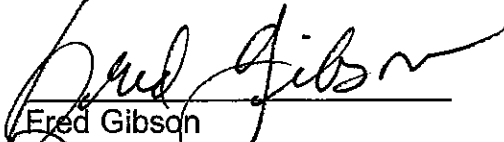
On January 20, 2009 the City Council adopted Resolution No. R2009-02, appointing a Charter Review Committee in accordance with Article I, Section 5 of the City Charter. The charge of the committee under the Charter is to "... review and recommend to City Council any alterations, revisions, and amendments to this Charter as in its judgment seem advisable."

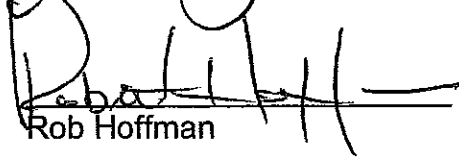
The committee met initially on February 2, 2009. At that meeting, Tom Brickey was selected as Chairman of the committee and John Soppanish was selected as vice-chairman. The committee met on March 2, March 16, April 6, April 20, May 14, May 18, June 1 and June 15, 2009. The meetings were dedicated to reviewing the existing Charter, developing a list of issues to be discussed and discussing each issue and making a recommendation on that issue. The committee reviewed approximately forty-five issues and has recommended eleven amendments to be submitted to the voters. Attached are summaries of each issue discussed and proposed language for each recommended amendment.

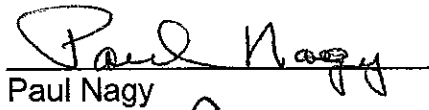
The decisions of the committee were by majority vote. Roll call votes were taken when any committee member requested the same on any issue. The minutes of the meetings more fully reflect the complete discussion of the issues and contain the votes on the recommendations. The recommendations are signed by the members of the committee present when the written recommendation was presented. There may be instances where members who voted on a recommendation were not present to sign that recommendation, or vice versa. The undersigned members of the committee submit this report as an accurate representation of the recommendations of the 2009 Charter Review Committee.

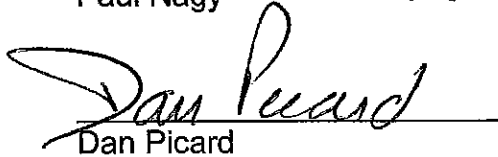
  
Chris Amburgey

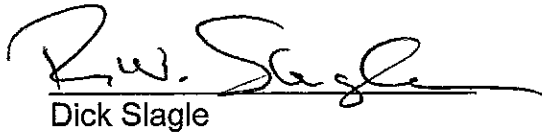
  
Jamey Colts

  
Fred Gibson

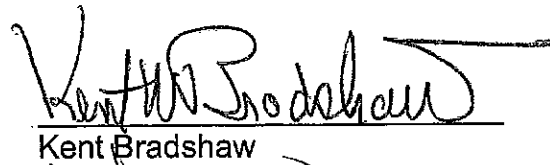
  
Rob Hoffman

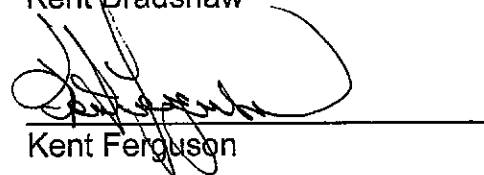
  
Paul Nagy

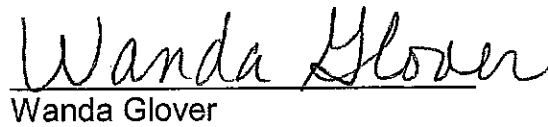
  
Dan Picard

  
Dick Slagle

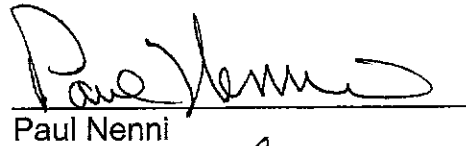
\_\_\_\_\_  
Tom Brickey, Chairman

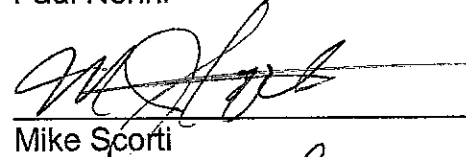
  
Kent Bradshaw

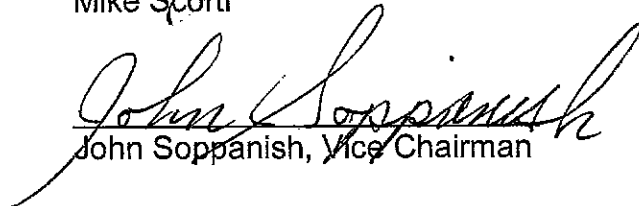
  
Kent Ferguson

  
Wanda Glover

  
Joe Mulligan

  
Paul Nenni

  
Mike Scotti

  
John Soppanish, Vice Chairman

**Summary of Recommendations of Charter Review Committee**

<u>Charter Provision</u>		<u>Recommendation</u>			<u>Report Reference</u>	
Article	Section	No change	Amend	New	Page	Exhibit
I	3&4	X			5	
I	5	X			6	
I	6			X	7	K
II	2		X		9	C
II	3		X		12	A
II	5		X		18	B
II	6	X			20	
II	7	X			21	
II	8	X			22	
II	11		X		23	D
II	12	X			25	
II	12	X			26	
II	13	X			27	
II	14	X			28	
III	2		X		29	E
III	3		X		31	F
III	5	X			33	
III	7	X			34	
III	8		X		35	G
III	12	X			38	
III	18	X			39	
IV	1	X			40	
IV	3		X		41	H
V	All		X		44	I
VI	2		X		47	J
VIII	2	X			49	
VIII	4		X		50	
VIII	7(proposed)	X			51	
New	(campaign expenditures)	X			52	

ARTICLE I, SECTIONS 3 and 4

The Committee discussed changing the number of signatures necessary on a nominating petition to be eligible for a seat on City Council (at large and ward). It was proposed that the number for an at-large seat be increased to two hundred (200); presently it is fifty (50). After discussion, the Committee recommends to leave the Charter as is; fifty (50) signatures for both at-large and ward seats.

Agree:

Disagree:

Abstain:

R. W. Stage

Smullon

Mike Lee

Paul Gibson

Walter Goodhart

John Soppinski

Tommy H. White

Paul Nagy

Robert Hoff

Tom Brisby

Wanda Glean

Paul Green

Paul Jones

John

ARTICLE I, SECTION 5

This section of the Charter addresses the Charter Review Committee. The issues of size and make-up of the Committee were briefly discussed. The Committee saw no reason for revision and recommends no change in the section.

Agree:

Disagree:

Abstain:

<i>R. W. Seale</i>	_____	_____
<i>M. J. [unclear]</i>	_____	_____
<i>Paul Gibson</i>	_____	_____
<i>Arthur Bradshaw</i>	_____	_____
<i>John [unclear]</i>	_____	_____
<i>Tommy [unclear]</i>	_____	_____
<i>Sullivan</i>	_____	_____
<i>Paul Nagy</i>	_____	_____
<i>Robert Hoff</i>	_____	_____
<i>Tom Biekey</i>	_____	_____
<i>Wanda Gloune</i>	_____	_____
<i>Paul [unclear]</i>	_____	_____
<i>Tom [unclear]</i>	_____	_____
<i>[unclear]</i>	_____	_____

**NEW: ARTICLE I, SECTION 6**

The Committee unanimously agreed that the Charter should be gender neutral. Language to implement this change is attached as Exhibit "K."

Agree:

Disagree:

Abstain:

<i>Ray Staley</i>	_____	_____
<i>Qued Gibson</i>	_____	_____
<i>Quell Gibson</i>	_____	_____
<i>James Lee</i>	_____	_____
<i>Walter Brockman</i>	_____	_____
<i>Jim H. Pater</i>	_____	_____
<i>Paul Nagy</i>	_____	_____
<i>Wanda Glor</i>	_____	_____
<i>Robert Hill</i>	_____	_____
<i>Clinton Koberger</i>	_____	_____
<i>John Soppavish</i>	_____	_____
<i>Ray Stenn</i>	_____	_____
<i>John Stenn</i>	_____	_____
<i>John Stenn</i>	_____	_____
_____	_____	_____

**Exhibit K**

Words of any gender used in this Charter shall be held and construed to include any other gender, and vice versa, unless the context requires otherwise.



ARTICLE II, SECTION 2

The Committee discussed extensively the portion of this section related to the composition of City Council. Two principal issues emerged:

1. How many members should there be on City Council?
2. How should those members be elected?

It became apparent early in the discussion that these issues were interconnected. The Committee discussed whether the issues could be separated on the ballot. Law Director Landen advised the group that the amendment must be submitted to the voters in a "for the amendment" versus "against the amendment" format. Therefore, a menu approach was not available. The Committee agreed the issues should be submitted as a single recommendation. The discussion moved back and forth between the two issues. The Committee agreed to address the second issue first; should City Council members be elected at-large or by wards. The advocates of the ward approach emphasized representation and the availability of council members. Those supporting an all at-large City Council agreed that this allowed the best candidate to be elected regardless of where they lived. They also expressed concern about "politicizing" local government. At least one member of the Committee emphasized the need to put the issue on the ballot and let the people decide. There was also concern about a transition from the present system, if a change were made. The Committee voted to recommend that all City Council members be elected at-large.

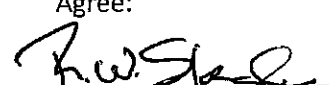

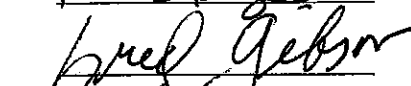




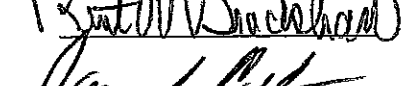
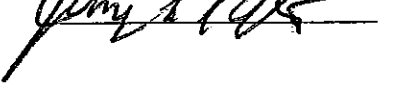
The Committee then addressed the number of members of City Council. The discussion centered on seven (7) versus five (5). The proponents of the larger number argued that "two heads are better than one." Those supporting a change to five (5) asserted that the smaller number was more manageable and could get to consensus more easily. Ultimately, the Committee voted to reduce the number of City Council members to five (5).

The recommendation of the Committee is that City Council be composed of five (5) members, a directly elected mayor and four (4) at-large members. The change would be transitioned into place by eliminating the election of four (4) ward council members in the 2011 election and replacing it with the election of two (2) at-large members. The proposed Charter change is attached at Exhibit "C."

Agree:

Disagree:

Abstain:

		_____
		_____
		_____
		_____
		_____
		_____

Paul Nagy

~~Paul Nagy~~  
Christopher  
Paul Nagy  
M. Nagy

## Exhibit C

### SECTION 2. CITY COUNCIL.

Effective January 1, 1994, there is hereby created a City Commission, which, effective January 1, 2001, shall be named City Council, consisting of seven (7) electors, residents of the City of Middletown, who shall be nominated and elected as provided in the Charter, and shall exercise all powers, authority and rights, legislative, executive and administrative, now vested in and exercised by the City of Middletown and its several officers. All powers, authority and rights vested in or granted to the City of Middletown, its prior legislative authorities and members thereof, shall, subject to the provisions of the Constitution of the State of Ohio and of this Charter, be vested in, possessed and exercised by said City Council and the several members thereof, or under their direction. **Effective January 1, 2012, the number of electors, residents of the City of Middletown, composing City Council shall be reduced to five (5).**

**Prior to January 1, 2012, two (2) of the City Council members and the Mayor of the City of Middletown shall be elected "at large" (by all qualified electors of the City of Middletown) and the remaining four (4) City Council members shall be elected "by ward", (by only the qualified electors of one ward of the City of Middletown), one from each of the four wards. Effective January 1, 2012, four (4) of the City Council members and the Mayor of the City of Middletown shall be elected "at-large" (by all qualified electors of the City of Middletown).**

Prior to January 1, 1994, the City Commission was composed of five (5) members in accordance with previous Charter provisions.

(Amended 11-6-1990; 11-7-2000; 11-8-2005)

**Note: It may be necessary to amend other sections of the Charter to implement this amendment. Such changes will be drafted as needed for the ballot.**

ARTICLE II, SECTION 3

Several issues were raised under this section of the Chapter dealing with the election of City Council members. The Committee discussed vacancies on City Council, the length of the term of the member of City Council and the Mayor, and whether a sitting City Council member must forfeit their seat if they run for a different seat or for the mayoral seat (presently the member would not forfeit their seat). After due consideration, the Committee is recommending no changes to those portions of Article II, Section 3.

Vacancies

Agree:

Disagree:

Abstain:

*R. W. Sledge*  
*M. H. ...*  
*Fred Gibson*  
*W. R. ...*  
*John ...*  
*Jerry ...*  
*Paul ...*  
*Robert Hoff*  
*Tom ...*  
*Wanda ...*  
*Paul ...*  
*Paul ...*  
*...*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Length of Term

Agree:

Disagree:

Abstain:

R.W. Seng

~~Sullivan~~

MO Hart

Paul Nagy

Fred Gibson

Ken W. Brinkman

John Soppando

James D. Cook

Robert Hoff

Tom Brickey

Sullivan

Wanda Gyan

David Reed

Ray Stens

~~Sullivan~~

Forfeiture of Seat

Agree:

Disagree:

Abstain:

R. W. Slape

Jullivan

M. West

Bill Gilson

Walter Brodeur

John Oppenish

James D. Little

Paul Vogn

Robert Hoff

Tom Brichy

Wanda Glover

David Jew

Paul Stone

Jullivan

However, the Committee is recommending a limitation in the number of terms a person can be elected as a member of City Council and as Mayor. The proposed change is attached as Exhibit "A".

## Exhibit A

### SECTION 3. ELECTION

In the general election to be held in 2007, and every four (4) years thereafter, two (2) City Council members and the Mayor shall be chosen "at large". The mayoral seat shall be elected separately from the two (2) at large seats, and a candidate for Mayor must file and run as a candidate for Mayor. In the general election to be held in 1993, and every four years thereafter, four (4) City Council members shall be chosen "by ward". City Council members chosen "by ward" shall be electors residing in the ward from which they are chosen. All City Council members shall be chosen for a term of four (4) years, except as provided in the next paragraph of this section.

Vacancies in the City Council, other than the Mayor, shall be filled by the City Council for the remainder of the unexpired term. If the term of such City Council member whose place becomes vacant does not expire on the first day of January following the next regular municipal election, then such person chosen by the City Council shall serve only until such regular election, at which time a City Council member shall be elected to fill the remainder of the unexpired term. All vacancies in the position of City Council members chosen "by ward" shall be filled by the remaining City Council members with an elector who would be qualified to be chosen as a City Council member from the ward represented by the vacated seat.

When the office of Mayor becomes vacant, the Vice-Mayor shall become the Mayor and hold such office until his successor is elected, unless the Vice-Mayor declines to accept such position. If the Vice-Mayor declines to become Mayor, another City Council member would be appointed to become Mayor upon the concurrence of that member and three other members of City Council. If no City Council member is willing or able to be appointed as Mayor, City Council shall select a qualified elector of the City to fill the unexpired term of the Mayor. If the term of the vacant mayoral seat does not expire on the first day of January following the next regular municipal election, then the person filling the vacant mayoral seat, whether it be the Vice-Mayor, a member of City Council, or a qualified elector appointed by City Council, shall serve only until such next regular municipal election, at which time a qualified elector shall be elected to fill the remainder of the expired term.

If the Vice-Mayor or a member of City Council accepts appointment to the vacant mayoral seat, that council member would relinquish their seat as a council member, and their vacant seat would be filled in accordance with the terms of this Article II, Section 3.

When a vacancy occurs as the result of a recall election, such vacancy shall be filled in the manner provided for such cases.  
(Amended 11-6-1990; 11-7-2000; 11-8-2005)

**No person shall be elected to serve more than two (2) full terms as a member of City Council. A person appointed to City Council may, at any time, subsequent to such appointment, be elected to two (2) full terms as a member of City Council. A person who has been elected to serve two (2) full terms as a member of City Council, shall not be subsequently appointed as a member of City Council.**

**No person shall be elected to serve more than two (2) full terms as Mayor. A person appointed as Mayor may, at any time, subsequent to such appointment, be elected to two (2) full terms as Mayor. A person who has been elected to serve two (2) full terms as Mayor, shall not be subsequently appointed as Mayor.**



Agree:

Disagree:

Abstain:

~~R.W. Sege~~

~~Julyn~~

~~Mike Scott~~

~~Fred Gibson~~

~~Wanda Brown~~

~~Ken W. Bradshaw~~

~~John Appajish~~

~~Jimmy H. Williams~~

~~Paul Noyes~~

~~Robert Hoff~~

~~Christine K. Selby~~

~~David Kern~~

~~Paul Thomas~~

~~[Signature]~~

~~[Signature]~~

~~[Signature]~~

~~[Signature]~~

ARTICLE II, SECTION 5

The Committee discussed whether there should be more or less required meetings of City Council. The Charter presently requires that City Council meet two (2) times each month. Additional meetings of Council can be added if City Council determines they are needed. The Committee decided not to recommend additional required meetings. After further discussion, the Committee decided to reduce the number of required meetings from two (2) per month to one (1) per month. The proposed change is attached as Exhibit "B."

Agree:

Disagree:

Abstain:

<u>R. W. Stage</u>	<u>Wanda Glover</u>	_____
<u>David Gibson</u>	<u>Christa K. Kibbey</u>	_____
<u>James J. Record</u>	<u>Paul D. Kern</u>	_____
<u>Kent W. Bradshaw</u>	_____	_____
<u>Tommy L. Webb</u>	_____	_____
<u>Paul Nagy</u>	_____	_____
<u>Robert Hoff</u>	_____	_____
<u>John Coppenhaver</u>	_____	_____
<u>_____</u>	_____	_____
<u>_____</u>	_____	_____
<u>_____</u>	_____	_____
<u>_____</u>	_____	_____

**Exhibit B**

**SECTION 5. MEETINGS OF CITY COUNCIL.**

Within the first seven (7) days of January next following a regular municipal election City Council shall meet at the regular place for holding its meetings, at which time the newly elected members shall assume the duties of their office. Thereafter City Council shall meet in regular session at least ~~twice~~ **once** each month at such time as City Council may prescribe.

Newly elected City Council members shall take the oath or affirmation of office and shall otherwise qualify for office during December next following their election and their term of office shall commence on the first day of January next following such election.  
(Amended 11-7-1972; 11-7-2000)


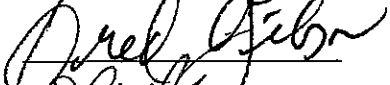

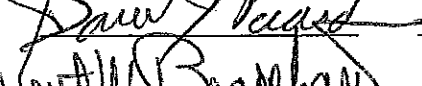
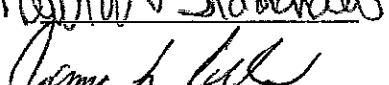
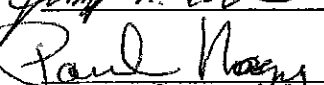

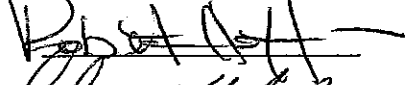
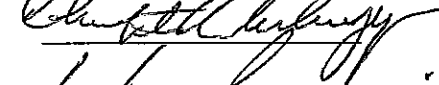
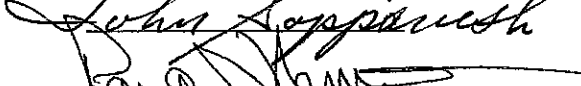
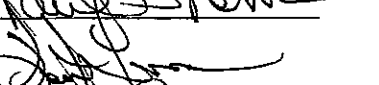
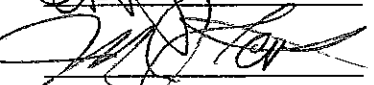
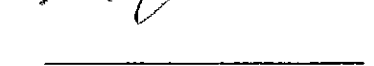
ARTICLE II, SECTION 6

This section addresses special meetings of City Council. It was proposed that this section be amended to clarify that all special meetings of City Council were subject to Ohio's open meetings law (Sunshine Law), that the Charter apply the Sunshine Law to non-decision making public bodies, and that there could be no voting at special meetings. After some discussion, the Committee decided that these changes were either unnecessary or not advisable. The Committee recommends no change to this section.

Agree:

Disagree:

Abstain:

	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
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	_____	_____
	_____	_____

ARTICLE II, SECTION 7

This section requires City Council meetings to be open to the public. A proposal was made to add language to this section requiring quarterly or semi-annual meetings dedicated to the comments and concerns of citizens. After discussion, weighing the need for additional citizen input against efficiency, the Committee decided to recommend no change to this section.

Agree:

Disagree:

Abstain:

*R. W. Single*  
*Paul Nagy*  
*Paul Gibson*  
*Shulz*  
*David Isaac*  
*Walter Bradshaw*  
*Jerry L. Lee*  
*Wanda Howe*  
*Debra Hoff*  
*Christa K. Kung*  
*John S. Sams*  
*Paul Tom*  
*John*  
*W. J. Scott*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



ARTICLE II, SECTION 11

This section requires that each year City Council shall have an annual report printed in pamphlet form. A request was made to remove the requirement that the annual report be printed in pamphlet form, and allow the report to be maintained electronically. After discussion, the Committee agreed that the annual report should be printed and placed on file at the public library, with printed copies available to the public on request. The proposed language to implement this amendment is attached as Exhibit "D."

Agree:

Disagree:

Abstain:

R. W. Stagle

Paul Gibson

Shelby

Davey

Wentworth

Tom

Paul Nagy

Wanda Glover

Bob

Christy

John

Ray

John

John

## Exhibit D

### SECTION 11. REPORTS OF CITY COUNCIL.

At the end of each year City Council shall have ~~printed~~ prepared an annual report ~~in pamphlet form~~ giving a classified statement of all receipts and expenditures, assets and liabilities of the City; a detailed comparison of such receipts and expenditures with those of the preceding year; a summary of City Council's proceedings and operation of the administrative departments for the previous year. ~~Copies~~ **One copy** of such report shall be furnished to be on file at the City library. ~~and to Any citizen member of the City public who may request a copy apply therefor at the office of the Clerk of Council.~~

(Amended 11-8-1949; 11-7-2000)



ARTICLE II, SECTION 12

Article II, Section 12 of the Charter addresses the compensation of City Council. Initially, it was suggested that compensation per se be eliminated, and that council members be reimbursed for their expenses. The Committee asked for information regarding fringe benefits for council members. City Council members receive no fringe benefits other than mandatory participation in the state pension system for public employees. A proposal was made to reduce the present compensation (\$5,000.00 for council members and \$9,000.00 for the mayor) by ten to fifteen percent (10%-15%). After lengthy discussion, the Committee voted to recommend no change to this section.

Agree:

Disagree:

Abstain:

<i>Rev. Singh</i>	_____	_____
<i>Paul Gibson</i>	_____	_____
<i>Pauline</i>	_____	_____
<i>David K...</i>	_____	_____
<i>Walter Brockman</i>	_____	_____
<i>James J. Pitt</i>	_____	_____
<i>Paul Nagy</i>	_____	_____
<i>Wanda Glor</i>	_____	_____
<i>Robert Hoff</i>	_____	_____
<i>Christa K...</i>	_____	_____
<i>John J...</i>	_____	_____
<i>Paul J...</i>	_____	_____
<i>[Signature]</i>	_____	_____
<i>[Signature]</i>	_____	_____
_____	_____	_____

ARTICLE II, SECTION 12

After the issue list was completed, a member of the Committee questioned whether with the reduction of number of meetings required each month, should the process for reducing members' compensation for a missed meeting be restricted. The Committee agreed that no change was needed and recommends no change in the present process.

Agree:

Disagree:

Abstain:

<i>Sam Sogler</i>	<i>Wanda Glover</i>	
<i>Pred Gibb</i>	<i>John Soppansich</i>	
<i>Sheldon</i>		
<i>James Lewis</i>		
<i>Walter Bradshaw</i>		
<i>Joseph Cott</i>		
<i>Paul Nagy</i>		
<i>Robert Hoff</i>		
<i>Charles Kelsey</i>		
<i>Robert M.</i>		
<i>[Signature]</i>		
<i>[Signature]</i>		



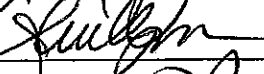



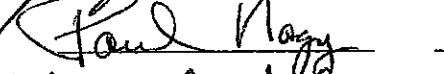
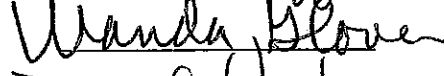
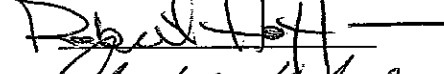
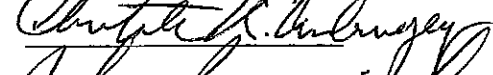
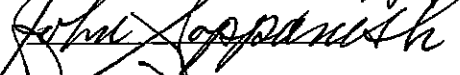
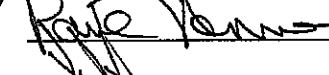
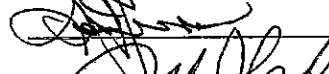
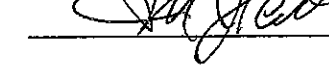
**ARTICLE II, SECTION 13**

This section defines the position of mayor and vice-mayor. Several issues were noted during the initial review of the Charter. However, the discussion on this section focused emphasizing the mayor's leadership role. The Committee stated its lack of interest in a strong mayor and noted that leadership isn't legislated. Members also noted the difficulty of creating language on this issue without sending a message to increase mayoral power. The Committee saw no reason to address the term, selection or qualifications of the vice-mayor. The Committee recommends no change.

Agree:

Disagree:

Abstain:

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**ARTICLE III, SECTION 2**

This section of the Charter addresses the qualifications of the City Manager. The Committee discussion was limited to the residency issue. The present Charter language is soft and not very clear. After discussion, ranging from eliminating the requirement to making it more restrictive, the Committee agreed that the city manager should establish domicile, as that term is used in Ohio law, in the city within twelve (12) months of being appointed to the position by City Council. Subsequently, the Ohio Supreme Court declared the General Assembly prohibition for local residency requirements constitutional. The Committee voted to recommend the removal of residency language from the Charter.

Agree:

Disagree:

Abstain:

<i>Russ Seeger</i>	<i>Wanda Hovan</i>	_____
<i>Bred Gibson</i>	<i>Wanda Hovan</i>	_____
<i>David Brown</i>		_____
<i>Ken W. Bradshaw</i>		_____
<i>Jim Clark</i>		_____
<i>Paul Nagy</i>		_____
<i>Robert Holt</i>		_____
<i>Anthony K. Kibben</i>		_____
<i>John Appasich</i>		_____
<i>Tom Kern</i>		_____
<i>[Signature]</i>		_____
<i>[Signature]</i>		_____
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**Exhibit E**

**SECTION 2. QUALIFICATIONS OF CITY MANAGER.**

The City Manager shall be chosen by City Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth.

(Amended 11-8-1949; 11-7-2000)

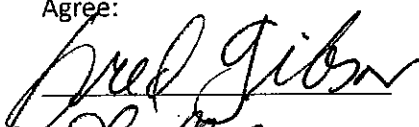
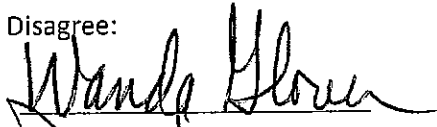

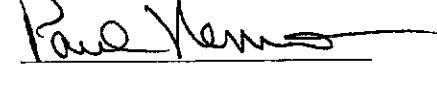
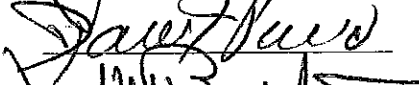
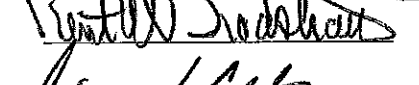
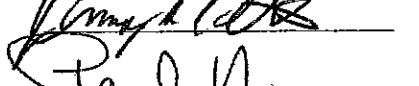

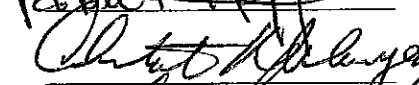
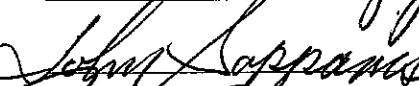

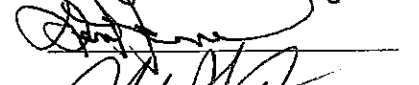
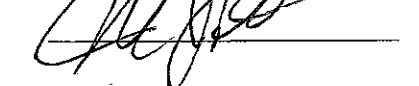
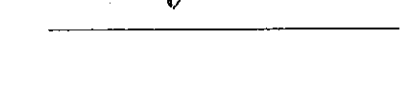
ARTICLE III, SECTION 3

This section of the Charter outlines the power and duties of the City Manager. The City Manager serves as the "appointing authority" for the City. All appointments and removals by the City Manager are subject to the "advice and consent" of City Council. The Committee discussed whether the "advice and consent" provision should be removed from the Charter. Proponents of removing City Council involvement in the hiring process relied on three principal points: 1) the provision is somewhat unique to Middletown Charter, 2) the provision encourages micro-management by City Council, and 3) the provision has the potential to politicize the hiring process. Opponents noted rarely does City Council interfere with an appointment or removal, and that the system provides a check and balance on the exercise of the City Manager's power to hire and fire. The Committee voted to recommend a change to the Charter eliminating the "advice and consent" requirement. The proposed amendment is attached as Exhibit "F."

Agree:

Disagree:

Abstain:

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**Exhibit F**

**SECTION 3. POWER AND DUTIES OF CITY MANAGER.**

The City Manager shall be the chief administrative officer and the head of the administrative branch of the City government. He shall be responsible to City Council for the proper administration of all affairs of the City and to that end he shall have power and shall be required to:

(1) Appoint and, when necessary for the good of the service, remove all officers and employees of the City except as otherwise provided by this Charter and except as he may authorize the head of the department or office to appoint and remove subordinates in such department or office; ~~such appointments and removals shall be subject to the advice and consent of City Council;~~

(2) Prepare the budget annually and submit it to City Council and be responsible for its administration after adoption;

(3) Prepare and submit to City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;

(4) Keep City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him desirable;

(5) Perform such other duties as may be prescribed by this Charter or required of him by City Council not inconsistent with this Charter.

(Amended 11-8-1949; 11-7-2000)





ARTICLE III, SECTION 7

This section addresses the power of City Council to create offices and change duties. Initially, some concern was raised that by conferring their power on City Council, the section was in conflict with Article III, §5. After brief discussion, the Committee agreed that no change should be recommended.

Agree:

Disagree:

Abstain:

<i>Paul Seeger</i>	_____	_____
<i>Fred Gibson</i>	_____	_____
<i>Julian</i>	_____	_____
<i>Paul Seeger</i>	_____	_____
<i>Kent K. S. ...</i>	_____	_____
<i>Jimmy ...</i>	_____	_____
<i>Paul Nooy</i>	_____	_____
<i>Wanda Gloden</i>	_____	_____
<i>Robert Hoff</i>	_____	_____
<i>Christine ...</i>	_____	_____
<i>John Soppanish</i>	_____	_____
<i>Paul James</i>	_____	_____
<i>[Signature]</i>	_____	_____
<i>[Signature]</i>	_____	_____
_____	_____	_____

**ARTICLE III, SECTION 8**

Significant discussion was afforded the last sentence of this section which includes the Chiefs of the Division of Fire and Police in the classified service, thereby requiring that the selection of persons to fill those positions be a promotional process. It was proposed to change the section so that these two positions could be filled from outside the City organization. Proponents asserted the following argument:

1. Outside competitions would produce the best candidate.
2. Outside hiring could promote new ideas and a new culture.
3. The Chiefs are the only department leaders afforded this protection.

Opponents replied that:

1. The present system had produced good results.
2. Inside competition encouraged employees to stay with the City.
3. Inside selection cultivated future leaders.
4. Chiefs selected from the inside are more familiar with the personnel, organization and community.

A vote to leave the section unchanged was defeated. A suggestion that all police and fire positions be subject to outside competition was quickly dismissed. Ultimately, the Committee voted to recommend a change permitting competition for the Chief's positions from outside the City. The proposed amendment is attached as Exhibit "G."

Agree:

Disagree:

Abstain:

*Paul Seigler*  
*Paul Nagy*  
*Robert Hoff*  
*Wanda Glover*  
*Charles G. Adams*  
*Robert S. ...*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Paul Newman

~~John~~

Michael

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Exhibit G

### SECTION 8. ADMINISTRATION.

City Council shall adopt by ordinance an administrative code which shall set forth the organizational structure and assignment of responsibilities of the various departments and divisions in the City service. The organization thus established shall be administered by the City Manager. No provision of the administrative code or action by the City Manager may contravene any provision of this Charter. The organizations of Police and Fire, including their members, ~~except for the~~ and Chiefs thereof, shall be classified positions under civil service.  
(Amended 11-7-1972; 11-7-2000)

**ARTICLE III, SECTION 12**

A proposal was made that a requirement that all positions in the City government be posted prior to hiring a person to fill the position. After discussion, the Committee determined that no change should be recommended to this section.

Agree:

Disagree:

Abstain:

<u>Tim Shyne</u>	<u>Wanda Glone</u>	_____
<u>Paul Nelson</u>	<u>John Sappanish</u>	_____
<u>Paul</u>		_____
<u>James King</u>		_____
<u>Kent W. Brodeur</u>		_____
<u>James H. Pitt</u>		_____
<u>Paul Nagy</u>		_____
<u>Robert Hoff</u>		_____
<u>Chetels &amp; Mungy</u>		_____
<u>Paul Vanni</u>		_____
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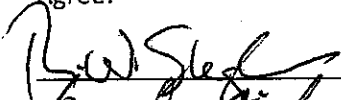
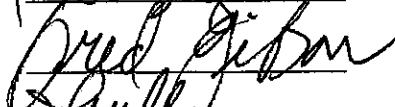

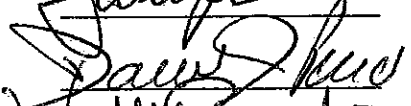
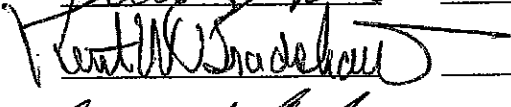
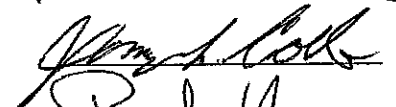
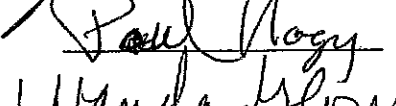
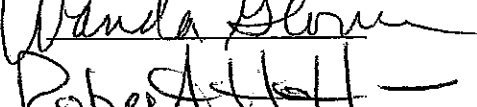
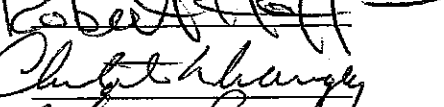
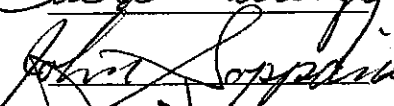
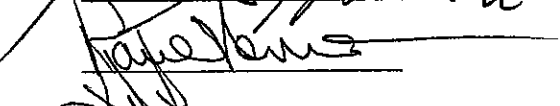

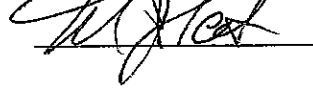
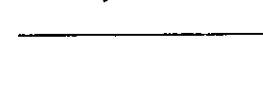
ARTICLE III, SECTION 18

The provision prohibits employees and officials from having an interest in City contracts. The prohibition has been read to be coextensive to the state ethics law on the issue (Ohio Revised Code §2942.21). There was discussion about whether the provision was broad enough. The Committee decided that no change should be recommended.

Agree:

Disagree:

Abstain:

	_____	_____
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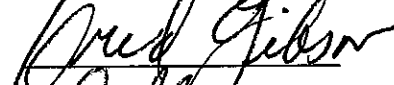

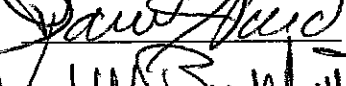
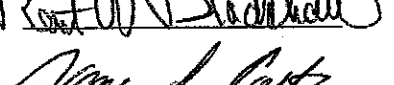

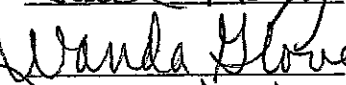
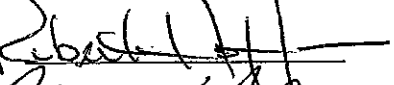
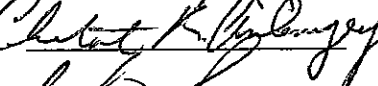

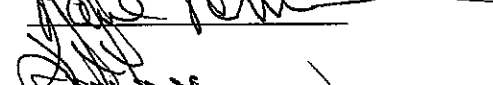
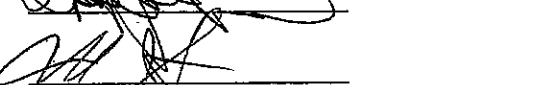
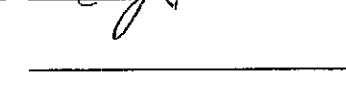

**ARTICLE IV, SECTION 1**

An issue was raised as to whether there was a conflict between the quorum language and the affirmative vote language in this section. After brief discussion, the Committee determined that no change should be recommended.

Agree:

Disagree:

Abstain:

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**ARTICLE IV, SECTION 3**

This section addresses the passage of legislation. Three issues for discussion were raised.

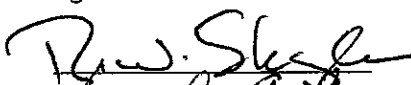

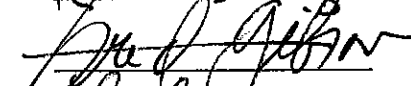
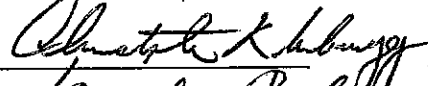


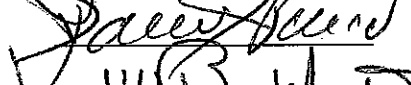

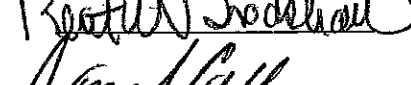
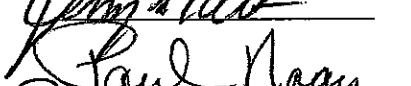
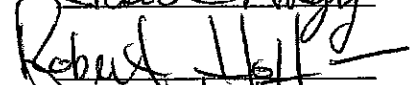
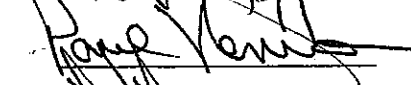

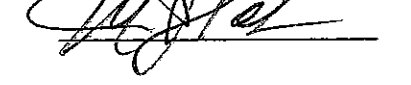
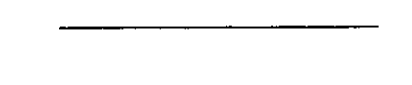
- 1) The Committee quickly agreed that the order of the paragraph should be restructured to improve readability.
- 2) The Committee rejected a request to change the language to specifically permit non-emergency legislation to be converted to emergency measure at the second reading because it was advised by the Law Director that this was permissible under the present language of the Charter.
- 3) The last line of the fourth paragraph of this section deals with publication between readings. A proposal was made to remove publication in a newspaper of general circulation. The ensuing discussion focused on the costs of advertising, the availability of information to the public and the historic partnership between the City and the local news media. The Committee decided that publication was important, but not via a legal notice in the newspaper. Therefore, the Committee recommended that all language after "...published once..." in that sentence be removed.

See attached Exhibit "H."

Agree:

Disagree:

Abstain:

		_____
		_____
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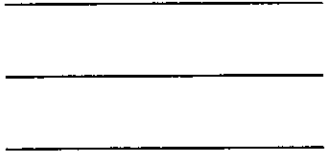


Exhibit H

**SECTION 3. PASSAGE OF LEGISLATION.**

No ordinance or resolution, unless it be passed as an emergency measure, shall be passed until it shall have been read on two (2) separate days. The readings of ordinances and resolutions shall be by title only if a copy thereof is placed on the desk of each member of City Council at the time of reading, provided that ordinances and resolutions shall be read in full when requested by at least two (2) members of City Council.

Emergency ordinances and resolutions necessary for the preservation of the public peace, health, safety or property may be passed after one (1) reading upon the affirmative vote of three-fourths of the members of City Council. The reason for such emergency shall be stated in such ordinance or resolution.

Before the second reading of an ordinance or resolution which is not passed as an emergency measure, the title of such ordinance or resolution, together with a statement that such matter is pending before City Council, shall be published once ~~in a newspaper having a general circulation in the City.~~

However, the first ordinance or resolution in a series of measures involving special assessments for street improvements and ordinances or resolutions pertaining to franchises, rates or the Civil Service of the City shall not be passed as emergency measure unless, prior to the enactment thereof, a public hearing is held for which at least seven (7) days advance notice has been given by publication in a newspaper of general circulation in the City.

(Amended 11-3-1981; 11-7-2000)

ARTICLE V, SECTIONS 1, 2, 3 and 4

Article V addresses the four boards and commissions created by the Charter; Board of Health, Board of Library Trustees, Park Board and Civil Service Commission. The Committee unanimously agreed that this Article be repealed and replaced by an authorization for City Council to create boards and commissions. The Committee believed this increased City Council's flexibility to adjust boards and commissions as required by changes in the times. Language proposing this recommendation is attached as Exhibit "I."

Agree:

Disagree:

Abstain:

<i>R. W. Single</i>	_____	_____
<i>Paul Gibson</i>	_____	_____
<i>Shirley</i>	_____	_____
<i>Steve Price</i>	_____	_____
<i>Robert W. Bradshaw</i>	_____	_____
<i>Jimmy L. Bell</i>	_____	_____
<i>Paul Nagy</i>	_____	_____
<i>Wanda Brown</i>	_____	_____
<i>Robert H. [unclear]</i>	_____	_____
<i>Cheryl K. [unclear]</i>	_____	_____
<i>John [unclear]</i>	_____	_____
<i>Yvonne [unclear]</i>	_____	_____
<i>[unclear]</i>	_____	_____
<i>[unclear]</i>	_____	_____
_____	_____	_____

Exhibit I

ARTICLE V  
BOARDS AND COUNCILS COMMISSIONS

**SECTION 1. BOARD OF HEALTH. CREATION OF BOARDS AND COMMISSIONS**

~~The Board of Health shall be composed of seven (7) members, to be appointed by City Council, each to serve without compensation for a term of five (5) years from the date of appointment. A majority of such members shall be a quorum.~~

~~Such Board of Health shall exercise all the powers now or hereafter conferred by general law upon boards of health or by ordinance of the City of Middletown.~~

~~The present members of the Board of Health shall continue in office until their terms expire and the two (2) new members shall be appointed for terms commencing January 1, 1973.  
(Amended 11-7-1972; 11-7-2000)~~

City Council shall be empowered to create such boards and commissions as it deems appropriate, and shall further be empowered to establish the size of membership, length of term and method of appointment of such boards and commission, including the Board of Health, the Board of Library Trustees and the Civil Service Commission.

**SECTION 2. BOARD OF LIBRARY TRUSTEES.**

~~The Board of Library Trustees shall be composed of seven (7) members to be appointed by City Council. The Board of Library Trustees now in office shall continue in office until their respective terms shall expire, and City Council is hereby authorized to fill such terms upon the expiration thereof, and said Board of Library Trustees shall exercise the powers, duties, and obligations as provided for by ordinance or the general laws, or which may be hereafter provided by the General Assembly of the State of Ohio; and such Board shall serve without compensation.  
(Amended 11-8-1949; 11-7-2000)~~

**SECTION 3. PARK BOARD.**

~~The Park Board shall be composed of five (5) members to be appointed by City Council, each to serve without compensation for a term of five (5) years or until successors are appointed and qualified by City Council and subject at all times to the authority granted by the Charter of said City to City Council. The qualifications and duties of the members shall be determined by ordinance of City Council.  
(Amended 11-7-1972; 11-7-2000)~~

**SECTION 4. CIVIL SERVICE COMMISSION.**

~~(a) Membership. Within ten (10) days after the election and qualification of City Council, it shall appoint three (3) electors, who shall constitute the Civil Service Commission, one (1) for two (2) years, one (1) for four~~

~~(4) years, and one (1) for six (6) years, who shall serve until their successors are appointed and have qualified. Any vacancy in the Civil Service Commission shall be filled by the City Council for the unexpired term. City Council may at any time remove any of said Civil Service Commission members for misconduct, neglect of duty, or malfeasance in office, first having given said Commission member an opportunity of being publicly heard in person or by counsel in his own defense.~~

~~—(b) Powers and Duties. The Civil Service Commission shall serve without compensation, and its duties shall be to enforce the provisions of the Civil Service Law with respect to all offices and places of employment in the City. It shall make such rules for the proper performance of its duties as it shall find necessary and expedient, and as are not inconsistent with the Civil Service Law.~~

~~—(c) Secretary of Civil Service Commission. The Civil Service Commission may appoint a Secretary who shall keep minutes of its proceedings and records of its examinations, make investigations concerning enforcement of Civil Service Laws and perform such other duties as may be prescribed by the Civil Service Commission.~~  
(Amended 11-7-2000)

ARTICLE VI, SECTION 2

This section deals with the recall process. The Committee addressed two issues. First, the Committee determined that the two hundred (200) word rebuttal permitted by subsection (c) was insufficient. After discussion, the Committee recommends the rebuttal statement be limited to five hundred (500) words. In conjunction, the Committee was concerned about the duty of the City to mail this rebuttal statement to each registered voter in the City prior to the recall election. It is recommended that the mailing requirement be eliminated and replaced by a duty to make the statement available to the public. A proposed amendment is attached as Exhibit "J."

Agree:

Disagree:

Abstain:

<i>R. W. Sizer</i>	<i>Julian</i>	_____
<i>Fred Gibson</i>	_____	_____
<i>Steve Jones</i>	_____	_____
<i>Ken W. Brodeur</i>	_____	_____
<i>James A. Cook</i>	_____	_____
<i>Paul Nagy</i>	_____	_____
<i>Wanda Glavin</i>	_____	_____
<i>Robert H. [unclear]</i>	_____	_____
<i>Cheryl K. [unclear]</i>	_____	_____
<i>John [unclear]</i>	_____	_____
<i>[unclear]</i>	_____	_____
<i>[unclear]</i>	_____	_____
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_____	_____	_____

## Exhibit J

### SECTION 2. RECALL.

(a) Any elective officer of the City may be removed from office by the qualified electors of the City. The procedure for such removal shall be as now provided by ~~Section 3515-71 of the General Code of the State of Ohio (now Ohio R.C. 705.92)~~, **the Ohio Revised Code (§705.92 presently)**.

(b) Any person removed from office by a recall election shall not be appointed or employed by the City in any department of the City for a period of at least two (2) years from and after the date of such removal.

(c) Each officer whose recall is sought by petition as herein provided shall have the right to present a statement in not more than ~~two five hundred (200)~~ **(500)** words defending his position and such statement shall be ~~mailed by the Clerk of the Council to each registered voter of the City~~ **made available to the public by the Clerk of Council** at least fifteen (15) days prior to such election.  
(Amended 11-8-1949; 11-7-2000)



**ARTICLE VIII, SECTION 2**

This section addresses the City budget. Proposals to require a balanced budget each year and to require a certain amount of money to be maintained in the General Fund reserve at the end of each year were discussed. The Committee determined that such limitation in the Charter would be too restrictive on those charged to operate the City. No change is recommended.

Agree:

Disagree:

Abstain:

Paul Skyles Paul Nagy  
Paul Gibson \_\_\_\_\_  
Glenn \_\_\_\_\_  
David Beard \_\_\_\_\_  
Keith W. Bradshaw \_\_\_\_\_  
Jerry L. Cotts \_\_\_\_\_  
Wanda Glover \_\_\_\_\_  
Robert Hill \_\_\_\_\_  
Cheryl K. Blaney \_\_\_\_\_  
John Spanish \_\_\_\_\_  
John \_\_\_\_\_  
John \_\_\_\_\_  
John \_\_\_\_\_  
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**ARTICLE VIII, Section 4**

A question was raised about the necessity of this section, which appoints City Council as the Sinking Fund Council under Chapter 739 of the Ohio Revised Code. Law Director Landen discussed this matter with City Finance Director Russ Carolus and with outside counsel. The conclusion was that this section was outdated and no longer needed to be in the Charter. Based on this information, the committee recommends that Article VIII, Section 4 be removed from the Charter.

Agree:

Disagree:

Abstain:

*Bill St...*

*Christine...*

*Paul Gibson*

*Quel...*

*David...*

*Tom W. Broderick*

*James S. Lick*

*Paul Nagy*

*Wanda Blower*

*Robert Hoff*

*Ken Sappanish*

*James...*

*...*

*...*

*...*

*...*

*...*



**NEW SECTION: CAMPAIGN EXPENDITURES**

A suggestion was made that the Committee consider placing limitations on campaign expenditures for City Council. Law Director Landen reported that limitation on campaign expenditures has first amendment free speech implications. In 2006, the United States Supreme Court struck down a Vermont State statute limiting campaign expenditures. Landen advised that significant research would be necessary before any proposal could be considered. The Committee agreed that no change should be recommended at this time.

Agree:

Disagree:

Abstain:

<u>R.W. Seay</u>	<u>Christa Lehman</u>	_____
<u>Paul Gibson</u>	_____	_____
<u>Quinn</u>	_____	_____
<u>James Howard</u>	_____	_____
<u>Kent W. Bradshaw</u>	_____	_____
<u>Tom L. Mills</u>	_____	_____
<u>Paul Nagy</u>	_____	_____
<u>Wanda Glover</u>	_____	_____
<u>Robert Hoff</u>	_____	_____
<u>John Spanish</u>	_____	_____
<u>Robert Tom</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
_____	_____	_____
_____	_____	_____