

**MINUTES OF THE CHARTER REVIEW COMMISSION  
CITY OF UNIVERSITY HEIGHTS, OHIO  
TUESDAY, JANUARY 24, 2023**

APPROVED AS AMENDED 2-7-2023

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The Charter Review Commission met on Tuesday, January 24, 2023 at the Wiley Building, 2181 Miramar Boulevard, University Heights, Ohio.

Present: Mr. Stephen Wertheim, Chair  
Mr. Tyler Bobes  
Mr. David Farkas  
Dr. Margaret Duffy-Friedman  
Mr. H. Lee Crumrine  
Mrs. Jacquelyn Gould  
Mr. David Jackson  
Mr. Wesley Kretch  
Mr. Chris Myrick  
Dr. Alicia Sloan

Also Present: Vice Mayor Michele Weiss  
Councilwoman Sheri Sax  
Assistant Law Director/Prosecutor Mike Cicero  
Mayor Michael Brennan  
Assistant Clerk of Council Jeune Drayton

**1. Call to Order**

Chairman Wertheim called the meeting to order at 7:04 p.m. It was noted that Mrs. Threse Marshall is attending tonight's meeting via Zoom.

**2. Review Minutes**

Motion by Mr. Crumrine, second by Dr. Duffy-Friedman to approve the minutes of December 13, 2022. On roll call, all voted "aye".

Regarding the minutes of the January 18, 2023 meeting, Dr. Duffy-Friedman referred to Page 5, top of the page and the statement that reads "She stated that she is not in favor of eliminating term limits at the local or state level." The word "**not**" should be deleted. Motion by Dr. Duffy-Friedman, second by Mr. Crumrine, to approve the minutes as corrected. On roll call all voted "aye"/

**3. Review/vote on term limits Charter amendment**

Mr. Wertheim mentioned that Dr. Duffy-Friedman proposed the amendment and Mr. Crumrine wrote it.

Reference was made to **Article 2. NOMINATION, ELECTIONS, QUALIFICATIONS AND REMOVAL OF OFFICERS; Section 2. Qualifications of Officers**. Mr. Crumrine read into the record the last paragraph of Article 2; Section 2 as follows:

*Commencing January 1, 1996, without counting terms held prior to that date in such office, no person shall be eligible to hold the same elective office in the City for more than three (3) consecutive four (4) year elective terms or fourteen (14) consecutive years whether elected or appointed. "Consecutive" shall include time out of office for less than sixty (60) days.*

Mr. Crumrine stated that the above paragraph would be deleted. When Mr. Wertheim asked how a proposed amendment would read, Mr. Crumrine stated that the language on the ballot would ask whether there should be a charter amendment to eliminate term limits for elective officers. Mr. Cicero stated that the proposed amendment would ask the question whether term limits for elective officers should be eliminated by deleting the last paragraph in **Article 2, Section 2** as follows... and the above paragraph would follow the question.

Mr. Wertheim asked Dr. Duffy-Friedman to review some of the comments made at the last meeting regarding this issue since not all members were present. Dr. Duffy-Friedman stated that she and Mr. Crumrine researched the topic and referred to a sixty-page document that was sent electronically to all Commission members. She noted that some of the articles focus on state and federal levels with nothing specific to local levels other than the *Sun Press* newspapers. There was an article referring to former Mayor Beryl Rothschild, who served over thirty years and believed to be the longest-serving Mayor in Cuyahoga County, and Adele Zucker who served on Council for over twenty years. Dr. Duffy-Friedman stated that the City currently has three terms which equal to a total of twelve years for both Council and the Mayor. The articles posed pros and cons to term limits. Dr. Duffy-Friedman noted that she is concerned about the undemocratic flavor that term limits create. Voters' choices become restrictive, and the candidate's ability to serve becomes restricted. Other concerns include the notion that term limits increase polarization of legislators; reduces the legislators' experience capacity and skills; increases influence of special interest and lobbyists groups (but this is not so much at the local level). Also concerns of reducing voter turnout were mentioned, reduced productivity. Among other ideas from the research include that the public is not best served by inexperienced members making choices with widespread lasting effects; leaders forfeit hard-earned experience. Dr. Duffy-Friedman mentioned her late husband, Jeffrey Friedman, who served over thirty years on City Council. Arguments for term limits include the idea that there is fresh blood and fresh ideas; people aren't beholden to old ways. The development of long-lasting relationships can be hampered with term limits; it increases diversity of gender and racial composition.

Mr. Cicero provided historical background of some cities and noted that it can take a couple of decades to develop cities, not just one or two terms. He stated that other than in our area, there are two cities that have term limits. Mr. Cicero described some of the politicking involved when some cities have a ballot issue geared toward removing an elected official in spite of the popularity since there can be powers either on Council or other subgroups within the community. Mr. Cicero stated that term limits affect long-term municipal planning because there is change. It enables a mayor and council to work on shared visions over a generation(s). It was pointed out that a ballot amendment affects both Mayor and Council, all elected officials.

Mr. Jackson asked about the amendment history. Mr. Wertheim stated that Council, with 2/3 vote can put an amendment on the Charter without the Charter Review Commission's input.

Mrs. Gould stated from a voter's point of view once someone is in office and wants to stay in, it doesn't appear that they won't be reelected unless another candidate is ten times better. She stated that in her opinion term limits allow people to focus more on the issues and not just being elected. It bothers her that someone would be in office for years and years coasting through. She noted that she is aware that there are some who devote their life to working in and for University Heights, but she is on the fence about having new people coming in with new ideas and new ways of doing things. She does recognize that with newly elected officials, things can be better. She mentioned what was frequently called the "Garbage Gazette", a newsletter that was delivered by the Service Department on trash day. She mentioned that it was something you could rely on to get interesting news about the city; all of a sudden someone changed it, and it was hard to make the adjustment of not receiving the info. While this is no big deal, Mrs. Gould pointed out that people complained because they didn't have email to access the new version, but once the change was made people were eventually accepting.

Mr. Farkas stated that term limits make sense at the federal level because politics is a much larger issue there and he sees the need for fresh voices; the state level is debatable he noted. At the local level, if the city is running well, Mr. Farkas sees no reason to interfere with it for some artificial term limit reason. He would be in favor of removing term limits.

Mr. Kretch clarified with Mr. Cicero that there are only two cities in the county that have term limits. Mr. Cicero stated yes that he is aware of on the east side. Mr. Cicero stated he believes this was put on the ballot previously in response to Cleveland Heights-University Heights closing the former Northwood Elementary School. The belief was that if there weren't two elementary schools in the City, people weren't going to start families here. Mr. Wertheim stated that closing the school changed the neighborhood and people did move.

Mr. Bobes agreed with the fresh blood/new thoughts idea. Mr. Bobes stated that statistically throughout the country most voting happens only in election years, not the off year. He believes by keeping the term limits, it ensures fresh thoughts and new ideas, not just a "check the boxes" as you go in for those that are already in office. He stated that things seem to be fine in University Heights, but he believes that elected officials would pay more attention to issues because they are running for office – not just sitting comfortably.

Commented [JD1]:

Mr. Wertheim noted that two four-years terms are for the House of Representatives, and two four-year terms for the State Senate, noting that twelve years is not a short period of time and there is some stability.

**Motion by Mr. Crumrine, second by Dr. Duffy-Friedman to adopt a proposed amendment eliminating term limits for elected officers by striking the last paragraph of Article Two (2), Section Two (2) of the Charter, which reads:**

*Commencing January 1, 1996, without counting terms held prior to that date in such office, no person shall be eligible to hold the same elective office in the City for more than three (3) consecutive four (4) year elective terms or fourteen (14) consecutive years whether elected or appointed. "Consecutive" shall include time out of office for less than sixty (60) days.*

**On roll call, the following voted "aye":**

**Mr. Wertheim  
Mr. Farkas  
Dr. Duffy-Friedman  
Mr. Crumrine  
Mr. Kretch  
Mr. Myrick  
Mr. Jackson**

**The following voted "nay"**

**Mr. Bobes  
Mrs. Gould  
Dr. Sloan**

**The motion passed with seven (7) ayes and three (3) nays.**

### **3. Review/vote on Law Director charter amendment**

Mr. Kretch stated that he and Mr. Myrick completed the cover sheet with reasoning for the proposed changes. The document was distributed to the Commission electronically. He also submitted a version of the Charter which did not translate as "redlined" when the Clerk received on Sunday. Mr. Kretch will redistribute the redlined copy next week so that Commission members can see the updates in context.

Mr. Crumrine referred to **Article Six (6), Section Two (2) of the Charter**. The new language would read:

*The Department of Law shall be directed by the Director of Law appointed by the Mayor, subject to the approval by a majority of the members of Council.*

Mr. Kretch stated that the Mayor and the Council receive advice from the City's Law Director and he believes that the Mayor should have a hand in selecting Counsel for the City and that should not be reserved to just one branch of city government. The Charter already states that the Mayor has appointing authority for all officers and employees of the city, except for the Director of Law. There are examples

in the County where law directors are appointed by the chief executive, subject to confirmation by Council.

Mr. Myrick stated that the Mayor should have the ability to appoint all the people that he/she will interact with daily, adding that the Mayor is more likely than Council to interact with the law department. In spite of the fact that he has lived in the city since 1983, he has only contacted Council maybe twice since. Mr. Myrick stated that after studying elections, he discovered that people are invested in the Mayor's race; while the Council races, there can be a 40% under vote even when there is only one candidate or there are four slots and only four candidates, there's always a lower percentage of voters. The Mayor is truly the City's representative functioning on a daily basis.

Dr. Duffy-Friedman asked Mr. Myrick if he examined the numbers of who voted for Mayor and who voted for Council and if he took under consideration that there had been a plunking with the vote sometimes. Mr. Myrick stated that plunking is often referred to as bullet voting. Mr. Myrick reported that even when there is only one person running for Mayor, the undervote was still lower than that for Council.

Mr. Farkas had concerns about making this change because the Law Director has a significant position. Mr. Farkas stated that in a city the size of University Heights, the Law Director can be very powerful and persuasive, and that is effectively the judiciary. Mr. Farkas expressed concern about making the single position too closely aligned with the executive branch – the Mayoral branch of the city. Mr. Farkas agrees with the discussion the Commissions has had regarding the Mayor being involved with the selection of the Law Director. The Mayor's voice is significant and should be taken into consideration, Mr. Farkas stated. He believes that because of the significance of the position, that it should stay in the hands of the seven-member Council as opposed to one person

Mr. Bobes agrees with Mr. Farkas, and stated he has worked with a significant public law practice and has worked with many law directors that were in his firm. He thinks it is very important to allow a check and balance. Mr. Bobes stated that Law Director has a very significant role and is a consigliere, and there should be some control over that.

Mr. Jackson clarified how the position is hired now. He stated that currently it appears that only one branch is having a say in the hiring of this position. He commented that by allowing the Mayor to appoint the Law Director, and Council approves, both branches are working together to support that position. Mr. Jackson mentioned that it makes sense when the position is working closely with both the Mayor and Council.

With reference to previous discussions concerning who runs Council meetings, Mr. Cicero referred to the Ohio Revised Code and noted that by state law, in a statutory village, the Mayor runs meetings. In the ORC Section 705.56 it says that the Council shall appoint a clerk, a treasurer and an auditor. If Council was created within a city, the council shall also appoint a Director of Law. Mr. Cicero stated that he is noticing things that sneak in from the ORC into the Charter, and other things that have been changed. He commented that the proposal is customary across the region; the Mayor appoints and the Council must confirm even in cities modeled after the City of Cleveland where at one time the Mayor could appoint all without consent of Council. Mr. Cicero stated that the position works closely with the Mayor and department heads and fields calls from Council; the position is similar to a conseiller. Mr. Cicero stated that either way the Commission decides to vote, an executive person is needed to appoint and the Council has to approve.

Mr. Crumrine commented on the text stating that the part about serving at the pleasure of Council was eliminated; his suggestions is to keep that in and make **it serve at the pleasure of the Mayor** just so it is clear that there is the authority to remove, rather than at the pleasure of Council as it is written now. Mr. Kretch appreciated the feedback and noted that the language in Cleveland Heights is very explicit that the Mayor has the authority to remove.

Mr. Wertheim asked Mr. Cicero what percentage of time on average do most law directors focus on Council issues versus the day-to-day running of the city. Mr. Cicero stated that it depends on the municipality. He stated that University Heights is probably 60/40, and that Council members are active. There are a lot of questions whether it is phone calls, email, text; and there is a lot of legislation. Then there are day-to-day matters with the Mayor and department heads that come up. Mr. Cicero explained that the larger the community there is generally more work.

Mr. Kretch mentioned that his experience as Law Director for the County includes over 75% of his time spent counseling the executive and the executive departments and agencies.

Mr. Wertheim asked if a council member could say to a law director not to give advice to the Mayor? Mr. Cicero stated that is contrary to Ohio law and the duties of a law director, contrary to other portions of the Charter and contrary to the rules of professional conduct that govern Ohio attorneys. Mr. Cicero agreed with Mr. Wertheim's comment that the Law Director in University Heights has not been politicized.

Chairman Wertheim asked if Council could go to a two thirds (2/3) vote in an effort to give Council more control; could Council go to a two-thirds vote and say the Law Director must be removed but by a two-thirds vote. Mr. Cicero stated yes.

Mr. Wertheim asked if Council could have a no-confidence vote regarding the Law Director, and would it mean anything. If two-thirds of Council is unhappy with the Law Director, does that mean the Law Director is no longer the Law Director? Mr. Cicero stated that the current ordinance specifies the position is reappointed every two years.

Mr. Cicero noted that the Mayor appoints all other department heads, but all of those that the Mayor appoints have to be funded by an ordinance of Council by a simple majority so there are still checks and balances

Dr. Duffy-Friedman asked how the Law Director is removed and if he/she can be removed prior to the two-year period established currently, what the process is and who initiates same. Mr. Cicero stated that historically a Law Director changes when the mayor changes. Mr. Wertheim clarified with Mr. Cicero that the Law Director's position comes before Council every two years, and that Council has to vote by a majority whether to keep he/him or not. Mrs. Gould asked what happens if Council decides not to keep the Law Director. Mr. Cicero stated that under the current Charter, Council would advertise the position vacancy.

Mr. Myrick reported that in the following communities, the Law Director reports to the Mayor: Garfield Heights, Highland Hills, Parma Heights, Richmond Heights, Shaker Heights, South Euclid, and Warrensville Heights.

Mr. Farkas stated that he would rather keep the practice of the City Council having the responsibility as opposed to having it transfer to the Mayor, and then leaving the Council to have the unpleasant task of refusing to fund the Mayor's choice.

Mr. Kretch noted that if this proposal is passed and implemented, it wouldn't prevent the Mayor to converse with Council ahead of time about possible candidates. He added that if government is a balance of power, this proposal gets closer to that balance as opposed to what is currently in the Charter.

Mr. Myrick stated that the size of the city does not affect who the law director reports to, and that in Chevroit, a city half the size of University Heights, the law director is elected.

It was agreed to defer voting on the Law Director issue until the next meeting.

The draft of a proposed amendment of how often the Charter \Commission was prepared by the Law Department was briefly discussed. It was agreed to postpone action on same until the next meeting.

#### **5. Charter Amendments to be reviewed February 7, 2023**

It was mentioned that a two-thirds affirmative vote is needed to extend deliberations of the Charter Review Commission beyond March.

Mr. Wertheim suggested that at the February 7 meeting, the Commission can discuss the hybrid council. Dr. Sloan will be prepared to discuss same, adding that the attorneys on the Commission could help with the language in the proposed amendment. Ranked voting would be appropriate to discuss with hybrid Council.

The Charter Review proposal amendment dealing with the timetable for the CRC to meet can be discussed at the next meeting.

The Law Director issue can be voted on at the February 7 meeting.

The meeting on February 28 will deal with Citizen's Referendum, Initiatives and Petitions. The recall issue will also be considered,

#### **6. Other Business**

On March 14, the Commission can consider the concept of the Council Vice Mayor becoming President, and separation of the legislative and executive powers.

Ranked voting was mentioned, and Mr. Wertheim asked if it was legal in Ohio. Mr. Cicero stated that since University Heights is a charter municipality, it can do what it likes.

Regarding the Chief Information Officer position previously discussed by Mr. Myrick, Mr. Myrick noted that this can be done by ordinance.

It was mentioned that issues that haven't been covered yet are the Planning Commission, the Board of Zoning Appeals and the Civil Service Commission,

Chairman Wertheim urged the Commission to review items and to advise him or Jeune to add to the agenda for March meeting.

## **7. Audience Participation**

Mayor Michael Brennan referred to his August 23, 2022 presentation to the Commission. He stated that the single most important change that could come from the charter review is allowing both the executive and legislative branch to have shared authority regarding the appointment of the Law Director. Mayor Brennan agreed that the Mayor should not pick anyone he/she wants without review. Currently, the Council picks the Law Director without input from the Mayor.

Rank voting is something that wasn't addressed in the Mayor's August presentation. Mayor Brennan stated that he looks forward to the discussion, adding that it could have a place here, especially in the Mayor's race. He mentioned that the concept has worked in other parts of the country and it eliminates having to hold a run-off election, and residents will not have trek to the polls twice. In addition, there would not be an additional expense.

Vice Mayor Michele Weiss mentioned that the reason Council members are so emphatic about keeping the Law Director arrangement the same is that in a previous administration, there was a law director who was fired by Council because of doing something illegal in favor of the then-Mayor. Mrs. Weiss stated that this something the Commission needs to consider.

A motion was made and second to adjourn the meeting.

There being no further business to consider, the meeting adjourned at 8:35 p.m.

Submitted by,

Jeune Drayton, Assistant  
Clerk of Council

Steve Wertheim, Chair  
Charter Review Commission