

**MINUTES OF CHARTER REVIEW COMMISSION
CITY OF UNIVERSITY HEIGHTS, OHIO**

TUESDAY, MARCH 14, 2023

Approved 3-28-23

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The 2022-2023 Charter Review Commission met on Tuesday, March 14, 2023 at the Wiley Building, 2181 Miramar Boulevard, University Heights, Ohio.

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

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

I. Call to Order

Chairman Wertheim called the meeting to order at 7:05 p.m. It was noted that Mr. Bobes may attend tonight's meeting via Zoom.

2. Review Minutes of February 28, 2023

Dr. Sloan noted that she voted "yes" on the Rank Order Charter Amendment, not "no" as reflected in the February 28, 2023 minutes (Page 3). Mr. Wertheim noted that on Page 4, last sentence, it wasn't noted that Mr. Farkas made the motion to adjourn with a second by Mr. Myrick. Also on Page 3, the entire section which begins with "A straw vote..." should be deleted. There were no objections to same.

Motion by Mr. Myrick, second by Mr. Kretch, to approve the amended minutes. On roll call, all voted "aye".

3. Meeting Calendar

It was agreed to schedule the next two meetings of the Commission for April 4 and April 18, 2023.

Motion by Dr. Duffy-Friedman, second by Mrs. Gould, to approve the next two meeting dates for the Commission as April 4 and April 18, 2023. On roll call, all voted "aye".

4. Recall Amendment

Mr. Wertheim noted that this is the second reading of this proposed amendment.

Mr. Crumrine noted that Mr. Cicero provided a comprehensive review of this at the last meeting. Mr. Crumrine pointed out the following rationale for supporting the proposed amendment. Mr. Crumrine stated that this proposal is to replace the current recall procedure with the main goal – at the end of the recall process – is to result in a vacancy for the office, rather than throw the recalled official back into a new election. At that point the vacancy procedures in the other section of the Charter would apply.

Mr. Kretch noted that if this passes and Council certifies it to be on a ballot and was then approved by the voters, there would be inconsistencies in the Charter if nothing is done with Sections 1 and 2 regarding Initiative and Referendum, the current language regarding registered electors of the City will remain. Some percentage of the voters who voted in the last regular municipal election whereas; if nothing is done with Sections 1 and 2 regarding Initiative and Referendum, the current language regarding registered electors of the City will remain; there would be a difference in the Charter. With respect to the population of voters, whether it is those who voted in the last election or the total number of electors in the City, this would be at odds with Sections 1 and 2 of this Article.

Mr. Crumrine stated that this can be amended to ensure consistency with other proposals, but increase the percentage. Mr. Cicero noted that the Charter is already inconsistent because Article 2, Nominations and Elections, refers to a percentage of those who voted at the last regular municipal election. Mr. Wertheim asked if this level of difficulty to remove someone from office should be maintained or should it be easier.

Ms. Marshall recalled discussions at the last meeting regarding re-wording this section because the person being recalled could be re-elected at the same time. Mr. Cicero stated that the current form of the Charter permits the person being recalled to be re-elected to replace themselves. The proposed amendment would stop that, but it doesn't stop the potentially recalled person from running at the next election.

Mrs. Gould asked about what is defined as a resident. Mr. Wertheim stated that according to the Charter, in order to run for election, a resident is someone who has lived in the City for at least a year. Mr. Cicero referred to Article 2, Section 2 and stated that a resident must have resided in the City continuously not less than one year preceding the proposed election.

In response to a question by Mr. Kretch, Mr. Cicero did not recall language in this proposed amendment that disqualifies the person from being reappointed.

It was noted that one can be recalled and running for election at the same time. One can be recalled successfully in the same election and win in that same election, if it is not a special election. Mr. Cicero explained that the person is being recalled for the remainder of the term.

With reference to percentage of petition signatures needed, Mr. Crumrine stated that the proposal inadvertently increases the required number required for a recall.

Mr. Crumrine would like to amend the proposal to state that **recall petitions must be signed by at least 25% of the total number of voters casting ballots at the last preceding general municipal election.** Mr. Crumrine noted that the current recall is 25% of the total number of voters casting ballots at the last preceding general municipal election, which would be 836 votes. It was reiterated that the number

would be based on **ballots cast, not registered voters.**

Article 4, Section 3, to read: Recall petitions must be signed by at least 25% of the total number of voters casting ballots at the last preceding general municipal election.

Motion by Mr. Crumrine, second by Mr. Myrick, to approve the proposed amendment replacing provisions of the Charter regarding Recall Elections with provisions that are substantially in the form of the National Civic League's Model City Charter. The votes on the motion were as follow:

**Ayes: Mr. Wertheim, Mr. Crumrine; Dr. Duffy-Freidman, Mrs. Gould,
Mr. Jackson, Mr. Kretch, Ms. Marshall, Mr. Myrick, and Dr. Sloan**

Nay: Mr. Farkas

Nine (9) ayes and one (1) nay.

5. Initiative/Referendum Amendment

Chairman Wertheim noted that the first reading on this item proposed by Mr. Crumrine was at the February 28, 2023 meeting.

Mr. Crumrine stated that this would reduce the number of petitions required for an Initiative and Referendum. The numbers, percentage of votes needed were discussed and whether or not the numbers are determined by votes cast at the last election or registered voters for an Initiative/Referendum.

Chairman Wertheim clarified with Mr. Crumrine the following: an Initiative is a resolution or ordinance proposed by the petitioners. A Referendum would be if Council passed something and the voters want to reject same. As proposed, initially there needs to be ten percent (10%); citizens would have to get a petition with at least 335 ballots (10%) of the people who voted in the last election. Next, if it gets rejected, 20% is needed.

Mr. Cicero noted that what is being proposed is that in order for a group of citizens to propose an ordinance or resolution for Council to consider, 335 signed petitions (10%) are needed. Whether it is an initiative to have a new ordinance passed without Council involvement or to repeal something that Council has passed, you need 20% of the voters in the last election. If you get to 25%, a Special Election must be held within sixty days; and this applies to both an Initiative and a Referendum. Mr. Cicero mentioned that most of the Initiatives he has seen involve zoning matters.

Mr. Wertheim reiterated that for a Referendum, 20% to get in front of Council to go to the voters. Mr. Cicero offered the following explanation. On an Initiative, to enact some proposed ordinance, you need 10% to get to Council. Council can either consider or say no. On an Initiative, if it gets to 20%, then it goes to the vote of the people. If at 25%, it goes to the vote of the people within 60 days. On a Referendum to repeal an existing ordinance or resolution, 20% is needed of the voters who voted in the last general election to get to the ballot to repeal ordinances, and 25% to get a Special Election expedited.

Mr. Kretch expressed concern about the time frames for the process and discussion ensued regarding same including the task of obtaining required signatures and community commitment of those petitioning. Mr. Cicero noted that if this proposed amendment is approved, the Charter will be consistent

throughout with using the formula of those who cast ballots at the last election. He noted that special elections are paid for by the municipality.

Motion by Mr. Crumrine, second by Mr. Myrick, regarding Article 4 of the Charter, to adopt the amendment changing the number of signatures required on petitions for Initiative and Referendum; and to change from a percentage of registered voters of the City to a percentage of the total ballots cast in the last regular municipal election and to amend the percentage of those required petition signatures. On roll call, the votes were:

**Ayes: Mr. Wertheim, Mr. Crumrine; Dr. Duffy-Freiman, Mrs. Gould,
Mr. Jackson, Mr. Kretch, Ms. Marshall, Mr. Myrick, and Dr. Sloan**
Nay: Mr. Farkas

Nine (9) ayes and one (1) nay.

6. Separation of Powers Proposed Amendment

Mr. Kretch recalled that the Commission previously discussed this issue. Under the Charter, the Mayor is required to conduct the meetings, but the meetings are the legislative business of Council, a separate but co-equal branch of our City government. The proposed amendment models Cleveland Heights. Mr. Kretch stated that Council should have direction over its meetings. The Mayor could submit ordinances and participate, but would not have the responsibility of running the meeting. Mr. Cicero stated that in Article 3, Council, Section 4, General Powers and Duties, Section 4 B, two words should be inserted and read in part: *The Mayor and Directors...* at the beginning of the sentence following the strike outs. Mr. Cicero noted that by removing the first sentence of that section (the strike out) the Mayor has no right to be at Council meetings and he does. Mr. Kretch stated that he concurs with Mr. Cicero's advice. The title Vice Mayor would remain.

Mr. Farkas recalled that Council was not opposed to this proposal. He noted that there is a lot of work involved in preparing for Council meetings, and a provision should be made to raise the salary to compensate. It was stated that could be done by ordinance. Mr. Cicero noted that the duties would fall upon the Vice Mayor, and that there would be collaboration between the administration, the Vice Mayor and with the Clerk/Assistant Clerk of Council. Mr. Cicero stated that Council cannot give themselves raises while in office; it is unconstitutional. The consensus was that this issue of compensation could not be in the amendment.

Dr. Duffy-Friedman believes there should be a stipend for the additional work the Vice Mayor would inherit and asked if it would be appropriate to include in the minutes if this proposal is passed. Mr. Wertheim stated that could go in the final report. While this can't be in the amendment, Mr. Farkas suggested that a recommendation be made that the Vice Mayor's compensation should be adjusted accordingly.

Chairman Wertheim stated that this issue can be voted on at the next meeting, March 28, 2023.

On another matter in response to Mrs. Gould's question about timelines, Mr. Wertheim stated a report has to be made to Council. Once the final report is done, there has to be a public meeting where the community can respond. Mr. Wertheim suggested that those who submitted amendments summarize same. He suggested that everyone be a part of the reporting. Mr. Wertheim recommended that this

process be discussed at the next meeting.

Mr. Cicero noted that the deadline for filing Charter amendments to the county is September 8, 2023

7. Review Article 7 of the Charter (Commissions and Boards)

Mr. Wertheim mentioned that the City Planning Commission process seems long and sometimes subjective. Changes to the City Planning Commission would have to be done by ordinance. Planning Commission decisions are reviewed by Council.

Mr. Wertheim referred to the Civil Service Commission and noted that there is a reference to political party requirements of serving on the Commission; Article 1, Section 3. Reference was also made to sex requirements. The fact that the term “moral character” was referred to and discussed; concern about what actually constituted same. Ms. Marshall suggested that the word “ethics” could be used. Mr. Wertheim expressed concern about how this could be interpreted and possibly used against the City.

Mr. Myrick did a side-by-side comparison of Article 7, which he will get to Jeune for distribution to the Commission.

8. Other Business

Dr. Duffy-Friedman asked about the Clerk of Council reference, and wondered what the exact issues were and what the Commission needed to address. There had been discussion about who the Clerk should report to, the Mayor or Council. It was agreed to follow-up on this issue.

Mrs. Gould asked about the Commissioners and Boards and wondered what their issues are relating to the Charter. Mr. Wertheim stated that we did not and asked Mrs. Gould if she wanted to hear from them. Mr. Cicero stated that the Planning Commission and the Board of Zoning Appeals are almost entirely by ordinances.

9. Audience Participation

Mayor Brennan referred to his August comments to the Commission regarding the Board of Zoning Appeals and the Planning Commission possibly consolidating. The Mayor reported that at the time, comprehensive zoning code review, was being undertaken and is ongoing. Mayor Brennan stated that based upon his work with consultants, he does not believe that there will be a recommendation to consolidate the two into one entity; hence, those items are taken off the table as anything he would be concerned with.

10. Adjournment

Motion by Mr. Myrick, second by Mr. Jackson, to adjourn the meeting. On roll call, all voted “aye”. The meeting adjourned at 8:42 p.m.

