

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

Approved May 8, 2023

TUESDAY, MAY 2, 2023

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The meeting of the 2022-2023 Charter Review Commission met on Tuesday, May 2, 2023 at the Wiley Building, 2181 Miramar Boulevard, University Heights, Ohio.

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

Also Present: Mayor Michael Brennan (arrived late)  
                  Vice Mayor Michele Weiss  
                  Councilwoman Sheri Sax  
                  Assistant Law Director Michael Cicero  
                  Assistant Clerk of Council Jeune Drayton  
                  Mr. Shawn Belt, resident  
                  Councilman Chris Cooney was on Zoom

**I.       Call to Order**

Chairman Wertheim called the meeting to order at 7:02 p.m.

Mrs. Gould was absent due to the passing of her husband. Mr. Tyler Bobes was absent.

**2.       Review Minutes of April 18, 2023**

Mr. Wertheim referred to the vote on the anti-discrimination proposed amendment and stated that he didn't think the vote was unanimous. There was some discussion regarding same. Mr. Farkas stated that he abstained on the amendment. Mr. Wertheim stated that there was at least one abstention on the vote, maybe two. He stated that the vote was seven ayes and one abstention. Mr. Wertheim stated that it needs to be right. Mrs. Drayton stated that she would review the audio from the April 18, 2023 meeting for clarification.

**Motion by Mr. Myrick, second by Mr. Kretch, to accept the minutes with the proposed change. Mr. Crumrine abstained since he was not present at the meeting; all others voted "aye.**

**3.       Approve the final report**

Mr. Wertheim noted the following proposed amendments to the Charter as follow:

- 1.       Gender Neutrality**
- 2.       Eliminating Term Limits**
- 3.       Law Director Appointment**

4. **Decennial Charter Review**
5. **Department Name Modernization**
6. **Ranked Choice Voting**
7. **Recall Elections**
8. **Initiative and Referendum**
9. **Presiding Officer at Council Meetings**
10. **Anti-Discrimination**

Mr. Wertheim stated that each person responsible for a proposed amendment will discuss the rationale behind same. He noted that comments from the audience are permitted. The Public Hearing began.

It was noted that the Commission has been meeting for about ten months with two meetings each month; the meetings were open to the public, and were publicized the traditional way that meetings are in the City of University Heights. This has been an open process.

Mr. Wertheim discussed the **Gender Neutrality** proposed amendment. The goal of this amendment is to make sure the entire charter is gender neutral. This is to replace gendered terms and language throughout the Charter. It was noted that this is only the fourth time since 1940 that the Charter Review Commission has met, and that things become outdated.

Councilwoman Sax commended the Commission for its hard work. She stated that while she hasn't read this very closely, she believes the gender neutrality amendment makes sense in today's world. She noted that avoiding pronouns and referring to departments - Council, Mayor, etc., instead makes sense, Mrs. Sax shared the view of a transgender friend and noted that the person mentioned that someone is always going to be offended regarding pronouns over substantial issues and mentioned that a disclaimer could be added.

Mr. Wertheim stated that the Commission's goal was to take all pronouns out since the Charter is an older document with reference to he/she and this Charter will have to stand for a time.

Dr. Duffy-Friedman discussed the **Eliminating Term Limits** proposed amendment. She stated that the Commission is recommending eliminating term limits for officers of University Heights. The current Charter requires that officials serve no more than three consecutive four-year terms. She stated that prior to November of 1995, term limits were not mentioned in the Charter but it was decided to incorporate limits into the Charter at that 1995 election. She noted that several resources were reviewed and it was found that the model city charter developed by the National Civic League recommended not restricting consecutive terms. Factors considered were that polarization can sometimes occur, influence of special interests can be at play and sometimes reduced voter turnout and productivity. Dr. Duffy-Friedman stated that term limits are undemocratic, restrict voter choice by barring candidates from the ballot, and that voters should be able to vote freely to keep strong elected officials or remove ineffective ones. Experienced elected officials can have historical insights and legislative expertise which can benefit the city in ongoing positive ways. Voters should have the choice to keep elected officials whom they want to represent them.

Councilwoman Sax read an email she received from resident, Rebecca Postupack-Silfer, regarding this matter, which follows:

**From: Rebecca Postupack-Slifer <[rpslifer@me.com](mailto:rpslifer@me.com)>**

**Sent: Tuesday, May 2, 2023 1:49 PM**

**To: John Rach; Michele Weiss; Sheri Sax; Brian King; Barbara Blankfeld; Christopher Cooney; Kelly Thomas**

**Subject: Charter review meeting minutes event tonight**

***Hello Council -***

***I am not sure that I can attend the charter review meeting session tonight. I did want to get the following into the record/discussion:***

***I've read through the notes, and I would ask that if you make any changes to term limits you would consider the following:***

- ***Mayors are limited to two four-year terms. and if there is a mayor who wants to be able to run for a third time, the incumbent mayor can petition for the job by getting 40% of signatures of registered voters***
- ***Council is limited to two six-year terms, and if there is a council-person who wants to be able to run for a third time, the incumbent person can petition for the job by getting 20% of signatures of registered voters***

***It seems like three terms is too long when the job of mayor has enough benefits that it is attractive to have enough several candidates to run for the seat.***

***Can someone please forward this to Stephen Wertheimer?***

***Thank you!***

***Rebecca***

Mr. Wertheim stated that the percentage of persons voting in the last elections has to be used, not the percentage of registered voters.

Regarding the issue of eliminating term limits, Mr. Wertheim stated that people are able to build up expertise running a government whether it is state or local, and by the time someone has mastered it, they're off running for something else if there are term limits. He noted that the involvement of lobbyists and special interests' groups are much less without term limits.

The proposed amendment, **Law Director Appointment**, was discussed by Mr. Kretch. Mr. Kretch stated that the amendment is incomplete and referred to Article 5, Section 4, regarding the Mayor's appointments. Mr. Cicero offered the following language for Article 5, Section 4 (C): **the proposed Charter amendment should also have a second change to Article 5, Section 4 (C) as follows: the Mayor shall appoint all officers and employees of the City except members, officers and employees of the Council, Judges, Clerk of Council and their assistants. The Director of Law shall be appointed as provided in Article Six, Section 2.**

Mr. Kretch provided background regarding this proposed amendment, stating that the Commission is recommending changing the format by which the Law Director is appointed. The Charter specifies that the Law Director is appointed by the Council, serving at its pleasure. A review of Cleveland Heights and Cuyahoga County revealed that the directors of law in those jurisdictions are appointed by the chief executive, subject to approval by the legislative body. Mr. Kretch feels that is an appropriate way to strike a balance between the interests of the legislative and executive branch to ensure that each

have a role in selecting the Law Director. He noted that the Commission had discussed the fact that both the Mayor and Council regularly receive legal advice from the law director; each should have a say.

The following motion to amend the proposed amendment was made:

**Motion by Mr. Kretch, second by Mr. Myrick, to further amend proposed Amendment 3, Law Director Appointment, to add an amendment to Article Five, Section 4 (C). The first sentence of the last paragraph which is proposed to read: the Mayor shall appoint all officers and employees of the City, except members, officers and employees of the Council, Judges, Clerk of Council and their assistants. The Director of Law shall be appointed as provided in Article Six, Section Two. of this Charter.**

**On roll call, the following voted “aye”: Mr. Wertheim, Mr. Crumrine, Dr. Duffy-Friedman, Mr. Jackson, Mr. Kretch, Ms. Marshall, Mr. Myrick, and Dr. Sloan**

**Mr. Farkas voted “no”. Eight (8) ayes; One (1) No. Motion passes.**

Mr. Farkas noted for the record that he was not present at the meeting when this initial amendment was voted on. He stated that he would have opposed it because he was not present then. He stated that his vote in opposition tonight was not for the amendment to the amendment per se; it was for the total amendment.

Mr. Cicero stated that the voting needs to be changed to show another line item that was amended tonight.

The **Decennial Charter Review** proposed amendment was discussed by Mr. Wertheim. Mr. Wertheim explained that there have only been three Charter reviews since 1941, 2008, 2009 and now. This proposed amendment recommends that a review be done every ten (10) years with seven members appointed by Council, and three members appointed by the Mayor to the Charter Review Commission. A periodic comprehensive review is necessary to modernize and improve the organization, powers and functions and procedures to better serve the residents. Mr. Wertheim noted that there is no guarantee what the Council will be and to what extent the changes that are taking place in the community are going to be. It is recommended that the Council put together a Charter Review Commission every ten years to review the Charter.

The **Department Name Modernization** proposed amendment was discussed by Mr. Wertheim. This proposed amendment is to update the names of the administrative officers and departments to be consistent with what these departments are currently called, and to prohibit Council from eliminating the Division of Public Safety and the Service Department. Mr. Wertheim stated that there will be a Law Department, a Finance Department, Public Safety Division, and a Service Department. He noted that with the exception of law, finance and public safety, the Council may combine or abolish existing departments and divisions as it may deem necessary, and may authorize one person to be the head of one or two or more departments/divisions.

Mr. Cicero noted that by not being able to eliminate the Public Safety division, it ensures that University Heights will always have a police department and a fire department of its own, rather than joint police and joint fire departments. This is Home Rule and provides local public safety.

The proposed amendment **Ranked Choice Voting** was discussed by Mr. Crumrine. He explained that this is an electoral system that allows voters to rank candidates on the ballot in order of their preference; this applies to the election of both Mayor and members of Council. This proposal is aimed at improving the democratic process and encouraging more civic participation in the community. Mr. Crumrine explained that the mayoral races would function basically as an instant runoff when no mayoral candidate receives a majority of the vote. In the Council races, this would be a process that is better able to handle a large field of candidates without distorting voter preference. This addresses vote splitting, spoiler candidates, and wasted votes and strategic voting.

Mr. Wertheim noted that he likes this proposal. He noted that in communities that have implemented ranked choice voting, there is more voter participation; it is less about partisanship. It is more about people voting for the candidate they like or who is believed to do the best job.

**The Recall Elections proposed amendment** was discussed by Mr. Crumrine. He stated that the current recall provision creates a special election where the officer who is subject to a recall petition is placed back on the ballot along with any other qualified candidates nominated. If there are no other candidates nominated, the recalled officer would retain their seat. If there is a large field of candidates, it is more likely the recall official will retain their seat because the other candidates will split votes.

This proposed amendment, modeled after the National Civic Leagues' Model City Charter, would create an actual recall process that would create a vacancy of the seat or office held by the recalled official. The voters would have the question on the ballot, of should the officer be recalled. If they are voted out through that recall process that results in a vacancy which would be filled according to the vacancy provision of the Charter.

Vice Mayor Weiss was recognized. She stated that it needs to be said that the current thirty (30) day rule is not legal at this time based on the State of Ohio; absentee ballots are not able to be counted, so somehow that point needs to be integrated, specifically the recall.

Mr. Cicero referred to the last Commission meeting wherein he discussed a case from 1995, in which the Ohio Supreme Court indicated that several sections of the Ohio Constitution need to be read together (*pari materia*). Charter provisions that establish a number of ballot or petition signatures necessary based on the number of registered voters is not fair, rather it should be the percentage of people who voted at a last election, whether it be gubernatorial presidential or municipal. It was noted that the Supreme Court noted that every day voter rolls change, but it is known the percentage of votes from the last election. The Commission has the provision where it indicates the recall election shall be held not less than sixty (60) days and not more than ninety (90) days, because it was thirty (30) days in the old provision. Assistant Law Director Cicero assured Vice Mayor Weiss that the matter has been changed.

Councilman Cooney was recognized via Zoom and asked if someone could provide more information as to what is not currently working and what this (proposed amendment) hopes to take care of things moving forward,

Mr. Crumrine stated that this is a system more reflective of the electorate and voter preferences. Mr. Cicero state that this is a methodology to guarantee that a candidate will obtain office with fifty percent plus one (50% +1) of the vote rather than a plurality without the need for a runoff election. There is one ballot and one vote. Mr. Cicero mentioned that Cuyahoga County is set up to handle ranked choice

voting now

Mr. Wertheim mentioned an article on Cleveland.com which discussed issues of getting more voter participation, and ranked choice voting was suggested as giving people the chance to feel that their vote actually counts.

Councilman Cooney stated that references are made in the report to a national level, which is very different from a local level. He suggested that election issues from local references be made as opposed to national elections. Mr. Wertheim noted that he believes this is being implemented in localities as well.

Discussion ensued with Mr. Myrick and Mr. Cooney and Commission members. Mr. Cicero also noted that under-voting could also occur with ranked choice voting. Mr. Cooney reiterated that he believes there should be more concentration on local communities as opposed to national. Mr. Kretch noted that candidates have to work hard to appeal to more people. Mr. Jackson stated that he believes ranked choice voting is the best way to see in totality what a community prefers especially when there is a plurality that is not a consensus. When you look at everyone's second or third place votes in the ranked choice, it really comes to a more decisive and fair conclusion as to what the community prefers.

The proposed amendment **Initiative and Referendum** was discussed. Mr. Cicero stated that this is a necessary legal change. Mr. Crumrine noted that he was not at the last meeting and that he will clarify that the amendments are reflected in the proposal.

Mr. Cicero stated that it is not just the Ohio Supreme Court decision that has to be considered but the logistics with the Board of Elections, the timeframes set forth in the initiative and referendum. The Board cannot comply because of the use of absentee voting/mail.

Mr. Crumrine stated that the proposed amendment would decrease the number of signatures required on petitions for initiative and referendum. These provisions are rarely used here because the signature requirements are prohibitively burdensome. This amendment is aimed at giving greater voice to residents and more direct democracy. It was noted that the minimum number of signatures for referendum and initiative is being changed and that these changes will comply with the regulations of the Board of Elections and the ruling by the Ohio Supreme Court.

The **Presiding Officer at Council Meetings** proposed amendment was discussed by Mr. Kretch. The Charter currently requires that the Mayor preside at all Council meetings. This proposed amendment would preserve the Mayor's ability to be present at the Council meetings and to make any necessary reports. The current format invites tension between two equal branches of city government. Mr. Kretch noted that this format is not seen at the federal level and not even at the state level in Ohio. It is felt that the Council meetings should be run by Council

The **Anti-discrimination** proposed amendment was discussed by Mr. Wertheim. He explained that a Section 12 was added to **Article 8. MISCELANEOUS PROVISIONS** which basically prohibits discrimination by the city and is as follows:

**Section 12. The City shall not discriminate on the basis of race, color, national origin, religion, age, disability, marital or partnership status, sex, sexual orientation, gender identity, gender expression, genetic information, pregnancy, citizenship status, caste, tribal affiliation or any other classification protected by applicable federal, state, or local law unless reasonably necessary to normal operations and having**

**a substantial relationship to job function and responsibility.**

Mr. Wertheim stated that as a community we are becoming more diverse and what was diversity years ago is not the same; there are changes with people not part of the Judeo Christian backgrounds; we are seeing people with different gender identities as was mentioned, and putting these descriptions in the Charter makes it completely clear that the City cannot discriminate on the basis of what is mentioned above in **Section 12 of Article 8**.

Mr. Wertheim mentioned that there was a very close vote on the hybrid issue. He thought because the vote was so close it was important to bring before the public the issue we were dealing with. Dr. Sloan stated that she is not prepared to discuss this because it was decided not to bring it up; there were some differences of opinion about same. The proposed amendment is in the packet, but not discussed further this evening, Mr. Wertheim apologized for the mix-up.

**Next Steps**

Mr. Cicero discussed timelines. He recommended that the Final Report be submitted to the Clerk of Council, not later than May 31, 2023.

The Commission can present to the Council on June 5, 2023, and then Council can consider and vote on the proposed amendments at the June 20, 2023 Council meeting. Vice Mayor Weiss agreed to the schedule.

There are changes needed to be made to the report that will have to be voted on by the Commission.

It was agreed that the Commission will meet next Monday, May 8, 2023.

(Mayor Brennan arrived at this point)

Vice Mayor Weiss stated that there will be a Council of the Whole meeting, but that will meet at the annex rather than here at Wiley.

Mr. Rick Brown will be listed in the final report.

**Audience Participation**

Mr. Shawn Belt, a Canterbury resident, was recognized and referred to language in the Charter which was addressed by Mr. Cicero. It was noted that **Article Six (6) Section 2**, needs to say “the Director of Law shall be in charge of the Department of Law.” **The words “appointed by the Council to serve at the pleasure thereof” should be removed.**

Mr. Belt thanked the Commission for their time and expertise and willingness to do this.

Motion by Mr. Myrick, second by Mr. Farkas to adjourn the meeting. All voted “aye”.

The meeting adjourned at 8:28 pm.

Submitted by,

Jeune Drayton

Stephen Wertheim, Chair

Asst. Clerk of Council

Charter Review Commission