

DRAFT
CITY OF UNIVERSITY HEIGHTS, OHIO
COUNCIL COMMITTEE OF THE WHOLE
October 18, 2023

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The Council Committee of the Whole met on October 18, 2023 at Wiley Middle School, 2181 Miramar Boulevard, University Heights. Ohio.

Present: Vice Mayor Michele Weiss
Councilwoman Sheri Sax
Councilman Christopher Cooney
Councilman Brian King
Councilwoman Threse Marshall (via Zoom)
Councilman John Rach
Councilwoman Win Weizer
Clerk of Council Kelly Thomas

Guests: Anthony W. Perlatti, Director of the Cuyahoga County Board of Elections
Brent E. Lawler, Manager, Candidate and Petition Services, Cuyahoga County Board of Elections.

Vice Mayor Michele Weiss called the meeting to order at 6:00 p.m. and turned the meeting over to Councilwoman Sheri Sax. Mrs. Sax thanked Vice Mayor Weiss for agreeing to today's agenda and presentation.

AGENDA

1. Discussion of Rank Choice and Other Voting Methods, Presented by the Cuyahoga Board of Elections

Mrs. Sax explained that on June 20, 2023, the University Heights Charter Review Commission submitted ten proposed charter amendments to Council to place on the November 2023 ballot. She stated that the Rank Choice Voting (RCV) amendment failed primarily because due diligence presented was incomplete to make a fully informed decision. Mrs. Sax noted that this was important to the Commission and to some University Heights residents who have also expressed the desire to achieve several well-intended objectives including:

1. More than 50% Mayoral election
2. Remedy under-voting
3. Increase representation

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After the June 20 meeting, Mrs. Sax invited the two members of Council who voted for RCV to join Cuyahoga County Board of Elections Director Anthony Perlatti and Brent Lawler, Manager of Candidate and Petition Services, to discuss rank choice voting and alternate forms of voting methods compared to what University Heights is currently using; and to understand the implementation capacity and readiness regarding new voting machines. Councilwoman Marshall was also part of the Zoom discussion held. Mr. Perlatti and Mr. Lawler are here tonight as valued stakeholders in this important process. Mrs. Sax read the extensive bios of both and then introduced the representatives for the presentation.

Mr. Perlatti expressed thanks for the invitation to discuss voting, and shared a power point presentation.

Mr. Perlatti stated that the goal is to make sure voters know what they need to become successful voters; help candidates know what they need to do, and as administrators of municipalities – making sure information is provided to assist them to do the best job possible. Mr. Perlatti stated that they would like to discuss the different styles of elections currently conducted in Cuyahoga County. He noted that there is a big interest in Rank Choice Voting, and acknowledged that they do not know a lot about it because no one in the State of Ohio does it. He pointed out that just because it is not being done that does not mean that they (the Board of Elections) are not for it. Mr. Perlatti stated that whatever elections that are to be conducted, they will conduct. There are limitations on what can be done based on equipment and what is certified for use in the state. There has been some mis-characterization that the Board of Elections (BOE) is anti-Rank Choice, and that is not true. Mr. Perlatti stated that they will support any election that they can with the limitations presented as far as equipment.

Mr. Perlatti offered the following information.

In University Heights, nominations for elected offices are made by petitions signed by registered city electors equal to not less than 3% of the number that voted at the last regular municipal election. The petitions are reviewed for validity. All candidates are listed on the ballot as non-partisan. University Heights does not have primary elections.

Mr. Perlatti stated that the BOE gets direction from multiple areas:

City Charter community. Communities are either Charter or Statutory city. Of 59 communities, 53 are chartered and 6 are statutory; the majority of municipalities in Cuyahoga County have a City Charter they follow.

In addition to the Charter, the BOE has to follow rules in the Ohio Constitution, the Ohio Revised Code, the Secretary of State, and the Chief Elections Officer who issues directives. It was pointed out that directives are not law, but do have the power of law as far as how the BOE

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has to operate. It was noted that it is a combination of all those entities above that are pulled together to conduct elections.

Types of elections in the county and across the state were discussed.

The biggest election is the general election set the first Tuesday after the first Monday in November in even years; there will be federal candidates, President, US Senate, Congress and some other county offices such as the prosecutor; those will be in even years. The odd-numbered years are when the municipal elections are held; that is defined by the Ohio Revised Code. There is one ballot.

Primary Elections in Ohio are held on the first Tuesday after the first Monday in May of each year, except in years there is a presidential primary election held in March. It was noted that charter municipalities are not required to have a primary election, but they can set a date to have one. It was noted that there are some municipalities that have a September primary. Cost is to be considered, and it was pointed out that there is an advantage to municipalities having their elections at the same time. When more municipalities are going to have a primary on the same day, the costs are spread among the communities. If, however, there is a stand-alone election the city will be charged exclusively. The Secretary of State devises a formula; poll workers cost, advertising, and temporary employees are costs charged back to the city. Permanent wages are covered by the county. Costs for precincts were discussed, which amounts to approximately \$3,200 per precinct. The monies will be recouped through the following years in the tax collection.

Special Election and Run-Off Elections were discussed. Mr. Perlatti noted the cost for a special election and mentioned that the city of East Cleveland will have a recall election in May, which is considered a special election. In this case, the city of East Cleveland will have to pay a portion of the election upfront, either 60 or 65%; after the election the BOE bills for the balance for costs such as vote-by-mail ballots, poll workers, etc. It was reiterated that cities do not have to have primary elections. It was noted that Special Elections are not for candidates, but rather issues.

Regarding run-off elections, Mr. Perlatti noted that these are not included in statute, but come from Charters in some municipalities, particularly for the office of Mayor. This occurs when the vote does not rank 50% plus 1 (50%+1). The election would take place on the first Tuesday after the first Monday in December. These are truncated timelines when there is a post general election runoff; not many communities have these.

The many timelines and legal requirements for processing ballots were discussed including the tedious tasks of reviewing applications, post-election audits, etc. The entire voting accounting has to be completed 21 days after the election. Mr. Perlatti stated that the BOE is not well versed on rank choice voting because no one in the State does it. The State doesn't have anyone who does it, so they also don't have information on the process. Under current state law, a

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community could choose/request to go forward with RCV, but that doesn't mean the infrastructure is in place to support it.

Regarding voting equipment for RCV, it was noted that the current certified systems in Ohio are not set up or programmed to conduct an RCV election. Mr. Perlatti pointed out that the scanners seen on election day, and software that boards of elections use to create ballots are all certified election equipment including equipment used for scanning votes by mail, electronic poll books, software and equipment for those voting from home, etc. There is a list of vendors in the State of Ohio who have passed the threshold to be certified. The Secretary of State, the Chief Voting Officer for the State, and Mr. Perlatti are involved in this process. The cumbersome timing requirements were explained in detail, pointing out that not only do vendors have to meet Ohio's guidelines, but federal approval must also be sought. Mr. Perlatti stated that the stringent requirements are to assure checks and balances. There is a testing matrix that is created for the specific types of equipment needed.

It was noted that currently none of the 88 counties in Ohio is running RCV. There is no mention of rank choice voting in the Ohio Revised Code; reference is made to primary and general elections as well as special elections, but no RCV. Since no community is conducting this kind of election, none of the certified equipment is geared up to run a rank choice voting system. It is the software, not the hardware, that needs to be modified. Mr. Perlatti stated that in Cuyahoga County voting vendors were changed in 2023. Prior to that, the equipment was purchased in 2008 and it exceeded its life expectancy. He described the equipment vendors used and noted that Senate Bill 135 appropriated about \$10 million to Cuyahoga County to purchase new voting equipment.

It was mentioned that the Clear Ballot vendor is reportedly working on RCV equipment on the west coast. It is believed that the Secretary of State's office will need to take a lead role in trying to get something evolved here. The certified vendor would have to do research and development, the programming changes internally and follow up with federal certification in collaboration with Ohio's rules.

Various scenarios were discussed with the voting process. Mr. Perlatti noted that factors to be considered are provisional ballots, post-election absentee ballots, the cure period noting that the outcome of rank choice would be affected. There are challenges to overcome with the process, such as creating ballots with the RCV option, ability to recognize overvotes and undervotes and allowing multiple selections, the possibility of recounts, staffing concerns, etc. It was mentioned several times that the Secretary of State and statute law need to be consulted to answer many of the "what ifs" dealing with unknown procedures for RCV. (See attached power point document, page 15). Appearance of ballots was discussed considering the amount of information that must be included, and the notion that voter fatigue can be daunting. It was noted that the State dictates font size and order of appearance of issues on ballots. Mr. Perlatti described the awkward appearance of the current absentee ballot which includes necessary bilingual language regarding issues and wondered how an RCV ballot would look with the inclusion of both

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the Mayor and Council candidates. It was noted that each additional sheet on the ballot costs money and the longer the ballot, voter fatigue can set in.

Mr. Perlatti stressed that the BOE neither supports or is against RCV; he just presented the facts surrounding the process of the possibility of same.

Mrs. Weiss thanked Mr. Perlatti for the helpful information and thought that this process should be discussed in every council meeting for new council members; she acknowledged the complex issue of rank choice voting.

In response to Councilwoman Weizer's question regarding a time line extension, Mr. Perlatti responded that the directive would have to come from the State in order to extend the timeline; he added that the timelines would apply to all 88 counties in Ohio, despite the fact that UH would be the only RCV municipality participating in this hypothetical scenario. Ms. Weizer thanked both Mr. Perlatti and Mr. Lawler, adding that she has worked with them over the past 10 years and their work is amazing.

Councilman King mentioned that the City of Cleveland has Issue 38 on the ballot, the people's budget, which would allow for rank choice of different items for the budget of the city, adding that it may push forward rank choice voting if it were to pass. Mr. Lawler stated that those elections will not be held by the Board of Elections. If Issue 38 does pass, the City of Cleveland will create their own ballots.

Councilman Rach asked about the cost implication for University Heights if the city chooses to go forward with RCV as the only municipality doing so. Mr. Perlatti stated that it depends. If the vendor, Clear Ballot, is able to make the software updates, those costs are not passed on to UH because that would be the Ohio certified version that any Clear Ballot customer in Ohio could use. If there are additional pages to the ballot, however, that cost would be passed on to UH; it depends on the length of the ballot. The costs for temporary employees were discussed and it was pointed out that if they are strictly working on that for UH, the costs would be charged to UH. The consequences of the system not being updated were addressed and the possibility of law suits being filed. The complexities of RCV were further discussed vis a vis under and over voting and the confusion surrounding the process. Councilman King and Councilwoman Weizer discussed the ranking. Mr. Perlatti stated that he is not aware of the intricacies in other states.

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Mr. Cooney thanked the BOE and noted that he and Mrs. Sax were a part of a recount process. He noted that his father went down to the BOE and observed the recount and felt a lot better regarding the election process. Mr. Cooney suggested that perhaps there should be another Committee of the Whole meeting to bring in those who have knowledge about the ranking process, rather than further discussing here. Mrs. Sax thanked the presenters for the helpful information. She stated that Mr. King explained the complicated process very well. She would like to find a path to get the 50% +1 (50% plus 1) for the Mayoral race; one person/one seat. The issue of under/over voting could not be answered with either the Charter Review Commission or Mr. Herman from previous presentations.

Mrs. Sax summarized the following: a non-partisan primary election would occur in May of an election year when there are not more than two candidates for Mayor. The filing deadline would be in February instead of August; a non-partisan primary would be in May. Voting would still have to take place on election day in November. The cost is about \$3 thousand per precinct (UH has 9). If there are other cities that are conducting elections at the same time, the cost is shared among the municipalities. She compared the costs to those for additional pages on the ballot, litigation costs, and temporary employees, which sounds like it would be more expensive. Mrs. Sax would like to discuss this as an option to at least get started with whatever is decided with rank choice voting. Councilman Cooney mentioned this discussion is not appropriate for this meeting but rather for a Charter Review Commission.

Councilwoman Weizer noted that if University Heights decides to do RCV, it means there has to be education concerning the process, and the BOE does not do that. She noted that it is inappropriate and wrong to assume everyone will understand this. Also, if the City does decide to implement this and the state won't adjust dates, it was noted that there might be law suits. She asked about who would initiate the law suit – the City of University Heights versus the BOE? Or does the city sue the state? Mr. Perlatti stated that this would require legal counsel. Ms. Weizer asked how long it would take a vendor to program software for RCV. Mr. Perlatti stated that it all depends, and it is hard to answer the hypothetical questions. It was noted that programming and obtaining certification takes time; it is not a quick process.

Mrs. Weiss stated that this is one of future meetings. If Council decided to put RCV on the ballot, it would take years and consideration of State requirements, getting the BOE ready – not just with the software changes – need to be resolved; this is not an overnight project.

Mr. Perlatti added clarification to Mrs. Sax' statements noting that when the Board post results on election night, it is unofficial; people don't understand the 21-day requirement and the other things that need to be done. If there are more outstanding ballots in the vote total, that becomes different. When votes are posted between 7:45 and 8:00 p.m., this includes votes by mail and early in-person votes. This can change. Emphasis on early-voters and/or vote-by-mail voters can alter perceived outcomes. Mr. Perlatti noted that by law, the final votes cannot be certified until the 21st day,

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unless the legislature advises otherwise. It was emphasized that all must be done by the 21st day, but if not completed, an extension from the legislature will be required.

Vice Mayor Weiss thanked Mr. Perlatti and Mr. Lawler and stated she is happy that we have them as representatives.

Motion by Mrs. Weiss, second by Mrs. Sax to adjourn the meeting at 8:00 p.m.

Jeune Drayton, Assist. Clerk
of Council

Michele Weiss, Vice Mayor and
Chair, Council Committee of the Whole