



# CLEVELAND HEIGHTS

## Charter Review Commission

February 7, 2024

6:00 PM

**City Hall – Executive Conference Room**

**1) Call to Order**

- a. Chair Linda Striefsky called meeting to order at 6:01 PM.

**2) Roll Call**

- a. Members present: Harriet Applegate, Graham Ball, Drew Herzig, Graig Kluge, Guy Thellian, Stephanie Morris, and Linda Striefsky.
  - a. Guy arrived at 6:03. Stephanie Morris arrived at 6:04.
- b. Members absent: Jonathan Ciesla and Roland Anglin.
  - a. Roland participated by videoconference.
- c. Staff present: Assistant Law Director Lee Crumrine.

**3) Approval of Minutes of December 20, January 3, 18, and 24**

- a. Motion to approve December 20, January 3, and January 18 by Graig Kluge seconded by Graham Ball. Approved unanimously.

**4) Review and Confirm or Amend Agenda**

- a. None.

**5) Public Comments**

- a. None.

**6) Interview with Councilmember Jim Petras**

- a. Chair began by thanking Councilmember Petras for submitting his survey responses and for meeting with the CRC. Chair asked Councilmember Petras to highlight the issues most important to him. Councilmember Petras said that inquiry is essential for councilmembers to be able to effectively do their jobs. He believes that it exists in the charter because of the provision of Article III, Section 6, that states, “Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Mayor or the City Administrator and neither the Council nor any member thereof shall give orders to any of the subordinates of the Mayor or the City Administrator.” Councilmember Petras stated that Councilmembers’ access to administration members is uneven.

Another councilmember has told him multiple times that they are able to easily talk with city staff as they please. Councilmember Petras has already encountered some difficulty obtaining access to information from the administration in the short time he has been in office. Councilmember Petras provided an example that Councilmember Anthony Mattox had suggested that the City provide Councilmembers with devices (phones), and Council allocated funds for the device, but the IT Department has not responded for a month to Councilmember Petras's follow up on that issue.

- b. Councilmember Petras stated that he has been measured and respectful in his emails taking into consideration the burden he has places on the administration. He stated that he understands that City staff have had to sign a document stating that they will not talk to Councilmembers. He is concerned that this has created a culture of staff not communicating with Councilmembers. He suggested that the charter could clarify the process and right of inquiry.
- c. Graham Ball asked when the new process for inquiry was implemented. He related that, at a committee of the whole meeting, he witnessed Councilmember Davida Russell request to speak with the Director of Parks and Recreation about her proposed dog park legislation, and that the Mayor said he would talk to the director and get back to her. Harriet Applegate noted that Councilmember Russell stated that to date she is not permitted to speak with city staff.
- d. Councilmember Petras relayed his experience as a councilmember-elect and his lack of access to information and records in preparation for assuming office, particularly budget information and documents. Drew Herzog asked if he would be in favor of training and orientation provisions, and Councilmember Petras agreed that that would be helpful. He stated that Lakewood has such a provision, and that Lakewood Councilmember Tristan Rader was able to provide him with some of Lakewood's orientation and training materials. Drew Herzog suggested that an ordinance may more fully provide for such training and orientation and that a charter provision could lay the foundation for such an ordinance.
- e. Councilmember Petras is a big proponent of ranked choice voting. He believes it can help build consensus among elected officials. He recognizes concerns from other elected officials that it may be confusing, but he disagrees and stated that studies and surveys have shown that it is easy. He stated that Cleveland Heights has been a leader in other areas, and the City could be a leader on this issue as well. He believes it can be better system.
- f. On the topic of wards, Councilmember Petras stated that he used to support hybrid at-large/ward elections for Council, but that Cheryl Stephens brought to his attention that wards can lead to territorialism, and he would not like to see that happen in Cleveland Heights. Drew Herzog stated that a hybrid at-large/ward electoral system could be a middle ground between at-large and wards that retains some at-large seats. Councilmember Petras gave an example of a community meeting in a neighborhood where people from outside of that neighborhood were told they were not welcome. He is concerned that wards would cause such incidents to recur and be amplified. Harriet Applegate stated that that incident had a huge impact on city politics.
- g. Harriet Applegate asked whether the training and orientation provision should be in the charter or in an ordinance. Councilmember Petras said he did not know if it

belongs in the charter rather than an ordinance and that he is open to the CRC's recommendation. Graham Ball asked if there were anything else that should be included in such a training and orientation provision. Councilmember Petras said that what was most helpful for him was attending the budget hearings held by former Council President Melody Joy Hart, which provided a lot of good insight for him. He also talked with other elected officials in this City and other neighboring cities, and he said he talked to about ten such elected officials, which have been helpful. He said he looks forward to training hosted by the Ohio Municipal League. He stated that such suggestions could be included in the Clerk of Council's orientation and training materials.

- h. Hariett Applegate stated that the CRC has not fully discussed the culture of non-responsiveness at City Hall, which predates the change in the form of government. Her experience has been that City Hall staff has, in her interactions with staff that City Hall, tried to figure out how not to help. She believes there is a problem with the culture of the staff of the city. She acknowledged that that problem cannot be addressed in the charter, but it should inform the CRC's deliberations. Councilmember Petras said, during his campaign, he advocated for a salary study and workplace climate survey and recommended those measures to help with employee morale, which can translate into better city service. Harriet Applegate views it as a longstanding cultural problem in the City that is not necessarily related to employee happiness. Guy Thellian agrees that his interactions with City Hall have not been good, that he has not been able to get a satisfactory resolution to issues he has raised, and that anecdotally he has heard the same from others in the community. Drew Herzig noted that the CRC is again getting too far into grievances, but Guy Thellian disagreed. He stated that they heard from South Euclid Mayor Georgine Welo that councilmembers are advocates for residents. Graham Ball agreed that the CRC should explore this issue. Drew Herzig noted that Mayor Welo also stated that these cultural issues are not something that can be provided for in the charter. Harriett Applegate stated that it is important context for the CRC to understand about the City in order to do its work. Chair stated that she agrees with Harriett Applegate and Graig Kluge that it is a longstanding issue that is not new with this council or administration.
- i. Stephanie Morris asked if the charter is the place for overall statements about conduct and morality and she did not know the answer to that question. Harriet Applegate stated that that is a good question and that the preamble may be good place to express values of transparency, accountability and responsiveness. Drew Herzig agreed that the preamble may be a good place for such statements. Guy Thellian stated the CRC can define the role of the Councilmember at a high level that includes providing responsiveness to residents in regard to city services and that that one of the most important things that he feels the CRC can accomplish. He stated the charter does not need to talk about culture, but it needs to include provisions that help promote and provide a culture of service to the community. In response to Stephanie Morris, Harriett Applegate clarified that knowledge about the culture of the City is context for the CRC's work and that at most it should be explicitly addressed in the preamble. Drew Herzig identified a place in Article III where it could be included as well regarding the duties of Councilmembers to residents.

- j. Guy Thellian asked about Councilmembers Petras's survey response regarding ethics and a comprehensive nondiscrimination statement. Councilmember Petras clarified that he has not studied the issues enough to take a strong position, but he would support them if this CRC recommended it.
- k. Councilmember Petras left them meeting at 6:50.

## 7) Discussion of Interviews

- a. CRC discussed the interview the previous night with South Euclid Mayor Georgine Welo. Hariett Applegate expressed surprise at the contrast between the cities of South Euclid and Cleveland Heights. Graig Kluge stated that South Euclid is what he and Citizens for an Elected Mayor envisioned when pursuing that charter amendment. Guy Thellian noted that the budget process in South Euclid is all-year long and that the practice of collaboration is year-round. He sees the process as occurring organically.
- b. Graham Ball again noted his experience at a recent committee of the whole witnessing Council Vice President describe her proposed dog park legislation and ask the Mayor for permission to speak with the Parks and Recreation Director about it and his surprise that the request was not immediately granted.
- c. The CRC discussed Councilmember Petras's statement that city staff signed a document stating that they will not speak with Councilmembers. Graig Kluge suggested requesting the records from the City. Upon the suggestion of Drew Herzig, the CRC discussed whether to ask the Mayor about it.
- d. Harriet Applegate noted that she was struck by Jeanne V. Gordon's statement that Citizens for an Elected Mayor only swapped out "city manager" for "mayor" when drafting their amendment. Guy Thellian noted that Jeanne V. Gordon stated that the role taken by the city administrator so far have been more limited than intended. Chair noted that the city administrator in Shaker Heights has a more visible and wide-ranging role. Harriet Applegate noted that personalities and experience make a difference (the Shaker Heights city administrator has held that role for 30 years) and that comparisons may not be apt.
- e. Graham Ball noted that Mayor Welo spoke about bringing people to the City, including that the average age in South Euclid has shifted from over 60 to 35. She also noted Cleveland Heights's history of social activism, which can be an opportunity to encourage young people to move the city. Graham Ball stated that provisions like a land acknowledgment and statements of comprehensive nondiscrimination policy and sanctuary city can be part of that effort and asked for a status report from the Law department on those questions. Assistant Law Director Crumrine reported that the Law Department is working on those questions.
- f. Drew Herzig noted that we can address in our report our view about the issues we identify that are not charter material. Harriet Applegate noted that Council could decide to limit what is submitted to the voters and agreed with Graham Ball and Drew Herzig that the CRC's report could be an important vehicle for that effort. Harriett Applegate stated that the City is in crisis and the concerns identified need to be shared.

## 8) Old Business

- a. Status of responses from elected officials and others to invitation to meet with CRC
  - i. The Chair reported that Shaker Heights Mayor David Weiss and Mayor Kahlil Seren will be at the CRC's meeting on Saturday, February 10, starting at 9:00 a.m. She reported that he Mayor has requested two hours of time with the CRC.
  - ii. Awaiting survey responses from A. Mattox and Mayor Seren.
  - iii. Working on schedule for Mayor George.
- b. Revised draft project plan for CRC. Further discussion of public input meeting.
  - i. This agenda item followed the CRC's discussion with the Facilitator.
  - ii. Drew Herzig expressed concern with communications via email that have the potential to violate the Open Meetings Act.
  - iii. Drew Herzig expressed concern that invitations to meetings should be cleared with the CRC. He said that he does not agree with Councilmembers being invited to attend the February 12 public input meeting because he is concerned that may stifle discussion. Chair explained that she did that in order to spread the word about the meeting and wanted to enlist their help.
  - iv. Drew Herzig expressed concern with keeping meeting dates available for meetings. Chair explained the difficulty in scheduling meetings for interviews because some elected officials were very slow in responding.
  - v. Drew Herzig proposed that an hour of the CRC's regular meetings should be devoted to reviewing the current charter. Graig Kluge disagreed that a review of the charter requires a line-by-line examination of the current charter.
  - vi. The CRC discussed what their final product and their report might look like.
  - vii. Chair reported that they had approximately 15 pre-registrations for the February 12 public input meeting. Chair reporting that the League of Women Voters is distributing a notice via email. Guy Thellian will post a notice on NextDoor. The meeting will be recorded. Facilitator Kevin Butler will attend in person and provide a short presentation. Chair will prepare handouts for the meeting.
  - viii. Graig Kluge said he looked at Shaker Heights's provisions for their chief administrative officer, compared it to Cleveland Heights's, and found that it was taken verbatim.

## 9) New Business

- a. Discussion with Facilitator of potential amendments to Charter related to "bucket 4."
  - i. Motion was made by Drew Herzig to move this item up next on the agenda to immediately follow the discussion of the interview with

Mayor Welo, and seconded by Guy Thellian. Approved unanimously.

- ii. Facilitator Kevin Butler joined the meeting at 7:03 p.m. Chair explained to the Facilitator that the CRC invited him to the meeting tonight to discuss how the charter can address the balance of power between the administration and Council.
- iii. The Facilitator stated that it is his understanding that the CRC is seeking to address the concerns that they have heard about Councilmembers' access to time and knowledge to allow them to do their jobs well. He examined similar provisions from other jurisdictions, and he drafted a provision informed by his experiences and intended to set expectations more than provide a cudgel, hammer, or any distinctly-enforceable terms. He stated that the Chair's proposed changes to his draft are perfectly appropriate and that they do a little more to provide definitive language around meeting attendance by Directors and things like that, which is perfectly appropriate if that is the direction that the CRC wishes to move.
- iv. Harriet Applegate asked if any one of the example provisions would be appropriate for a charter rather than ordinances, and the Facilitator agreed that any of them could be appropriate for a charter if the CRC thinks that the situation warrants it. The Facilitator stated that any prescriptive language in the charter that obligates officials to behave in a certain is usually enforceable only in a court of law, which would usually require the Law Director or a taxpayer to bring a lawsuit against an official of the administration and that is an exceedingly rare occurrence. Hariett Applegate asked if the ballot box is an enforcement mechanism, and the Facilitator agreed.
- v. Graham Ball indicated that he liked the Chair's suggestion to change "constituent obligations" to "service functions." Chair explained that she aimed to make the language broader.
- vi. Drew Herzig suggested to change "\*\*\* responsibilities, including without limitations under existing or proposed legislation" to "\*\*\* responsibilities, without being limited to existing or proposed legislation."
- vii. The Facilitator explained that if there is a perception that the administration is unresponsive to Councilmembers or that Councilmembers are burdening City staff, that the charter can address this problem, although it is not common. The effort he made is to draft some language to balance the need for access to information with the need for City staff to efficiently perform their jobs and not have their time monopolized by Councilmembers.
- viii. The Facilitator explained his draft provision headed, "Council Interactions with City Administration," which draws from some of the example provisions from other jurisdictions that he provided to the CRC as well as his own experiences as a councilmember and

within a city administration. He stated that this is meant to be a useful starting point for the CRC's further discussions. Graham Ball stated that he liked the example from San Bernardino.

- ix. Guy Thellian asked the Facilitator if the charter should provide for remote attendance. Drew Herzig and Hariett Applegate said that is more appropriate for an ordinance. Guy Thellian asked the Facilitator if there is anything further the CRC can do to address inadequate responses and that can impose more accountability for meaningful responses. Chair responded that she presumes that City officials and staff will operate in good faith. Harriett Applegate stated that the drafted language does not assume good faith on behalf of the council.
- x. Drew Herzig suggested adding the word "timely" as a constraint on the requirement to provide information. Harriet Applegate noted that the problem is unresponsive departmental directors, a problem that the charter should directly address. Drew Herzig noted that the Facilitator stated that enforcement of these provisions is difficult. Guy Thellian asked if it would be possible to include an aspirational declaration or statement of good faith. Chair noted that the draft does so with the language: "shall collaborate, in the best interest of the city...." Drew Herzig suggested adding "acting in good faith" before "for the best interest of the city." Drew Herzig expressed concerned about including "other city employees" and how far down into the city staff this right to compel attendance by city staff should go. Chair stated that the CRC should mark that for future discussions.
- xi. Stephanie Morris asked the Facilitator about his opinion on the issue of accountability because she does not believe that the charter can address behavior. The Facilitator stated that as far as departmental directors go, this drafting is an effort to set expectations for Directors as well as the Mayor. The Facilitator discussed the possibility of including penalties and how difficult such provisions would be to enforce. Harriett Applegate clarified that she did not suggest and does not support any penalties or punishments. The CRC agreed that there is not appetite for penalties and punishments.
- xii. In response to a question from Harriet Applegate, Chair explained her addition of "or otherwise take action as provided in this Section" in paragraph 3. Chair explained that would encompass requesting meeting attendance, which is a different action than inquiry.

## **10) Adjourn**

- a. Motion to adjourn was made by Drew Herzig and seconded by Graig Kluge. Approved unanimously.

Next meeting: Saturday, February 10, 2024, at 9 AM.