



CLEVELAND HEIGHTS

Charter Review Commission

April 20, 2024

10:00 AM

City Hall – Executive Conference Room

1) Call to Order

- a. Chair Linda Striefsky called the meeting to order.

2) Roll Call

- a. Members present: Linda Striefsky, Jonathan Ciesla, Roland Anglin, Harriet Applegate, Graham Ball, Drew Herzig, and Guy Thellian.
- b. Members absent: Graig Kluge and Stephanie Morris.

3) Approval of Minutes of April 13 and April 17 meetings (pending availability).

- a. Chair reported that drafts are not available yet.

4) Review and Confirm or Amend Agenda

- a. None.

5) Public Comments

- a. None.

6) Old Business

- a. Placeholder – Revised draft project plan for CRC
- b. Update on use of CRC email by the public.
- c. Finish discussion of proposed changes to salary provisions for City Council and Mayor (Roland Anglin draft)
 - i. The CRC reviewed a revised draft proposal related to salaries. Chair explained that the proposal places the salary provisions for both Council and the Mayor in one section, Section 3.5, revises Section 12.4, and deletes Section 4.7. Chair stated that she placed the provisions in Section 3.5 because they required action by Council. She stated that it uses a 2-year period in odd-numbered years instead of a 4-year period. She stated that Section 12.4 was changed so that it applied to both Mayor and Council.
 - ii. Harriet Applegate questioned why the review would be every two years instead of every four years. Roland Anglin stated that Council can decline to raise salaries and that he would expect Council to decline to raise salaries because of political pressure. Chair explained that there was a

discrepancy between how long the review period was for Mayor versus Council (in the 2019 Commission recommendations), that the draft reconciled those provisions, and that the CRC agreed at the last meeting that it should be every two years. Chair stated that the City does not have a history of salary raises for Council. Harriet Applegate compared it to the criticisms of Congress that they give themselves too many salary raises. Graham Ball noted that factors like inflation may warrant salary increases and that salaries are not high. Graham Ball asked how many hours per week Council members are working. Chair responded that she had a conversation year ago with former Councilmember Mike Ungar who said he spent at least 20 hours per week on Council matters. Harriet Applegate stated that she spoke with a councilmember who said that there are one or two Councilmembers who do not work at all. Jonathan Ciesla echoed Graham Ball's concern about economic changes that may occur in a four-year period, including for example the inflation that is now happening. Harriet Applegate expressed concern about the temptation to give themselves raises every two years. Jonathan Ciesla suggested indicating the part-time nature of the Council position as a factor in considering raises since the Charter now refers to the full-time nature of the Mayor's position.

iii. Motion to adopt the proposed amendment as amended (to note part time Council) was made by Guy Thellian and seconded by Jonathan Ciesla. Harriet Applegate reiterated her concerns about the 2-year period. Guy Thellian made the point that we never know what is coming in terms of the economy, so he supports the 2-year period. Motion passed 6-1.

d. Discussion of proposed text for Ranked Choice Voting provision from Drew Herzig and Harriet Applegate.

i. Harriet Applegate stated that FairVote is assisting with preparing a draft of an ordinance. Drew Herzig reported that they asked for a draft by Saturday and did not get it and that it is still a work in progress. He stated that they can ask FairVote to have something by the next CRC meeting.

ii. Chair suggested turning to the revised draft of the Charter amendment.

iii. Chair asked Drew Herzig and Harriet Applegate whether they propose that the CRC will present both a proposed charter amendment and an ordinance to Council as part of the CRC's recommendations, and Harriet Applegate responded that the CRC should discuss that.

iv. Chair asked whether the draft Charter amendment was based on a particular jurisdiction's charter provision. Harriet Applegate and Drew Herzig did not know the answer to that question, but said that it was based on a model provided by FairVote. Chair suggested basing the amendment on a provision from a jurisdiction that currently uses ranked choice voting like Portland, Oregon, because Portland uses the same vendor for voting machines and software as Cuyahoga County. Guy Thellian stated that, since Council is the CRC's audience, it would be helpful to be able to point to a place where the proposal is working.

v. Chair reminded everyone that the CRC should have draft charter amendment text and a draft report by May 15 so that the CRC can share those with the public before the public input meeting on May 21. Chair stated that she will start working on the overall report.

- vi. Chair noted that the CRC agree to add language to Section 7.1 in the revised Charter to refer to a Council vacancy, to parallel the second paragraph shown in the ranked choice voting draft concerning a mayor vacancy, and that the draft charter amendment for ranked choice voting needed the Council vacancy provision added.
- vii. Harriet Applegate asked whether the provision concerning the effective date should be deleted, but Chair responded that it is important because the effectiveness of the provisions may be delayed while Council and the Board of Elections prepare to implement ranked choice voting. Chair suggested that planned discussions between FairVote and the Board of Elections may inform the likely date. Harriet Applegate asked if the CRC could leave that effective date blank when presenting to Council, and Chair said yes.
- viii. Regarding the reference to both the Charter and the general election laws, Chair suggested considering how proposed Section 7.6 interacts with the first part of Section 8 that says “notwithstanding any law to the contrary.” Drew Herzig noted that there is an Ohio Supreme Court decision upholding home rule authority for ranked choice voting. Chair and Jonathan Ciesla asked for a copy of that case.
- ix. Harriet Applegate stated that the far right is now opposing ranked choice voting across the US and there is a movement to ban ranked choice voting in Ohio. She stated that there is a bill in the General Assembly to punish cities for using ranked choice voting. Graham Ball asked if that was counter to the Ohio Supreme Court case they just discussed, and Harriet Applegate responded that the bill does not make ranked choice voting illegal, it just makes it costly to cities by taking away money. Graham Ball stated that Council can take that into consideration.
- x. Regarding how the Mayor is elected, Chair asked why the proposal does not say that if a candidate has more than 50% of the vote in the first round, then counting is complete. Chair suggested Rank the Vote Ohio be asked about that.
- xi. Chair asked what happens when there is a tie.
- xii. Jonathan Ciesla asked why the Charter could not simply say “the city shall use ranked choice voting” and let Council follow up with appropriate ordinances. Chair stated that there are different kinds of ranked choice voting, and this proposals specifies two different kinds: instant runoff voting and single transferable vote. Drew Herzig stated that this is part of the ongoing discussion about how much detail to put in the Charter. Harriet Applegate suggested that the report may need an appendix for the details of proposals like ranked choice voting and the budget. Chair stated that Harriet Applegate and Drew Herzig should draft that portion of the report and provide their proposal to the CRC.
- xiii. Regarding how Council is elected, Chair asked how the number of votes needed to win an election is calculated because it states “and one plus one,” and she wondered whether that is a typo. Drew Herzig and Harriet Applegate agreed that it looked like a typo. Chair and Guy Thellian noted that other provisions that they reviewed only use “plus one.” Graham Ball did further research and determine that it was not a typo. He gave the example of a mayoral election where it would be one seat to be elected so

you add one to one to get two, divided 100 by 2, and then add one vote. Guy Thellian suggested adding “seat” after the first “one.” Chair and Graham Ball suggested expressing it as a mathematical formula.

xiv. Both Chair and Graham Ball question what is meant by “part of each vote.” Chair gave the example of a candidate who received 60 votes when only 51 votes are needed to be elected and that you do not just look at the second choice candidate of the nine extra votes, you look at all 60 votes because otherwise you are giving more weight to those votes. The CRC discussed how parts of votes are transferred. Chair stated that this illustrates why a proposed ordinance would be helpful, because the charter amendment would raise unanswered questions by itself.

xv. Jonathan Ciesla asked whether each election will have a threshold for election. Graham Ball gave an example of 100 votes in an election for 4 seats having 26 votes as the number of votes needed to win.

xvi. Chair and Guy Thellian agreed that this is complicated, and Chair stated that it needs to be clear if the CRC wants it to be accepted.

xvii. Drew Herzig stated that subsection (c) should refer to the Cuyahoga County Board of Elections instead of the city. Chair agreed with that point and noted that in Portland, Maine, apparently the clerk of the city conducts the elections, which is not what happens here. Chair questioned whether the Charter has the authority to establish the process.

xviii. Jonathan Ciesla stated that FairVote and Rank the Vote Ohio should give them language applicable to Cuyahoga County. HE would like to know what may be done by Council and what is within the authority of the Board of Elections.

xix. Regarding how ranked choice voting draft addresses the election following an appointment to fill a Council vacancy, Chair stated that the draft changes how vacancies are filled by including a seat with an unexpired term in the same ranked choice voting decision as seats for full terms. She noted that the candidate with the fewest votes, but with enough votes to win a seat, would be allocated the unexpired term, while the candidates with more votes would be allocated the full terms. Guy Thellian said he felt it’s unfair for people running for re-election. Chair noted it injects uncertainty for all candidates because she noted that, unlike the current practice, where candidates run specifically for the unexpired term, this model results in candidates for Council not knowing if they will win a full term or an unexpired term.

xx. Chair noted that, if CRC determines to present a separate bucket for ranked choice voting and for a set of changes that includes Section 3.4 without ranked choice voting features, the ranked choice voting bucket will need to include a version of 3.4 that expressly overrides the current Charter and the proposed text for Section 3.4 in the separate bucket.

e. Discussion of proposed text from Guy Thellian on Finances and Budget matters.

i. Guy Thellian stated that he spoke with South Euclid Mayor Welo and Finance Director Amy Himmlein. He also met with Council President Tony Cuda to answer the question whether Council has enough time to review budget materials to do their job. Council President Cuda stated that it would always be nice to have more time, especially given the holidays at

the end of the year. This proposal would give them an additional two weeks.

- ii. Chair asked whether the timing of the presentation of the budget is locked in or whether Council has the flexibility to request it begin sooner. She noted that a future Council with different composition may need a different meeting schedule and cadence. Guy Thellian responded that it is not later than November 15. Chair asked whether that would allow Council to request the budget sooner if it felt it needed to. Guy Thellian responded that this schedule is similar to other municipal governments in northern Ohio. Harriet Applegate said she thought the schedule was too cramped. Chair noted that this may be common for governments, but many businesses start the budget process much earlier, like in June.
- iii. Jonathan Ciesla asked why the draft is changing the language of Section 1 budget to a more detailed procedure. Guy Thellian responded that Council has a different role in the budget process under the Mayor-Council form of government, and the budget process was successful this past year and the Council and the administration want to preserve that process for the future. The draft also emulates what is done in South Euclid and Shaker Heights, both of which have a well-defined budget process.
- iv. Guy Thellian stated that his budget process is detailed because he believes that the government needs more direction because of its inexperience with this form of government.
- v. Jonathan Ciesla stated that he does not believe it should be changed. He thinks it is general and allows flexibility. He stated that budget books are a common practice and process in the public sector, and he did not seem a point to lock it in the Charter.
- vi. Drew Herzig asked about what had changed in the draft and Guy Thellian explained that the new text is highlighted.
- vii. Jonathan Ciesla noted that the current Charter provision on the budget was just adopted in 2022. Chair responded that was before the more recent “budget book” approach was introduced, which both Council and the administration said was successful.
- viii. Jonathan Ciesla commented that he finds a budget book as routine. He also questioned whether “capital” should be defined. Chair said “capital” is a widely understood accounting concept.
- ix. Chair asked that the report or presentation will need to explain the concept of sustainability, and she feels that the public will associate it with environmental sustainability. Jonathan Ciesla stated his preference for not adding that provision. Roland Anglin asked whether “fiscal stewardship” would be a better term. Guy Thellian said “fiscal stewardship” is narrower, while sustainability goes to a broader set of issues. Guy Thellian noted that the city has a sustainability officer and the acting finance director said it was consistent with the City’s priorities.
- x. Graham Ball stated that since Council liked the budget process this past year and that that process is not currently reflected in the Charter, that this amendment makes sense. He also likes including “sustainability” and asked if it should reference “environmental, social and governance” sustainability. Harriet Applegate said she likes keeping the term capital budget and the reference to sustainability. Drew Herzig said that because

the current Charter budget text is from 2022, it should remain; he agrees with Jonathan Ciesla.

- xi. Guy Thellian stated that a future Mayor may not have as transparent of a budget process.
- xii. Chair and Harriet Applegate noted that in the past the Council would just accept what was presented by the City Manager and that there was not detailed discussion, and Chair noted that this amendment would make it harder for Council to be hands-off during the budget process.
- xiii. Jonathan Ciesla suggested keeping from the current Charter the first sentence concerning the budget. Roland Anglin commended Guy Thellian adding the notion of sustainability, that it is innovative and he is not opposed to it.
- xiv. Graham Ball said that because Council and the administration like the new process, which is different from what the current charter provides, he likes Guy Thellian's draft.
- xv. some revisions if this amendment were to be adopted, including requiring itemization of the expense estimates and changing how the budget is made available to the public.
- xvi. Jonathan Ciesla asked that an edit be made to change "publishing" to "make available to the public." The CRC also discussed retaining Guy Thellian's description of the itemized expenses.
- xvii. The CRC will ask Assistant Law Director Lee Crumrine to format the amendment into the Charter.
- xviii. Motion to approve the proposed budget amendment, replacing current Sections 9.1 and 9.2, as amended, subject to formatting to be done by Law Director Lee Crumrine, was made by Jonathan Ciesla, seconded by Drew Herzog. Jonathan Ciesla stated that he would not add the reference to "sustainability" because it has too much weight and is vague. He further noted that it only applies to the capital budget. Guy Thellian noted that in context it applies to capital investments being made. Jonathan Ciesla had suggested that the first sentence of the current charter, referring to a "budget system" be retained, but Guy Thellian said that term is not a recognized accounting term; Jonathan Ciesla dropped that suggestion. Motion passed 5-0 with 2 abstentions.

f. Status report on plans for second public input meeting to be held May 21.

- i. Chair reviewed the options for a location: (1) Council Chambers or (2) Lee Road library. It would be easier to record the meeting in Council Chambers. Chair stated her preference for the library because the setup of Council Chambers is rather formal and the library room feels more suitable for discussion with the public.
- ii. The CRC discussed audiovisual elements of the presentation.
- iii. Motion to hold the meeting at the library was made by Chair, seconded by Harriet Applegate. Motion passed 7-0.
- iv. Drew Herzog is to contact Assistant Law Director Lee Crumrine to make further arrangements. Chair reported that Drew Herzog had made a tentative reservation at the library from 5:30 to 8:00 PM, but it would be best for Lee Crumrine to request to have that extended to 8:30 PM.
- v. Chair stated that the purpose of the meeting is to receive input from the public and she does not contemplate a long presentation by the CRC.

Harriet Applegate suggested a 15-minute presentation. Harriet Applegate stated that people are unlikely to read the draft final report before the meeting.

- vi. The CRC discussed how to solicit comments and information from attendees prior to the meeting. Chair suggested that a RSVP form could include a space for suggested topics. The sign in form also could have room for comment. Registration may be made by using a QR code or by email.
- vii. The CRC discussed how to conduct the meeting and how attendees should provide comments on particular topics. Harriet Applegate suggested that slides anticipate likely comments and questions.
- viii. Chair stated that she wanted to ask the City to advertise the meeting in the city newsletter multiple times in May. Guy Thellian is preparing a flyer to advertise the meeting. Guy Thellian and Harriet Applegate volunteered to distribute flyers around Cleveland Heights.
- ix. Chair plans to draft slides for presentation at the May 21 meeting. Harriet Applegate asked that the CRC have an opportunity to comment on the content of the slides.
- x. Motion to request that Chair prepare slides for review at the April 27 meeting was made by Drew Herzigand seconded by Jonathan Ciesla. Roland Anglin asked if Chair was comfortable with that timetable, and Chair agreed. Motion approved 6-1.

g. Status of drafting segments for report of proposed Charter.

- i. Chair reiterated her request to have drafts by the end of April.

7) New Business

- a. Discussion of proposed further changes (those other than vote requirements for initiative, referendum and recall) to Article VIII (Graig Kluge draft) was deferred until the next meeting.
- b. Discussion of proposed changes on removal of CC member and Mayor (Graig Kluge draft) was deferred until the next meeting.
- c. Discussion of proposed changes on ethics and training (Graig Kluge draft)
- d. Discussion of land acknowledgment (Graham Ball draft)
 - i. Graham Ball presented his draft land acknowledgment. He stated that he consulted with Cynthia Connelly, the Chair of the Executive Board of the Lake Erie Native American Council. He also spoke with Sundance, the Executive Director of the Cleveland American Indian Movement. He received guidance from them on the specific tribes who were present in Cleveland Heights and what a land acknowledgment should include. He also reviewed land acknowledgments from other organizations in the region, including the Cleveland Museum of Arts, Case Western Reserve University, and the City Club. He wanted to make the acknowledgment active rather than just a virtue signal. He also received advice to acknowledge current native populations rather than refer to history. Connelly told him that there are indigenous families living in Cleveland Heights. He also expressed the importance of not otherizing those people. He explained the history of the cession of land in this area by the Treaty of Greenville. Connelly and Sundance

emphasized truth and reconciliation and the process of creating the land acknowledgment is important itself.

- ii. Chair noted that she had not had an opportunity to review the proposal before the meeting as it was distributed only shortly before the meeting.
- iii. Harriet Applegate provided some suggested revisions to the language, including replacing “stolen.” She suggested using “seized.” Graham Ball stated that that word was specifically recommended by the American Indian Movement, but he acknowledged that a revision to the language may be necessary to preempt concerns about legal liabilities.
- iv. Chair stated that the tone of the draft does not feel appropriate because it feels sharper than the other examples. She also stated that she is not confident it belongs in the Charter. Jonathan Ciesla agreed with Chair that it does not belong in the Charter and that there should be a city-wide process to develop this land acknowledgment. Chair suggested that the City be encouraged to take other action, such as a special recognition of indigenous people, as the City does to honor other groups. Harriet Applegate stated that it absolutely belongs to the Charter because it is a foundational document. Graham Ball agreed that it is important to have it in the Charter because it is foundational to our entire society. He stated that this is the first injustice in our society. Chair stated that the commitment to working to dismantle this injustice is a broad and poorly defined undertaking. Harriet Applegate responded that it does not require immediate action by Council and that it is a long-term project. Graham Ball explained how he viewed dismantling the injustice. Harriet Applegate noted the importance of indigenous peoples’ view of and engagement with the environment. She distinguishes this type of provision for the charter due to the connection of the injustice to the land. Chair asked about the advisability of distinguishing this from other injustices in our history. Jonathan Ciesla expressed discomfort with how indigenous people are being discussed, and Graham Ball that it is a recognition that they are doing a better job as stewards of the land. Roland Anglin asked how “settler colonialism” is being defined, and Graham Ball responded that it is not contested that the United States is based on colonial society. Roland Anglin relayed his experience on the board of Cleveland Playhouse who adopted a similar provision, which was followed by opposition to the provision.
- v. Guy Thellian agreed with an acknowledgment, but he disagreed with it going further to become a commitment. He stated that Council can make that commitment. Drew Herzog and Harriet Applegate agreed that the statement should be more than just an empty statement and should include a commitment. She reiterated that an acknowledgment without a commitment is not enough based on her conversations with Connelly and Sundance. Chair said the Commission should not impose a commitment on the City.

- vi. The CRC postponed discussion of the amendment until members have had a chance to review the draft. It will be on the April 27 agenda.
- e. Overview of proposed gender-neutral language edits (Jonathan Ciesla draft)
 - i. Jonathan Ciesla isolated the twelve instances in the current Charter of gendered language. He explained that.
 - ii. The Chair raised the difference between “electors” and “registered voters.” Harriet Applegate stated her preference for the use of “voter” over “elector” because “elector” is not commonly used.
- f. Decisions on contents of proposed charter amendment (buckets) and on whether CRC recommendations will be presented as one amended charter and/or as buckets.
 - i. Chair shared that the University Heights CRC presented as buckets because they were told to present them as buckets. Chair stated that regardless there will be a full amended and revised draft charter to present to Council.
 - ii. CRC discussed whether to also present buckets of amendments and the content of buckets previously identified by the CRC.
 - iii. Chair suggested consideration of combining buckets 1 and 2. Drew Herzig prefers to keep them separate. Jonathan Ciesla sees bucket 1 as non-substantive while bucket 2 is substantive. He advocates for a separate bucket for the nondiscrimination amendment.
 - iv. Chair suggested the Ethics/training amendment may go into bucket 4 or bucket 7.
 - v. Jonathan Ciesla likes the cover sheets that were used for each amendment recommended by the University Heights charter review commission.
 - vi. Harriet Applegate asked whether the CRC will express an opinion on when any approved amendments should go on the ballot. Chair noted that she had mentioned that to Council President Cuda and she has the impression that Council is not in a rush to put amendments on the 2024 ballot. She noted that the CRC could vote to recommend timing, but that Council would decide timing. Harriet Applegate advocated for the CRC expressing an opinion, and expressed concern with putting any amendments recommended by the CRC on the ballot this November because it is a presidential election.
 - vii. Chair suggested putting the vacancy provisions in either bucket 4 or bucket 7.
 - viii. Drew Herzig suggested we receive Graig Kluge’s input on the Ethics/training provision before deciding whether it should be in bucket 4 or 7.

8) Review of Meeting Action Items

- a. Chair is to draft slides for the presentation at the public input meeting.
- b. Harriet Applegate and Drew Herzig are to provide additional information on ranked choice voting.
- c. Guy Thellian is to draft a flier for the public input meeting. Harriet Applegate volunteered to post fliers with him.

- d. Drew Herzig is to work with Assistant Law Director Lee Crumrine to arrange for the public input meeting at the library.
- e. Graham Ball is to revise his draft of the land acknowledgment.
- f. Assistant Law Director Lee Crumrine is to incorporate the approved budget amendments into the draft Charter.

9) Public Comment

- a. None.

10) Review of Meeting for Lessons Learned

- a. None.

11) Adjourn

- a. Motion to adjourn was made by Roland Anglin, seconded by Jonathan Ciesla. Approved unanimously.

Next meeting: Saturday, April 27, 2024, at 10:00 A.M.