



## **City of Cleveland Heights Charter Review Commission**

### **Questions for Members of Council, City Manager, Department Directors and Chairs of Boards and Commissions**

The Commission has been specifically directed by City Council to look at some critical parts of the City Charter, such as the form of government. However, as part of that effort, the Commission wants to be sure to deal with any provision that needs attention. To help ascertain views of the form of government as well as what provisions need attention, the Commission is sending out this brief survey. The questions are open ended, so you can fully express your views. You may also suggest specific changes to any provision.

In addition, the Commission may invite some respondents to attend a meeting of the Commission to further explain their views.

If you have any questions on the survey, you can contact Dr. Larry Keller, Commission Facilitator, at 216-496-4184. Please return completed surveys either by E-Mail to Dr. Larry Keller at [lkeller@clvhts.com](mailto:lkeller@clvhts.com), or by envelope to Susanna O'Neil, Assistant City Manager, [snoneil@clvhts.com](mailto:snoneil@clvhts.com). If desired, department heads and chairs of boards and commissions can return surveys without any identity.

**Please return completed surveys by Monday, 15 January.**

1. *What parts of the Charter should be considered by the Commission, without necessarily implying that you believe a change should or should not be made.*

*The three (3) most important elements for consideration, not necessarily in order of importance to you.*

*Any remaining elements, preferably in order of importance to you.*

**Top three issues for consideration:**

1. Elected Mayor (with Charter mandated Chief Administrative Officer) or Appointed City Manager
2. At-large Council, Ward-based Council, or Hybrid at-large and wards
3. Voting process – First past the post (or our current three or four first past the post), or a different method for electing public officials

**Additional Considerations:**

4. Council confirmation of all department directors (especially if we convert to an elected mayor).
5. If we remain a Council-manager form of government, remove the ceremonial “Mayor” title from the Council President.
6. No matter what form of government is chosen, consider a strong prohibition on council members individually directing the expenditure of funds.
7. If a Council-mayor form is chosen, the council must explicitly retain the power to directly hire a staff (including a professional clerk and chief of staff) accountable to the Council (with day to day administration of that staff by the Council President). This will provide greater likelihood that the Council can provide the necessary oversight of the administrative branch.
8. The Commission should not spend time discussing updating the gendered pronouns and references in the Charter. Making those changes is a no brainer that Council should simply put on the ballot with no need for a recommendation from the Commission.

*2. For each part identified in Question 1, explain briefly,*

- (a) why the item should be considered and if you think a change may be warranted, then*
- (b) what the change should be and why.*

### **Council-Mayor or Council-Manager form of government**

**(a).** This issue has been on the mind of residents for at least several years. There have been at least two resident movements since I have been a member of Council to place a change to our form of government (including an elected mayor and ward-based Council representation) on the ballot. I believe that the interest by residents in this topic makes it important for this Commission to consider it. A change may be warranted because we should, as a community, always be looking for ways to improve how we govern ourselves as the economic, demographic, and political environment changes around us. It doesn't have to be "broken" for us to find ways to make it better.

**(b).** I believe that Cleveland Heights should amend our Charter to institute a Council-mayor form of government, with a full-time, elected executive (and optimally including a Charter mandated, appointed Chief Administrative Officer to be confirmed by Council). The current form of government has shown itself to be ineffective at providing a vision for the city and implementing that vision. Our current form of government has shown appropriate capability at managing the basic delivery of services and financial management. But those necessary capabilities are not a replacement for an actual vision for the city, as generally expressed by a candidate's platform that can be vetted and selected by the voters of the city, and then implemented by that elected executive who can then be held directly accountable to those voters for the success or failure of that vision.

We do a disservice to our City Manager when we expect her to perform the role of a Mayor. Contrary to what our Council President expressed during the January 18 2018 Charter Review Commission meeting, I, as a Council member, do not expect the City Manager to provide policy leadership for the Council. I expect her to provide the information that the Council needs for our policy determinations and to effectively manage the implementation of the policies and priorities as determined by the elected officials. The informational support provided by the City Manager should certainly include policy suggestions, notice of administrative needs, and updates on best practices, but not to the point of leading the Council. Unfortunately City Council appears to have ceded the direction of policy long ago to the City Manager. I want to make it clear that this is not the fault of the city manager. To the degree that it is any person or group's fault, it is the fault of the Council.

However it is important to recognize the role of the system itself in creating the hands-off culture of Council.

Precedent in Cleveland Heights government has shown over the last 30 years that the Council is incapable of producing a viable, bold, singular vision for the city. The Council has shown itself to have a difficult time ensuring timely implementation even of smaller goals for the city in many cases. This is not an indictment of those individuals currently inhabiting those roles, but is a flaw in the system itself. “Design by committee” has become a synonym for slow, bland, and minimally effective; a vision for the city as created by a City Council tends toward design by committee. The “design by committee” nature of our current system results in a less nimble and brave decision making process that has not been competitive relative to our neighbors.

An additional flaw in the current system that would be rectified by a change to a Council-Mayor form of government is the group-think that occurs when there is too little distance between the legislative and executive branches. When the administrator of the government is the employee of the legislative branch, as in Cleveland Heights, I’ve seen the strong tendency for Council to seek to protect their employee from criticism or challenge. One of the benefits of a true separation between the executive and legislative branches is a constructive friction that leads to greater oversight and public debate of differing plans between the executive and legislative branches. The lack of actual accountability and friction in our current system (as evidenced by the testimony of one of my colleagues who referenced documents resulting from an executive session of Council “in retreat”) leads to an immense amount of governmental inertia that is out of step with our regional economic environment and creates a situation where neighboring cities have been able to quickly take advantage of opportunities that we have let slip by.

Another issue that stems from the employment of the administrator by the legislative branch is that there is an over-reliance on the people who implement the policy to determine what the policy priorities are. It is important to take into account the perspective of the administration when determining priorities of government (no matter what form of government), but there is a danger that the vision and priorities for the city will not be far-reaching enough because the Council is expected to provide the vision and priorities for the city, but are totally reliant on the administration (who ostensibly would be held accountable for the implementation) for information and support in determining the vision and priorities. In an optimal system, the administration does not act as support staff for the Council.

### **Ward-based Council, At-large Council, or Hybrid (Ward/At-large) Council**

**(a).** Please see the response to question 1(a).

**(b).** Although it is possible to *adequately* represent the people through legislative bodies that consist of either all at-large or all ward-based council members, I believe the most appropriate method is a combination where a simple majority of the council is ward-based and a minority of the council is at-large (for instance, if we stay with the current number of council members, 4 ward-based and 3 at-large; if we increased the number to nine council members, 5 ward-based and 4 at-large).

A change from our current all at-large council to include wards would more honestly represent the will and experience of our residents. Cleveland Heights is not homogeneous economically or demographically. Cleveland Heights is not a monolith; we are a diverse community made up of residents of widely varying incomes and wealth, and with a wide range of experiences that inform their worldviews. However, despite our city's pride in our reputation for being a bastion of multiculturalism and acceptance, our city (as diverse as it is) is not quite the melting pot that we believe it to be. At a more granular level, we can see patterns of economic and racial geographic stratification that have served to separate the daily experiences of our residents (to the point where one of the Council members who lives in the southwest portion of Cleveland Heights has remarked that before joining Council, he did not ever have the occasion to visit or even drive through the northern portion of the city). The purpose of designing districts/wards is ostensibly because people who live geographically close to each other may have experiences and interests in common based on that geographic proximity, while people from different locations may have sufficiently different experiences and interests so that common representation may not be effective representation at all. It isn't just about being "accountable" to the voters in a given area or even being able to intellectually understand their concerns, it is also important that the representative has a fully internalized lived experience that reflects the experience and values of the people they represent. Ward-based representation can help to facilitate that shared experience.

Another important reason to include ward-based representation in the election of Council members is to reduce significant barriers to entry into local politics that serve to cement existing power structures in undemocratic ways. Cleveland Heights has almost 35,000 registered voters as of the last municipal election. The advantages required to achieve electoral competitiveness in such an environment diminish the diversity of representation on the Council. Elections do not tend to be even playing fields, notwithstanding the valiant campaigners among us who occasionally buck the trends.

In the context of such a large electorate in a suburban city – money, endorsements, and incumbency can play a huge role in elections. I have personally benefited from two of those advantages, and I have noticed that it seems almost impossible to overcome the lack of those advantages.

- The amount of money that it takes to run a city-wide campaign may not seem like a lot to some of the more affluent in Cleveland Heights (or those very experienced in fundraising or with access to wealthier donors), but to many in our city it can be an insurmountable hurdle.
- Endorsements from political parties or other organizations can be valuable shorthand for voters to quickly give an indication of the candidates' positions, but with such a large electorate and the corresponding difficulty in reaching a majority of those voters in an election season, you may find that the shorthand can have an out-sized influence on voting, especially for a newer candidate who may have the capability to be a good local legislator, but does not have the political connections to win the endorsements.
- Incumbency is another advantage which has proven difficult to overcome, as we've seen in the last few occasions where an appointed Council member went on to run to keep the seat (I include my own election as an example).

I bring those advantages up in this conversation because I believe that in a ward-based competition (with approximately 8,000 – 9,000 voters per ward), there is a greater possibility that a candidate will be able to directly reach out to a much larger percentage of the voting members of that ward than they would be able to reach city-wide. This greater degree of direct contact allows for longer and more substantive discussions in the ward, thereby decreasing the influence of money, endorsements, and incumbency on the election. This, of course, is directly against the interests of those currently in office who tend to benefit from those advantages.

I also recognize the potential downside that has been shown to occur in some cases when a council is made up of all ward-based positions. There are legitimate worries about creating fiefdoms lead by Council members that place political ward-based interests over the interests of the city as a whole, or worries that certain wards may be neglected because of political considerations among members of Council. People often look to certain political conflicts in the City of Cleveland for examples of these phenomena (although I think that more of the problems in Cleveland stem from historical flight of white and middle class black people from the east side neighborhoods in Cleveland, historical official and unofficial discrimination in housing choices and education policy, and failed drug and corrections policies).

The challenges listed above (and others often trotted out as boogey men to scare those that might suggest a shift in our form of government) are not necessary

aspects of the ward-based system. I have seen examples of all ward-based Councils avoiding those pitfalls. Cuyahoga County Council has been successful at maintaining a County-wide view even as specific members pay close attention to their individual Districts. County Council members do not hold districts or the interests of those residents hostage to political conflicts (e.g. the County's road resurfacing and repair programs are based on road conditions, without regard for districts or politics; economic development funding is never based on who is "in favor" with leadership; unlike other Councils, County Council Committee assignments are based on Council members' interests and skill sets instead of politics). To be on the safe side, in Cleveland Heights these potential problems with the ward-based system can be effectively mitigated by imposing safeguards, like a clear prohibition on individual Council members directing the expenditure of funds (to avoid the "ward allocation" trap), putting limits on the powers of Council leadership (to avoid leadership playing favorites to the detriment of specific wards), and including at-large membership on the Council (to ensure that there are members with an explicitly citywide perspective). These changes would improve the current system which has led to a large portion of our city feeling neglected by city government for decades.

### **More democratic voting method for elected offices**

**(a).** Elections in Cleveland Heights are an anachronism. There are ways to hold elections which more accurately reflect the will of the voters while encouraging true competitive races. Electing the three or four candidates who get the most votes in a melee-style election allows for the election of candidates who did not get a majority of the vote (this issue is especially likely when there is lower turnout and more candidates for the three or four positions on the ballot). For instance, in the 2015 City Council election, neither Council President Roe nor I earned the vote of a majority of those who voted in that election. This is an odd way to follow the will of the people.

**(b).** I would like to see the Commission consider moving away from the melee-style elections for Council and instead have each seat separately elected (whether ward-based or at-large). This would allow specific incumbents to be challenged on their record and accomplishments (or lack thereof) in a direct way that more effectively holds incumbents accountable to their voters. I would hope that the Commission also seriously consider implementing ranked choice voting (or instant runoff voting) for all elected positions in Cleveland Heights government (Council members, Municipal Judge, and Mayor if we choose to have an elected mayor). I encourage the Commission to investigate other potential voting methods as well, as long as we abandon the first-past-the-post and the top three/four candidate methods.

*3. Identify any change or changes you have observed in the facts and circumstances of the city (other than personnel changes in the City Council or City Administration) in the five (5) years since the on-cycle determination by Council in 2012 that no charter review was warranted. Note the changes that warrant this off-cycle review, and how any such changes relate to what you noted in Questions 1 and 2 above.*

**2012 Determination by Council:**

I was not involved with or aware of the conversations among city council members in 2012 when they determined not to seat a charter review commission. I suspect that a longstanding dedication to status quo in Cleveland Heights government is the true reason for the decision not to review the Charter at the time.

**Reasons for the current off-cycle charter review:**

I am willing to consider evidence that I am incorrect, but as far as I have been able to glean from my colleagues' communications on this subject that were included in the city's responses to various public records requests from residents, this off-cycle charter review process was proposed/decided by four council members in an effort to stall or derail an initiative petition effort by a group of residents to change our form of government from Council-manager to Council-mayor and to provide for some form of ward-based legislative representation. The only specific motivation for the creation of this commission that I could find and could directly point to in those publicly released emails is that the four council members did not want the then Council President to be elected as a Mayor under a strong mayor system for their own personal reasons that I am not privy to. They seemed relatively certain that she would be elected if the system was changed. If it were not for that initiative petition effort, I don't believe that this off-cycle review would have been initiated by those four members of Council.

*4. What parts of the current structure of the City government are: (a) serving the City well; (b) not serving the City well?*

To the degree that it relates to the Charter, I believe that the answers included above cover this question. Other structural concerns related to Council's rules or the nature of the Administration's operation should be explored in other fora.