



# City of Cleveland Heights Charter Review Commission

## Decisions and Rationales

20 September 2018  
Council Chambers  
Cleveland Heights City Hall

Charter Review Commission: Present; Patrycja Ajdukiewicz, Craig Cobb, Michael Gaynier, Randy Keller, Howard Maier, Vice Chair, John Newman, Jr., Chair, Carla Rautenberg, Vince Reddy, Katherine Solender, James Vail and Sarah West. Absent: Jessica Cohen, Maia Rucker, and David Perelman.

### 1. Acceptance of Decisions and Rationales from 30 August 2018.

The Decisions and Rationales 30 August 2018 were accepted by acclamation.

### 2. Questions and Answers with Board of Elections (BoE)

Two representatives from the Board of Elections met with the Committee. Brent Lawler is the Manager of Candidate and Petition Services (CPS). With him was Cory Milne, Specialist with CPS. The CPS works with petitions both for candidates and for ballot issues such as, but not limited to, initiative, referendum and recall. It handles signature issues, translates ballots into Spanish, writes final ballot language, and develops and circulates election calendars, among other election-related tasks. Lawler has served eighteen years in his current position.

Several days prior to the meeting, the Committee had sent eight questions to be answered. The representatives provided written responses by insertion into the original document and passed out copies of the responses to Committee members immediately before the meeting. In addition, they provided a document setting out the number of registered voters and total votes cast in Cleveland Heights for the years 2002 and forward. Lastly, they provided a spreadsheet with the charter provisions and requirements of all municipalities in Cuyahoga County for candidate petitions. These materials will be posted with other Commission materials on the City website

The BoE representatives noted that the requirement for submission of completed petitions with respect to timing in advance of the date of the election, both for candidates and for initiative/referendum/recall, is determined

by the respective city charter under home rule (unless the charter specifically defaults to state law) and not by the Ohio Constitution or state law (except for 60 day minimum). However, a number of practical circumstances involving processing of petitions prompt the BoE to request very strongly (especially as to candidates, but also as to initiatives, etc.) that charters set a period of 90 days, which is what the Cleveland Heights charter currently requires for candidates but not for initiative/referendum/recall, each of which (except for unusual recall circumstances) has a 60 day requirement. The BoE representatives said for the latter types of elections the 60 day period was doable for them but still did create a crunch and thus was not recommended. The full 90 days was preferred from their standpoint, just as with candidate elections. Separately, they noted that some charters add additional signature requirements to recall petitions, such as that a signature is valid only if the signer actually voted in the election in which the person targeted for recall was elected.

According to the BoE representatives, for elections in which the city goes it alone (such as a special election) the cost to the city is \$2,300 per precinct. For other elections the cost is shared with other governmental entities having slots on the ballot or is measured by the incremental cost of the ballot, with issues-only versus the presence of candidates also being a variable. Generally speaking, November elections would be least costly to the city.

Address information for signatories on petitions is evaluated as of the date the petition is submitted to BoE, which recommends that petitions include at least twice the number of required signatures. By state law, signatures must be obtained no earlier than one year before the date the petition is filed. Some, but a relatively small minority of, communities shorten that period for candidate petitions; Cleveland Heights is among the minority in that regard in that it requires signatures to be obtained within no more than 180 days before the date of the election. Once filed, a petition becomes a public record subject to review by anyone, including other candidates.

The end date of the term for which someone is seeking election is noted on the ballot, and so must be specified. By contrast, the particular starting date for an elected term is not of concern to BoE, so long as there is enough time provided for the election to be certified. This period is normally about 4 weeks.

Charter amendment initiatives are specifically treated in the Ohio Constitution, which provides that the required number of signatures is based on the number of persons who voted at the most recent regular municipal election. For city elections other than on a charter amendment, if the governing charter were to provide that the number of registered voters (as opposed to persons actually voting) should be used as the basis, there is some

doubt this approach would be valid, but at the very least it would be necessary to specify an identifiable point of time when the registry is deemed fixed. Percentages and other requirements regarding the signature process are controlled by charter.

Cities use a wide variety of methods for determining the number of signatures required for candidate petitions as reflected on one of the charts the BoE provided. The Cleveland Heights provision of 2% of persons voting at the most recent regular municipal election does not appear out of line.

As for using the number of slots being contested as a basis for limiting the number of petitions a single person may sign, there is no state law on point; to the extent a city chooses to impose a limit (like Cleveland Heights and a small minority of communities do now), the BoE makes the determination of validity of signatures based on the order in which the petitions are filed, not the order in which the signatures had been affixed, a standard that the BoE lacks the practical capability to administer.

The BoE will follow instructions of the city on whether candidates must be listed on the ballot with full proper names or if a derivative of the proper name would be acceptable, but the city must give explicit instructions.

The BoE representatives confirmed that “canvass” is a correct term and includes all aspects of the electoral process up to certification of the election. The term “elector” is treated by the BoE as equivalent to “registered voter” and the term “voter” means an elector who cast a ballot.

### 3. Change in the order of considering Articles V and VII

In light of the discussion with the representatives from the BOE, it was decided to address Article VII, the elections and nomination article, first and then, if time permits later in the meeting, come back to Article V.

### 4. Article VII-1

There were no suggested changes to this section. It was noted that for purposes of drafting, the term “regular municipal election” will be used consistently when referring to an odd-year November election.

### 5. Article VII-2

The first sentence of Section VII-2 reads: “The ballots used in all elections provided for in this Charter shall be paper ballots or mechanical or other devices for voting not inconsistent with the general election laws of the State of

Ohio." A question was raised as to whether "consistent with" would be more appropriate than "not inconsistent with" at least for grammatical purposes. Upon discussion it was concluded that the two phrases can have somewhat different implications and that, in this circumstance, "not inconsistent" would be more appropriate in this context.

In light of information from the BoE, there was discussion about removing the third paragraph of this section, which deals with how candidate names appear on ballots. Removal would have the effect of putting into the hands of the BoE the handling the issue according to state law and the BoE's standard procedures.

Vince Reddy moved to delete the third paragraph of Article VII-2. Carla Rautenberg seconded.

## 6. Article VII-3

Consideration of subsections (a) and (b), as to which there were no changes of substance noted, prompted discussion about the desirability of consistently using “registered voter” instead of elector” and “city” instead of “municipality.” The sense of the Committee was generally favorable, with the determination being that this would be left to the drafting process.

Discussion ensued concerning subsection (c), which limits the number of candidates for whom a single person can sign a candidacy petition to no more than the number of open positions. It was agreed that this limitation would be eliminated. The term "petitioner" was confirmed as being a person signing a petition; and a "circulator" was clarified as being the person collecting the signatures on a particular page of the petition. It was noted a candidate could be a circulator.

There was discussion of subsection (d), in particular the provision imposing a deadline of no more than 180 days in advance of the election for the collection of signatures for a candidate.

Vince Reddy moved to retain the 180 day provision of subsection (d) of Article VII-3 as is. Patty Ajdukiewicz seconded.

It was agreed that changes to subsection (c) would be for language clarification only, not substance.

7. Discussion of Article VII-4

No issues of substance were raised with this section. Certain language clarifications will be made.

8. Article VII-5

The section was perceived as mistitled in that it deals only with write-in candidates, not generally with who gets elected. The suggestion was to title the provision: Write-In Candidates. It was also suggested and discussed that for purposes of clarity, the first and third sentences of the section should be swapped, with transition and connective wording changed appropriately.

Patty Ajdukiewicz moved that Article VII-5 be changed as suggested. Carla Rautenberg seconded the motion.

**Vote on the Motion:** Yes – 9      No – 2      Abstain – 0

9. Article VII-6

It was determined that no changes of substance were necessary in this section, but only some language clarifications. It was also, upon discussion, determined to use “State of Ohio” consistently rather than “Ohio” where the proper noun is used.

10. Article VII-7

It was determined to retain the provision but to use plurals rather than singulars for references to service members and families.

11. Disposition of Article VII Generally

Referring to Article VII generally, Jack Newman moved to adopt the provisions as discussed and agreed. Patty Ajdukiewicz seconded.

**Vote on the Motion:** Yes – 10      No – 0      Abstain – 1

12. Future Attendance

Howard Maier and Katie Solender will miss the next meeting on 4 October. The second October meeting will occur on 25 October; Randy Keller will miss that meeting.

### 13. Future Business and Notice of Meetings

The agenda for the next meeting will include review of Articles V and VII and also a consideration and update of the overall schedule.

The Chair suggested potentially inviting members of Council to examine and comment informally on the Committee's tentative suggested revisions at some point in advance of the final vote of the Commission. Following discussion and comment by the legal staff, it was decided to set the idea aside at least for the time being.

The Chair reported that the Facilitator and he had recently met with the City Manager and Finance Director about Article IX on Finances. The City Manager and Finance Director noted that Article IX-1 was not in line with actual practice and, in their view, warranted comprehensive attention and adjustment. After substantial discussion at that meeting about the whole Article, it was decided that the City Manager and Finance Director would outline for the Commission two different approaches to Article IX, with a delivery target of Friday, 28 September. One approach would be minimalist, given that the handling of city finances is in most respects governed by state law in any event. The second would involve, in effect, an edited version of the current article. The Committee could then consider which approach to pursue, or potentially take a middle road or another approach entirely.

### 14. Public Comment

There were no public comments.

### 15. Adjournment

The Committee agreed by consent to adjourn.