



City of Cleveland Heights Charter Review Commission

Decisions and Rationales

15 November 2018
Council Chambers
Cleveland Heights City Hall

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

1. Acceptance of Decisions and Rationales from 25 October and 1 November

The Decisions and Rationales from 25 October 2018 were accepted by acclamation. The Decisions and Rationales from 1 November 2018 were accepted by acclamation.

2. Charter Review – Final Decisions

Consideration of the specifics of the charter review article resumed. Items raised included the method of selection (election v. appointment by Council); whether the charter should specify the size of the commission, should require at least one representative from each of the five current wards or set other geographical or diversity requirements, or should mandate (or forbid) particular internal parameters for the Council selection process; the general desire for full transparency of the overall process. The terms of the ordinance establishing this Commission (such as composition and method of appointment) were noted and, with some reservations, were generally thought to be sensible and acceptable. The sense of the Commission, acting as the Committee of the Whole but noted as the Commission in this document, was that while representativeness, fairness, and transparency were important elements for any charter review process, it would (with the exception of election v. appointment) be extremely difficult to draft charter provisions that would accomplish these objectives with adequate clarity and precision and in a manner that would not unwisely limit the flexibility of Council to deal with changing political and other circumstances. Further, as to the ward distribution, for example, there was concern over the potential for undesirable collateral consequences. In the end, the Commission felt that the details should be left to Council, with the Commission's report separately expressing

the Commission's views on the subject, emphasizing transparency and including the suggestion that Council's approach to charter commission matters be included in a codified ordinance.

Jessica Cohen moved that members of a charter commission be appointed by Council. Vince Reddy seconded the motion.

Vote on the Motion: Yes – 8 No – 1 Abstain – 2

3. Article IX

The Chair introduced the topic discussion by noting that, as had been requested, the City Manager, with assistance from the Finance Director, had prepared two options for consideration in addressing the finance article. The first is an editing of the current article, mainly to give an accurate description of the current budget process. The second is a shorter, rewritten version that, starting with express recognition that Ohio law governs substantial portions of municipal finance even for charter cities, eliminates several current sections as unnecessary and revises others, including the budget section, and also requires an annual financial audit in line with the state requirement on financial actions. Discussion revealed that the Commission felt that option two, the rewrite, was the preferable alternative, but that, at the same time, given the complex and technical nature of municipal finance, members needed more information by way of views of the legal staff and possibly others with better knowledge, before there could be any final determinations. The Chair noted that he had several questions about details of items in option two, and that arrangements had been made for the Facilitator and him to meet with the City Manager early the following week to discuss them. This, then, could be followed by further drafting, review and comment by the legal department, and follow-up consideration by the Commission -- all assuming it were clear that option two should be the focus of further effort for the finance article.

Mike Gaynier moved to pursue the second option, as discussed, for the finance article. Carla Rautenberg seconded the motion.

Vote on the Motion: Yes – 11 No – 0 Abstain – 0

The Chair briefly noted the specific items in the draft that would be pursued with the City Manager: the timing and other relationships between estimates and budgets, between budgets and appropriation ordinances, and between interim and annual appropriate ordinances; the reach of the amendment process as to appropriations ordinances; the time horizon for capital budgets and the need for consistency with the clause on that topic in Article III dealing specifically with the City Manager; and the need for or wisdom of the provision

prohibiting sale of debt instruments for less than their face value. A question was also raised about the continuing need for inclusion in this article of discretionary authority on the part of Council to commission an audit, in view of the new clause requiring an annual audit, and the clause in Article IV giving Council the general power to hire outside consultants. At least preliminarily, there was no significant support for removing the reference from this article

Discussion ensued concerning a suggestion first raised by a former City finance director that the charter include, via the finance article, a provision that would offer a regular, separate source of ongoing funding for infrastructure, along the lines of the current provision for parks, recreation and cultural facilities found in Article IX-11(A), by authorizing Council to impose a further property tax on an annual basis, up to a specified limit. It was noted with considerable vigor that maintenance and renewal of the aging infrastructure had appeared to be a consistent and even increasing issue requiring constant attention, such that a dedicated source of funding could be very beneficial and ought to be pursued somehow. Discussion, including information provided by staff, noted that there is already a capital improvement process that deals with infrastructure, both annually and as projected for future years, with money allocated in the budget, although the adequacy of available funds is an ever-present concern, especially over the most recent decade. Also, there is a specific directive to the City Manager in the expanded Article IV as already approved by the Commission. A question was raised whether this kind of provision, which would impose a new tax, would be sensible or proper to include in a larger charter process such as here, as opposed to making it a separate standalone proposal for consideration at a different time. Inclusion here could lead some to vote for a revised charter without realizing they were approving a tax increase; it could also cause voters who would otherwise vote for the revised Charter to vote against it in order to defeat the tax increase. It was suggested, and the Commission agreed, that although the Commission would not put a millage provision into the proposed charter revision, its accompanying report will strongly advocate that Council aggressively consider a provision authorizing (and limiting) an infrastructure levy like the existing recreation levy for inclusion in the charter, although not as part of the current overall revision process.

4. Civil Service Commission and Council Salaries

Under the current charter, Council may fix its salaries every other year in odd numbered years. In addressing the salaries section of Article III, dealing with the Council, the Commission had previously determined, at least tentatively, to change the current salary setting method in favor of a Lakewood-type approach, under which, every four years in a presidential election year, the

Civil Service Commission makes a recommendation as to salaries, as to which the Council can accept or reject or decline to act; in the latter circumstance, the recommendation of the Civil Service Commission would come into effect by default. The draft revised charter now in front of the Commission had been prepared accordingly, but with the addition that the Council would also be required to consider salaries at the intervening two year mark, although without the assistance of the Civil Service Commission. Also, the Commission now had before it comments of the current chair of the Civil Service Commission, which expressed reservations about assigning the additional responsibility to that Commission. Points considered during a substantial discussion included whether it appeared that Council salaries were unduly low by comparison with other municipalities, such that a new method of salary setting should be regarded as important in the first place; whether, even if salaries are not out of line now, that situation could change; whether salaries or modest changes in them would make any difference in attracting candidates; whether simple fairness should be an element motivating change; whether it would be beneficial to have a more independent body than Council itself - “a step removed” - have a meaningful role in salary setting; the extent of additional work required by the Civil Service Commission, which seemed not extensive given that data gathering would be done by City support staff; whether the Civil Service Commission ought to be assigned the responsibility in light of the chair’s reservations; whether, if the Civil Service Commission were to be assigned the task of making a recommendation, it would be appropriate to insert a default provision or instead require Council to act one way or the other on the recommendation; and whether it was sufficient to have the salary setting process occur every four years instead of every two years.

Patty Ajdukiewicz moved to have the salary setting process occur only every four years, to have the Civil Service Commission make recommendation at that time as to salaries, and to require the Council to act one way or the other on the recommendation, with no default provision. Motion seconded by Howard Maier.

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

The discussion also included whether it was appropriate to provide that the salary of the President of Council be larger than that of other members, if so then whether a specific percentage relationship should be established, and further if so then what that percentage should be. It was acknowledged that the responsibilities given to, and effort required by, the President were materially larger than for other members, meaning that a larger salary was warranted -- and in fact already provided in practice, but not via a specific term of the charter.

David Perelman moved to have the Council President's salary be twenty-five percent more than the base Council salary. Seconded by Mike Gaynier.

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

5. Revised Charter as a Whole

The members were reminded and encouraged to study the draft revised charter overall, and to consider which aspects each thought needed further assessment and/or change, for whatever reason. The plan is not to start again at the beginning of the new document, but to target issues identified by each member, wherever they might be in the draft and in whatever order might make sense.

A suggestion was raised about using a new numbering system to make it easier to read and identify particular provisions for discussion. Details were not confirmed, but it was understood that a new approach would be considered and potentially adopted.

6. Sarah West Status

The Chair advised that Sarah West would not be able to attend a Commission meeting until January. The sense of the Commission was that despite this circumstance, and recognizing that others had also incurred multiple absences and Sarah has made significant contributions when able to attend, she should not be treated as having resigned, but instead should remain on the Commission and participate as she can in January.

7. Additional Business

There was no additional business.

8. Public Comment

There were no public comments.

9. Adjournment

The Committee agreed by consent to adjourn.