



City of Cleveland Heights Charter Review Commission

Submissions to the Commission - Revised

Committee of the Whole
27 March 2018

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The following messages and other materials have been submitted to the Facilitator since the last sharing of Submissions. The materials are ordered by date received.

1. David Porter – Message 14 March 2018

The Commission need look no further than today's PD to see the stupidity that comes with ward politics. Mayor Jackson changed the way funds were allocated for street repairs last year, from a pro rate distribution of a common pool of funds to all wards, to one that awarded funds based on need as judged by street by street analysis of condition. That is, streets graded the worst went to the top of the list for funding.

Councilman Polansk [sic] argues his ward, which apparently has fewer streets in poor condition, is being mistreated because dollars are being used to help wards that haven't been as well maintained.

Great evidence that ward politicians do not serve the city as an entirety.

Regards,
David Porter

http://www.cleveland.com/cityhall/index.ssf/2018/03/street_resurfacing_funds_are_u.html

[Note the link to the article was also in a submission from Melissa Yasinow in the previous Submissions document.]

2. Sandy Moran – Message 15 March 2018

Requests to ensure transparency -

1. Please add your email to the AGENDA with notation that comments can be sent to you if citizens are unable to attend meeting and wait until end to comment. It is 9:10pm and so far eight citizens have left the meeting without opportunity to comment.

2. Naming of Commission Members (roll call)- since all were commenting today and many (including local reporters) watch these meetings on video. In spirit of transparency I asked that members announce their names before comments. This request was met with eye rolls (not professional) from City staff in attendance. Even Jack Newman stated he would go back and watch this meeting- imagine citizens who were not here/ not familiar with participants... how will they discern who speakers are? Future meetings should have a swift roll call (each stating name) to ensure those watching have this information.

If request not clear I welcome your email or phone call.

Sandy Moran 216-990-1046

Sent from my iPhone

3. Carla Rautenberg – Message 16 March 2018

[Statement delivered to the Commission at the meeting of 15 March]

For the last 2-1/2 years, I have attended almost all of the Committee of the Whole meetings of Council; on those occasions when I could not be there, friends of mine attended and let me know what occurred. No other member of the Commission has done this on a regular and consistent basis; I know, because I was there. There is no other way to gain real insight into what goes on in the CoW and how our government business is conducted because minutes are not kept, nor are the meetings recorded.

What I learned over that period of time has convinced me that the current form of government is not working for Cleveland Heights. This is precisely why I applied for the CRC.

If every member of the CRC had had this experience of attending the CoW meetings week after week, month after month, year after year, I believe many of you would be agitating to put a change in Cleveland Heights government on the ballot sooner rather than later.

I think the change in government form that should be proposed to voters would be 1.) to have an elected (strong) mayor; and 2.) to have Ward representation, probably in the form of a mixed Council with 4 councilors elected from Wards, and 3 elected to serve at-large.

The only other individuals I know of who have attended the CoW regularly and over a period of years are Susan Miller, Diane Hallum, Melody Hart and Gary Benjamin. While the five of us certainly do not agree about everything by any means, it's my understanding that we all believe some changes in the government of the city will be essential if Cleveland Heights is to thrive.

Here are some key conclusions I have drawn after attending maybe 80 to 90 CoW sessions:

- All the current members of Council clearly are dedicated to the city and its citizens; their service is absolutely a labor of love, and they should be lauded for it. I have the highest respect for each of them. This does not mean that a part-time Council serving entirely at-large is the best method of government for our community.
- The Charter vests tremendous power in the City Manager -- too much power for any un-elected individual to have in an even nominally democratic system. Again, this is not about our current City Manager, it is about the *system*. A system that worked well for a homogeneous town that was growing by leaps and bounds 100 years ago doesn't necessarily work for an economically, socially and racially diverse city that has been losing population for decades.
- While the Charter stipulates that the City Manager be appointed by Council and serve "at-will," in fact, our C.M. has a contract. Legally, at-will and contracted employment are different. I have not been able to find anything about the City Manager's contract in the codified ordinances, but perhaps the Law Dept. can explain the legal distinctions to the Commission.
- While Larry maintains that the Charter vests all power in the Council, in reality, a part-time, citizens' council such as we have in CH

has consistently demonstrated that it neither wants that power, nor knows how to wield it. The "power" to hire and fire the City Manager is a blunt instrument -- as we saw when Council very reluctantly fired Bob Downey after 28 years and the citizenry still knows not what crimes he may have committed. What happened then? Council had to hire a new CM; that process was frustratingly long and unfortunately generated some very negative PR for our City; no member of Council who went through that would want to repeat the experience. It's great to say Council's the boss; but they don't wanna be the boss. A more appropriate role for the legislative branch would be as a check on the power of the executive.

- Although we call the Council "legislators," they do not actually generate a great deal of legislation; most of it seems to come from the City Manager or the Law Dept., who then explain to Council the rationale of, or necessity for, the legislation.
- Whether the Commission recommends a change to strong mayor or not, I suggest we at least consider ways to temper the power of the Executive. Currently, Council must approve the City Manager's selection of the Directors of Law, Finance and Planning, but the CM may terminate those individuals at will. Perhaps Council should have to approve any such termination. Under the current Charter, all city hiring and firing outside of those three positions is entirely up to the C.M.
- Council Vacancies -- Article III, Section 4—the power of Council to appoint individuals to fill vacancies is problematic, because those appointed then run for the first time with the advantage of incumbency over any challengers. Further, this power has been abused. Section 4 could and I think should be changed to state that any vacant Council seat shall be left vacant until the next scheduled election, when a replacement can be elected by the people.

I have come to the conclusion that building consensus on City Council is all very well, but it does not result in leadership. I think a city of 45,000 souls needs a separation of powers between the executive and the legislative branches of its government, and it needs a leader. And it needs to CHOOSE that leader. And fire that leader if necessary. In one of the "Decisions and Rationales," Larry Keller mentioned that this Commission might consider Oberlin, Ohio, as a model of the Council-Manager form. Oberlin is a college town with a population of 8,300 people; it is 73 percent white and 15 percent African-American. I don't see how Oberlin can serve as a model for Cleveland Heights.

Finally, my thoughts about the Charter do not end with those expressed here; this is only a beginning.

Carla Rautenberg, 3/15/2018

4. Howard Maier – Message 16 March 2018

Hi Larry,

My remarks from last night's meeting are attached. I hope they are helpful to you, the Commission, and the public as we continue our deliberations about the charter. As I stated, the remarks are generally off the top of my head and can be expanded or contracted as needed. I think the comments made by the members were thoughtful, respectful, and well-crafted. They also show that we are far from a consensus. Nonetheless, it was important for us to have that conversation. It will provide a strong starting point for the next phase of our process.

Thanks to you, the members, the council, the staff, and the public for your support and confidence in us.

Best regards,

Howard

Appendix 1

Statement delivered to the Commission at the meeting of 15 March

Remarks for March 15, 2018 meeting of the Cleveland Heights Charter Review Commission

By

Howard Maier

1. Speakers, city council members, staff, and the public have all thanked us for serving on the Charter Review Commission. I appreciate the kind remarks, but I think we should thank them for the opportunity to evaluate and determine how our municipal government should be structured. You, the community, have given us a rare, unique, and important honor to look to this city's future.
2. I think it's important to recognize the service our council and staff have given the city and this commission. We are confident that our work will be seriously considered. In fact, it will be the council who'll ultimately decide what, if anything, goes on the ballot.
3. I think all of us have thought long and hard about what form of government will serve our city now and into the future. I think most of us will agree that historically, and currently, city services are well-managed and public properties are well-maintained. We appreciate the city's prudent fiscal management and the integrity of the council and staff.
4. I prepared a statement of findings, a SWOT analysis of our community, and a list of potential goals. It's extensive so please bear with me. Some findings:
 1. Most residents seem to think basic municipal services are well-managed. Surveys bear this out. This implies the current system is working.
 2. Some residents have commented that taxes are high. This may be true for property taxes, which largely go to support the public schools. Income taxes, fees, and municipally levied property taxes are within the ballpark of other communities in the county.
 3. Not much has been said about the Consent Decree with the US EPA, the size of the staff, the stability of city finances, or any other successful

activity. Good services may not be particularly newsworthy, but they are expected in Cleveland Heights.

4. People are concerned about economic development, especially Severance and the Center Mayfield site. This can be extended to include the foreclosure crisis and other housing issues. They also express concern about how the changing nature of retail has impacted the city's commercial districts.

5. The selection of the Mayor/President of Council is generally not known or understood.

6. Many people would like the voters to have a more direct role in selecting the Mayor/President of Council. The duties, length of term, full or part time status of the Mayor/President of Council are still to be determined. It appears that many people think a popularly elected Mayor/President of Council would be more accountable to the voters, that he/she would represent the city government to the residents and to the region at large, would be the catalyst in matters of economic development, would articulate the city's "vision," and generally be the "face" of the city.

7. Many existing and former members of Council believe Council members elected at large serve the city well. They believe wards or some form of geographic representation would result in "fiefdoms" and "turf battles." Other residents have expressed concern that some parts of the city receive less attention and that a ward system would result in better focus.

8. Some have suggested a combination of wards and at-large membership. A ward map exists, but it's unclear whether this map should define ward boundaries in the future. Most likely, a new set of boundaries would have to be established for future wards. Creating equitable districts will be a challenge.

The above-listed findings are generally off the top of my head. I'm sure others exist. The list can be expanded to help our decision-making, but this should serve as a start.

The next step in my process was to prepare a SWOT analysis. Here goes:

STRENGTHS

1. Cleveland Heights has a generally well-educated population. It's percentage of college grads is among the highest in the county.
2. Cleveland Heights has a diverse population in terms of race, religion, education levels, incomes, and interests, among other things.
3. Cleveland Heights has a history of scandal free, professional government. As such, it has met its needs for almost a century. The council and staff are engaged in the community and strive to meet its needs.
4. Cleveland Heights has a rich history of culture, artistic, and musical achievement. This history is valued by the community.
5. Cleveland Heights values education and has been willing to financially support its public school system, including a major investment in repurposing and rebuilding its high school and middle schools.
6. Cleveland Heights has benefitted from land use planning, zoning, and architectural prominence.
7. Cleveland Heights has had an involved and active citizenry.
8. Cleveland Heights has an officially adopted master plan, which essentially states the vision of the city.
9. The citizen surveys generally show the public's satisfaction with the city.
10. The citizenry seems to have affection for the city and for their neighborhoods.
11. Cleveland Heights has benefitted from its nearness to University Circle and downtown, the major employment centers of Cuyahoga County.
12. Some commercial districts seem to be thriving.

WEAKNESSES

1. Cleveland Heights has suffered from the foreclosure crisis of the Great Recession. As a result of the crisis and other factors, it has a number of houses that are vacant and in disrepair.
2. Poverty has been on the increase in the city.
3. Housing values are not what a community such as ours should have. Many people have seen their housing investments decline.
4. In order to balance the budget, the city staff has shrunk over the years. This may be fiscally prudent, but it also means fewer public services and programs are available.
5. The changing nature of retail has put strain on our commercial areas. We have a number of vacant store fronts in some struggling commercial areas.
6. The city has a lack of housing options for families wanting one-story housing.
7. People are bewildered at the lack of progress in the redevelopment of Severance and the Center Mayfield sites.
8. Concern that parts of the city are in decline with no apparent solution to uplift them.
9. Lack of economic development “sizzle.” Economic development activities may be taking place, but it is generally not publicized.
10. Other suburban communities with similar circumstances to ours have had visible improvements while Cleveland Heights hasn’t.
11. Public transit opportunities are decreasing due to financial problems of the RTA.
12. Cleveland Heights doesn’t take advantage of its nearness to University Circle.
13. Some people feel that the process of selecting the mayor and city manager are not very democratic in that only a few individuals, although elected, are involved in the selection process.

OPPORTUNITIES

1. Cleveland Heights could capitalize on its nearness to University Circle.
2. Cleveland Heights could visibly begin implementation of its officially adopted master plan.
3. People want Cleveland Heights to succeed in its economic development activities.
4. Cleveland Heights should use social media and other techniques to publicize its progress.
5. Cleveland Heights has potential partners who are willing to help the city succeed. These partners should be nurtured and cultivated.
6. Cleveland Heights should encourage its elderly population with services and housing opportunities.
7. Cleveland Heights enjoys good will among its citizens. It must work hard to maintain that good will. It cannot be taken for granted.
8. The Charter Review Commission gives the community an opportunity to critically look at its municipal government and offer well-considered suggestions.

THREATS

1. The economy of the city and the region are in the midst of great turmoil.
2. Poverty is lurking and many individuals and families are struggling to make ends meet.
3. Other suburbs and Cleveland neighborhoods are expanding their housing and commercial opportunities while Cleveland Heights is slow to act.
4. Cleveland Heights is in danger of losing its “cool” status among potential renters and homebuyers.

5. The commercial areas of the city can slip into irrelevance without attention.

6. The housing stock continues to age and will require continuous inspections, investment, and nurturing to remain viable

7. If the Charter Review Commission's work is ignored or trashed, community confidence in the system will be harmed.

As a result of the findings and the SWOT, what community goals emerge?

GOALS

1. No matter what structure the government takes, city services and programs must continue and get better.

2. Maintaining the public safety and health is paramount.

3. Maintaining and improving the city's infrastructure is important. To this end, the city's capital improvement programming and budgeting is important. The city's infrastructure could be improved with the passage and implementation of the Complete and Green Streets Ordinance. Likewise, the city's public buildings and parks must remain in good order.

4. Nurturing the city's business sector is important for the city's economic well-being.

5. Maintaining and expanding the city's housing stock is important.

6. Maintaining and nurturing relationships with other governments, businesses, non-profits, and media is important.

7. Equity in delivering public services is important. Equity means fairness to the various neighborhoods, age groups, religious groups, racial groups, and other demographically identified groups.

8. Meaningful public participation is important.

9. Functioning democratic principles in our governmental institutions is important.

10. Implementing the master plan will give people confidence in our process.

The above-noted points can all be added to and subtracted from. The main idea behind this exercise is to create the framework for the decisions we have to make.

So, how do the findings, SWOT, and goals lead to an improved charter and a decision on our form of government?

During my career, I've seen all forms of local government. If you have the right people in place, any form of local government will succeed. Our concern is what form we think will best serve us as we move forward.

I see a few options based on my off-hand findings, SWOT, and goals. We can keep the present system, but improve the charter to more completely identify the roles of the mayor/president of council and the city manager, modernize the language of the charter, and devise a system that would give voters more say in selecting the mayor/president of council. This position would clearly be part time and have no executive responsibilities, but would serve as the chief policy maker of the city.

Or we could call for an elected mayor with complete executive and policy responsibilities. This would expect the mayor to be full time, have not only executive responsibilities, but also would be the chief policy leader as well. There is no guarantee that the mayor would have professional public management experience.

Or, following the Shaker model, the city would elect a mayor who would be the chief policy officer, be the "face" of the city, and be the catalyst for change. The mayor in this set-up would have a chief administrative, or operating, officer to manage the day-to-day activities of the city. I don't have any thoughts about whether this person should be full time or part time, but this model would respond to a number of findings and fulfill a number of goals.

Regardless of what system we choose, I would like to see Cleveland Heights retain a person to manage the activities of the city. I like the idea of professional management to run the city.

As for wards, I'm torn. I like the at-large system, but understand the concern that some people have about not having their neighborhood specifically represented on council. It might serve a political need to have wards, but who can say whether it would result in a better city.

5. Kermit Lind – Message 19 March 2018

Comment to the Charter Review Commission

March 17, 2018

Dear Mr. Keller and Members of the Commission:

Most of the comments favoring a change to a popularly elected mayor for Cleveland Heights have pointed to perceived advantages to internal governance as reasons. I ask the Commission to also consider the external challenges now facing local municipalities in general and Cleveland Heights in particular as reasons for the change.

The City faces challenges within its surrounding environment with which the manager-council form of government is poorly designed to engage. Cleveland Heights is more populated its surrounding suburbs. Therefore, the city government should be structured for taking a stronger leadership position with its neighbors on matters that affect the eastern suburbs of the county as a whole. However, it appears now to be a bit clumsy and distant from its immediate neighbors to our increasing disadvantage.

For instance, we are part of a complex and unstable housing market and need to be in a position to collaborate effectively with our mayor-led neighbors to deal with the chronic housing and neighborhood instability that we face along with our east suburban neighbors. Land-use, environmental sustainability, traffic management, water and sewer management, economic obsolescence and redevelopment, just to name a few, are matters that increasingly need to be dealt with on a scale beyond single municipal boundaries.

Likewise, there is an increase in both the need for and the opportunity for sharing facilities and services among neighboring municipalities to gain efficiency and cut costs. Making the most of those opportunities requires a government that looks toward being included if not a leader.

Another external challenge comes from the state government. Ohio municipalities are experiencing a long-term trend of diminishing home rule authority along with a reduction in state financial support. Legislation and Supreme Court decisions have tended to weaken the capacity of cities to protect the health, safety and sustainability of residents and neighborhoods. Cleveland Heights, as a city, is not able to make much of an impression in Columbus without a mayor who can speak as the voice of a whole community. Nor can Cleveland Heights be an appropriately strong and constant ally with neighbors and our local state legislators in the Ohio General Assembly without the voice of a strongly positioned mayor.

External changes in the social, economic and political environment over the last century place Cleveland Heights in a more difficult position with respect to its

circumstances and relationships. Governing is now much more complex. Per capita costs to residents are growing. External factors and actors are more challenging. Therefore, the community's government must be equipped with structures and tools fit for 21st century circumstances. The 20th is over with.

Respectfully submitted,

Kermit J. Lind

3392 Meadowbrook Blvd.

Publications at <https://ssrn.com/author=453067> and https://works.bepress.com/kermit_lind/

6. Robert Brown – Message 25 March 2018

Larry, I've attached a message to the Charter Review Commission. I realized that, while I had been encouraging others to share their opinions in writing with the Commission, I had never done that myself! So, here it is. I've attached it as a PDF and also in its original Word format in case that is helpful to whomever makes the compilation of submissions for the Commission. I copied Susanna at the City. Thanks for all your work on this project.

PS: Do you know how Bud Hilf voted on the Euclid Charter issue? Just curious.

Appendix 2
Statement from Robert Brown

Why would a Cleveland Heights “progressive” want to replace our “progressive” form of local government?

When I began my education as a city planner back in 1970, I learned about the cronyism and corruption associated with some big city mayors, like the Tammany Hall politics of New York City in the early 1900’s. I also learned that the city manager form of government was instituted in some cities as a reform-minded, progressive alternative to corrupt big city political machines.

Naturally, being a progressively-minded young college student, I found a lot to like in the city manager form of government in its call for professional management of the city over politically motivated management. I also learned, however, that some support for the city manager form of government came not from progressively minded individuals but from members of what could be called the corporate elite, who wanted more control over city government and believed that average citizens couldn’t be trusted to choose a city’s leader.

Today, after working as a city planner for over forty years – in suburban communities as well as in a big central city – I’ve come to understand that selecting a form of city governance is a lot more complicated than simply choosing between potentially corrupt politicians, on the one hand, and unelected managers who may have little direct accountability to citizens, on the other hand.

I’ve come to believe that the city manager form of government may work well for growing and stable communities that need little more from their city government than good business-like management. In Cuyahoga County, this may apply to cities like Pepper Pike or Bay Village, although both of those cities are among the 55 municipalities in Cuyahoga County that are led by a popularly elected mayor. Only Cleveland Heights and Bedford have chosen to be governed without a mayor elected by local citizens.

For Cleveland Heights and other suburbs grappling with issues like declining population, building abandonment, falling property values, demographic changes and increasing tax burdens, I’ve concluded that a government made up of seven part-time city council members and their appointed city manager is unlikely to provide the kind of bold and decisive leadership necessary to navigate a city’s forward progress through these formidable obstacles.

Some advocates for the current council-manager form of government in Cleveland Heights say that any form of government can work as long as the people running the government are capable and hard working. No doubt this is true to some extent, but others, including me, would argue that certain forms of government are *more likely* to result in effective leadership for a community with the issues that Cleveland Heights is facing.

In fact, I believe that our current city council members and city administrators are, for the most part, very capable, scrupulously honest and hard working. What holds us back I believe is not the people in

our government but our current *form* of government – one that results, from my observations, in painfully slow decision-making, an overly risk-averse approach to progress, disadvantages in working with the elected leaders of other governments, the lack of a singular vision for our community, and the lack of leadership necessary to articulate and implement that vision. In addition, I have found that the goals of transparency and accountability are more elusive in a government led by and appointed manager than in one led by an elected mayor.

Some advocates for city manager-led governments argue that a popularly elected mayor may lack professional management skills and that city government would suffer without the benefit of a professionally trained manager. Shaker Heights, however, offers a simple alternative that pairs a popularly elected mayor, who functions as the city's leader, with a chief administrative official, who oversees the day-to-day operations of the city – something like the roles of a CEO and a COO in the business world.

What would a more decisive, more accountable form of government in Cleveland Heights have done differently than has been the case in recent years? Although, as it is said, hindsight is always 20-20, I believe that a mayor-led form of government would have likely done a better job in addressing such local issues as the following:

- building new houses on vacant lots and rehabilitating recently foreclosed houses (as has been done in South Euclid and some parts of Cleveland);
- crafting a vision and an incentive package for the transformation of Severance Center, while the property was in receivership, and soliciting an owner willing to invest in that transformation (as is being done with the Van Aken district in Shaker Heights);
- facilitating optimal, tax-paying new uses on vacant and under-utilized properties like the Medusa Building on Monticello, the Rockefeller Point (May-Lee) Building, the former Medic/Pick'n'Pay site on Noble, the long-vacant Lee-Meadowbrook site, and the former Oakwood Country Club site;
- developing a practical plan to stabilize and revitalize the Noble neighborhood;
- attracting technology-oriented start-up businesses to Cleveland Heights;
- capitalizing on our proximity to the institutions of University Circle; and
- partnering with or creating a community development corporation (as has been done in Lakewood, Shaker Heights, South Euclid and Cleveland).

Cleveland Heights is a community with unique assets and tremendous opportunities. It is the “place to be” for many of us, including those of us who would describe ourselves as progressively minded advocates for good government. As one of those citizens, I have come to the conclusion that it is now time for the citizens of Cleveland Heights to amend our City Charter to change our form of local government to one that can better provide the vision and the leadership to act decisively, effectively, transparently and accountably.

Along with many other citizens, I have concluded that the right form of government for Cleveland Heights, moving forward, is one led by a popularly elected mayor, paired with a professional chief administrative officer and a city council that is part of a system of checks and balances.*

**The make-up of city council is a Charter issue that warrants a separate discussion.*

7. David Porter – Message 25 March 2018

Dr. Keller:

I was delighted with the March 15 session of the Commission, which showed the kind of thought and care that its members are bringing to the task ahead. I am especially happy to see so amply demonstrated that the Commission as a whole understands the gravity of what they are considering and the vital role that diligence and process plays in the deliberations. As this recovering lawyer (inactive) knows from his days of advising Boards of Directors and teaching governance, courts (including the court of public opinion) can rarely assess whether boards actually make the right(best) decisions, but can and do assess the nature and extent of the process by which the decisions are made. Kudos to all for attention to due diligence and process.

I have attached a Word document containing some thoughts triggered by various remarks over the past several meetings, which I would like to share, though they would take far more than three minutes to say. Let me know if you have problems opening the document, which I think is easier to work with than a very long email.

Regards,

David Porter

Cautionary note: The foregoing does not constitute legal advice and should not be relied on by the recipient for legal purposes. The author is saying what he thinks, which may coincidentally have been what he thought when he practiced law. Or it may not; it may be the mad ravings of an escapee from academia!!!

Appendix 3
Statement from David Porter

David Porter
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Some Thoughts for Consideration During Charter Revision Process

1. *Wards: Considering the practical issues may illuminate additional questions or concerns with making the switch to a total or partial ward-based election system.*

With the interest shown by many in some kind of ward representation, the Commission ought to tackle, fairly soon, the question of what possible ward configurations might work in Cleveland Heights. And what practical process will be used to define the first wards, as well as subsequent adjustments; we are talking about division, which is always hard work. And then ask “does any of this increase or decrease the likelihood of better government than what we have?”

Here are some suggested questions to consider:

- What is the best configuration of wards versus at-large elected council members? 4 to 3? 3 to 4? 7-0? Something else? If the size of Council were increased to shrink ward size, would the benefits outweigh the costs?
 - With a city population of roughly 45,000, four wards mean roughly 11,250 residents per ward. Query whether that is much greater “democracy” or “representation” than the current system that requires candidates to gain a majority by campaigning more broadly? Should there be smaller, more numerous, wards, or is that unwieldy and too costly?
- How can wards actually be shaped and sized under the law, both initially and as adjustments are necessary due to population change? How much latitude is there?
 - The Commission should seek legal advice on constitutional and procedural ground rules; I understand “One person, one vote” is still open to some interpretation when dividing a political subdivision. The last thing taxpayers want is additional costs from litigation over the ward line drawing.
- How feasible is ward line drawing? Our city, as one Commissioner pointed out, is not Lakewood, being neither a square nor uniformly divisible into neat rectangles of similar makeup. It is only by looking at what is possible and rational that one can actually consider how likely the wards will result in better government.
 - The Commission should, sooner rather than later, get expert assistance from a demographer who can provide sample ward maps and comparative analyses.
 - The Lakewood exercise of considering shifting from wards to city wide elections is not very informative, since it is the division, not the aggregation, that present hard issues. Perhaps Dr. Keller can provide analyses recently done by others who have converted from at-large to ward elections?

- As an indication of the fun you'll have in line drawing, I looked at the 2010 census tract map (http://neocando.case.edu/new_cando/maps_2010/Cuyahoga/Cleveland%20Heights%20City.pdf) and the population map included in the City's Master Plan (see page 29 of Master Plan Part II, at <https://www.clevelandheights.com/DocumentCenter/View/155>) to figure out a possible ward for my own neighborhood in the southwest corner of the city. With help from an Excel spreadsheet, I saw two options that would create a ward of approximately 11,250 people, the number determined by dividing the total population by 4 wards:
 - (1) create a "southern ward" including the entire area south of Cedar Blvd. plus the CWRU dorms atop Cedar Hill (these are US census tracts 1413, 1414, 1415, 1416.01, 1416.02 and 1417), containing 11,691 people. That is 400 folks, or 3.6%, too many, but geographically makes sense since most traffic is east/west. I would think legal advice would be necessary to justify this selection.¹
 - (2) create a "southwestern ward" that is bounded by Euclid Heights Blvd. on the north to Woodward, then Lincoln Blvd. to Superior Rd. to Lee Road, and thence south to the city limit (includes US census tracts 1412, 1413, 1414, 1415, and the section of 1407.02 west of Lee Road), containing 10,963 people. That is 300 folks too few, which also may or may not be acceptable.
 - Someone with access to block by block census data could refine the boundaries if necessary.
 - Assuming you can work around the pure numbers problem, I'd ask what advantages are there to either selection? Disadvantages?
 - For example, my "southern ward" contains (a) major parts of the Cedar Fairmount, Lee Road and Taylor commercial districts plus the Fairmount Blvd commercial block, (b) Roxboro, Fairfax and Canterbury elementary schools (as well as Rox Middle School when it reopens), and (c) the Lee Road branch of the library; it also likely has a majority of the higher valued residential real estate (and possibly incomes) in the city. The ward council member should have ready access to campaign contributions and the interests of the residents are, I think, relatively similar.
 - The "southwestern ward" contains (a) the entirety of the Cedar Fairmount commercial district and the entire western side (Zagara's on south) of the Lee Road commercial district, (b) Roxboro and Fairfax elementary schools and the former Coventry school, (c) the Coventry branch library; it has a very high proportion of the higher valued residential real estate (and possibly incomes) of the city. The ward council member should have ready access to campaign contributions and the interests of the residents are, I think, relatively similar.

¹ Playing around to create three other wards might give you a northeastern ward composed of tracts 1401, 1403.2, 1404 and 1405, with 10,575 residents; an eastern ward composed of tracts 1408, 1409, 1407.01, 1407.02 and the unnumbered tract west of Lee, with 11,255 residents; and a northern ward composed of tracts 1403.01, 1960, 1410, 1411, and 1412, with 11,701 residents.

- Then repeat the exercise for other parts of the City.
- Are the Commissioners happy with chopping the city, and the Ward Council members, into factions of greater and lesser wealth and diversity? I think that is basically inevitable without vicious gerrymandering.
- How would the Commission minimize the ethical and cultural problems with introducing a ward system that are evident from even a casual reference to neighboring cities?
 - The charter could limit both the powers of ward councilpersons (to restrict their role to being spokespersons for their ward, with no day-to-day input into operations and no special allocations of funds) and their terms – perhaps to one or two terms.
 - What residency requirements would be included? How long before election must someone live in a ward? It seems longer would be better?
 - Must ward council members first serve as at-large council members or vice versa? Or will “wealthier and harder working” candidates naturally gravitate to at-large election and poorer and less-able to campaign (query does that mean they are also less able to fulfill their office) candidates lean towards ward election?

The foregoing questions all need to be answered before any decision can be made. Ready, fire, aim is not acceptable process, nor does punting it to later action by the Council seem a good idea.

2. City Law Director: Who Represents the Council? There was some mention of the problem at two meetings, I believe, that our city attorney is appointed by the City Manager and therefore may not be acting as a fully independent lawyer for the Council. There would be the same problem if the city attorney is appointed by an elected mayor. The Commission should consider how best to ensure unbiased and well qualified legal representation, especially in ethical and authority issues. There are at least three charter revision alternatives to solve this concern, which is one that I understand well from my own prior experience representing boards of directors:

- First, the law director could be directly appointed by, and report to and be terminable by, the Council even though reporting also to the City Manager on a “dotted line” basis for day-to-day operational work. The Charter of Huber Heights (see link in #4 below) provides its law director is “appointed by and subject to the direction of the Council.” Mentor’s charter (link below) provides “The law director shall be appointed by Council to serve at the will of Council.”
- Second, while leaving appointment of the law director to the City Manager (or elected mayor), the charter could expressly authorize the Council to engage its own counsel whenever it sees fit; it could even choose to have such a special counsel on standby retainer (just as some Boards of Directors do).
- Third, we could, as some communities in the area do, elect the Law Director, thereby establishing the post as being completely independent of either the mayor or city manager. See the Westlake charter link below.

3. Arts Commission: Boosting Our Image as a City of Arts & Culture. A lot of time has been spent talking about how we can enhance our city’s ability to retain and attract businesses and residents. Our Master Plan

highlights one attractant: arts & culture (see Masterplan p. 197). While I am in general agreement that the Charter should not be over-encumbered with matters best left to ordinances, I believe the Charter could include recognition of our city as a home of arts and culture as a core guiding principle of the City's vision and uniqueness among eastside suburbs. The charter could recognize arts and culture as a core value and asset by establishing an arts commission that advises the Council and City Manager on matters where arts and culture are either impacted, or that may assist the City in its development and attraction and retention of residents. By placing the Arts Commission in the Charter, "we the people" will tell the world the strength of our continuing commitment to arts and culture

- Unlike most of our neighbors, Cleveland Heights is known as a place where arts and culture are critical elements of our city fabric. The Cain Park Arts complex, a resident professional theater company, a resident professional orchestra, a poet laureate, the many other local musicians, artists, artisans, authors, etc., and our local schools' much prized commitment to the arts are important to both our external image and self-image.

4. Reviewing Additional Charters. Some of the Commissioners may find it informative, in addition to carefully reading the model charter they have been provided, and of course the current charter, to look at additional city charters for ideas on concepts or actual language. I have easily found many charters by simply Googling the city name and "charter" (see sample links below).

- Mentor (Council/Manager, pop. 50,208):
<http://whdrane.conwaygreene.com/NXT/gateway.dll?f=templates&fn=default.htm&vid=whdrane:OHMentor>
- Huber Heights (Council/Manager; pop. 38,212):
<http://whdrane.conwaygreene.com/NXT/gateway.dll?f=templates&fn=default.htm&vid=whdrane:OHHuberhts>
- Brunswick (Council/elected Mayor (lite)/City Manager; pop. 33,388):
<http://whdrane.conwaygreene.com/NXT/gateway.dll?f=templates&fn=default.htm&vid=whdrane:OHBrunswick>
- Shaker Heights (Council/Mayor/Administrative Officer; pop. 29,405):
<http://whdrane.conwaygreene.com/NXT/gateway.dll?f=templates&fn=default.htm&vid=whdrane:OHShakerHts>
- Westlake (Mayor/Council; pop. 31,719):
<https://www.cityofwestlake.org/DocumentCenter/View/577>
- Kettering (Council/Manager; pop. 57,502): <https://www.ketteringoh.org/documents/city-charter/>

I hope these thoughts are useful. Thanks to all involved in the process.

David Porter

8. Jack Newman – Message 26 March 2018

[Statement delivered to the Commission at the meeting of 15 March]

3/15/18

INTERIM THOUGHTS

BY WAY OF PRELIMINARIES:

FIRST, I came in with certain STRUCTURAL thoughts that have not changed

- Longevity of a particular form of government for the city does not, in and of itself, justify continuing that same form of government and refusing to change.
- When there is an existing form, per charter, and a suggestion raised for fundamental change, the burden properly rests with those seeking change to demonstrate convincingly that change is required. This would be so regardless of the particular, existing form of government being put under review.
- This is not properly seen as an exercise in trial and error. The city will likely have to live for a long, long time with whatever the council and voters do, following our recommendation.
- A central element of the thinking as to burden is the belief that one knows what one has with an existing system (both desirable and not), including traditions, methods and understandings that have grown up around that system. There are substantial risks and major unknowns in uprooting an existing system in favor of a new one that by definition lacks those traditions and understandings and thus lacks historical evidence as to how it can be expected to work, or not work, in the affected community. Hence the placement of the burden to show how those undeniable risks are so obviously outweighed by benefits that can confidently be expected to be realized.
- Any credible assessment of whether the burden has been met would, in turn, depend on an assessment of the full data put on the record before the reviewing body, it being that body's responsibility to dig out the data.

SECOND, we are not near to being finished with information gathering, let alone evaluation and discussion, and so everything must be qualified by “thus far.” I have been as curious as anyone else on where others think they stand. One notable feature of the committee of the whole, which is where we are operating, is that it provides space for testing uncertain views and hypotheses that can potentially end up at a very different place coming out from going in. But still there is a danger of this kind of exercise that by going on the record with even a tentative expression of views or theories, each of us could be seen as, and feel like we are, putting a stake at least partially in the ground, with resulting difficulty in coming to a different view later. I look to avoid that and hope others do also.

With that, here goes:

- I believe the decision should be based on an evaluation of what is best for successful, practical function, not political theory. Put otherwise, I do not believe the city’s current government is somehow undemocratic and that change is required in order to fulfill aspirations of democracy.
- I do not believe the information developed on the record to date before the commission satisfies the burden that I described earlier -- that is, not at this point.
- That information does not yet, in my view, successfully strip out the impact of the human factor (such as personnel in particular offices, their capabilities, their performance, their personal ambitions) or the impact of external population and economic factors from the structural equation, so as to demonstrate convincingly that the challenges the city is said to face either would not exist or would have been substantially ameliorated, if the form of government had been different to date, or that they will be substantially ameliorated in the future if, but only if, the form of government changes.
- At the risk of over dramatization, but to drive home a point, my sense is that some appear to feel the issues can be handled only via the emergence of a savior, almost a messiah, in the form of an elected mayor. Based on the record of these proceedings thus far, I worry that this view is misplaced, in part as to whether a

savior is necessary in the first place, but equally as to whether a savior is a reasonable expectation at all, let alone whether an election could be confidently relied upon to produce one.

- This is particularly striking to me because it is being pressed as an alternative to a professional municipal executive officer, with a dedicated, supportive, enabling council, and staff, operating under a charter that could perhaps be modestly revised to raise and expand performance expectations for that executive. I further worry that a focus on structure as the answer could easily divert attention from the very hard, one-foot-in-front-of-the-other work that will be required to maintain and enhance our city, and cities like ours, in the coming years, no matter the formal trappings of government.
- As to structure of council, the data thus far before us do not, in my only partially formed view, support a change.