



City of Cleveland Heights

Charter Review Commission

Decisions and Rationales

25 October 2018
Council Chambers
Cleveland Heights City Hall

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

1. Acceptance of Decisions and Rationales from 4 October 2018.

The Decisions and Rationales 4 October 2018 were accepted by acclamation.

2. **Article VIII Section 2**

The discussion started with inquiry about the suggested use of “particularized” rather than “specific” to characterize the “reasons” that must be given by Counsel in passing an emergency ordinance, as set out in the document prepared by the Chair. It was determined to use “specific” as being a more normal term and not significantly different in meaning.

It was noted that the matter of emergency ordinances had been the subject of earlier, more general discussion as to overall handling and placement in the charter, and that the outcome of that discussion should be consulted again in connection with the ultimate drafting on the subject.

It was then noted that while this section required Council to reconsider an ordinance upon the filing of a referendum petition, there was no specified time established within which it must reach a determination. Several approaches and wording suggestions were advanced and discussed, with the conclusion being to set a 30 day period within which Council must act, and to draft language for the provision accordingly.

Vince Reddy moved to approve Section 2 of Article VIII as discussed and with the requirement that a decision upon reconsideration be reached within thirty days of the matter being placed before Council by the Clerk. Howard Maier seconded.

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

3. **Article VIII Section 3**

Initially, discussion confirmed the intent to include a provision setting a 180 day period at the beginning of an electoral term before a recall effort could begin collecting signatures.

Attention then turned to whether, in the case of a recall effort directed at four or more members of Council simultaneously, in which replacement candidates would be running in the same election, there should be a clause specifying which of the replacement candidates would fill the vacancies if fewer than four of the persons targeted for recall were recalled. Given the absence of known history of this type of recall effort, the desire not to clutter the Charter with minutiae that appeared unlikely to occur, and the sense that the solution should be common sense anyway, it was decided not to include a clause on the topic.

Discussion then turned to the provision requiring that in the case of a failed recall the targeted Council must be reimbursed by the City for the reasonable expenses of resisting. Points were offered for retaining the provision (the desire to encourage citizens to be candidates for office regardless of means) and against it (the expense would go to the City, in the face of a necessarily serious matter, given the need for a challenger to obtain a relatively high number of signatures even to start the recall process). It was ultimately agreed that the provision should be retained.

Jack Newman moved that *Section 3* be drafted as discussed. Jim Vail seconded the motion.

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

4. **Article VIII Section 4**

It was noted that this section applies generally to all the petition processes: initiative, referendum and recall. Numerous aspects were discussed, including the extent of the obligation of the circulator of a petition to verify information about signatories, the nature of the Clerk's responsibility to assess the sufficiency of signatures on a petition, whether to add a clause about handling inadequacies other than insufficiency of signatures on a petition, and whether retain the potential for calling a special election; as to each of these items, it was agreed no substantive change was warranted. Certain changes were

agreed: to require certain additional content on each part of a recall petition; to define a “final” determination of insufficiency of a petition as occurring following one unsuccessful attempt to amend a petition with additional signatures; and to redraft a confusing sentence/paragraph on computation of time so as to clarify what it is thought to mean -- the specification of action by the Clerk that triggers the duty of the Council to call an election.

5. Article VIII Section 5

It was suggested and agreed to divide the section into two sections, the existing section to deal only with the manner of publicizing the process and the new section 6 to deal with materials presented in support of and opposition to the item being presented to the voters.

There was extended discussion of the manner of publication, with the agreement that citizens deserved to be well informed, but also the recognition that official city notice would not be their only (and maybe not even their best) source of information, since proponents and opponents of measures would presumably be actively seeking to generate knowledge and votes in multiple ways. Items considered included whether to retain direct mailing and publication as acceptable alternatives as in the current charter, or to require both methods be used; the types of methods that had been used in the past, especially recent past, in what circumstances and why; whether newspaper publication should still be considered useful either alone or combined with something else (but in any event not requiring the newspaper to be published within the city, so long as it was generally circulated in the city); the relative cost of mailing and publication; the potential for prescribing electronic means of publication, such as via website or otherwise; the sensible way to describe what it is that is mailed, if that is the method used; whether any mailing ought to be directed to a household/residence, or should be directed to individuals defined in some fashion, such registered voters

Taking all factors into account, it was determined to retain mailing and publication each as an independently sufficient, and thus permissible, alternative; that the description of a mailing would use a simpler, more general term than “official publicity pamphlet”; that a mailing would be directed to residences, i.e., to a place not a person; that publication would be by newspaper circulated in the city; and that electronic means would not be referenced.

As to the newly created section 6, it was suggested to change the number of permitted words in a supporting or opposing statement to 500, and make it a definitive limit, eliminating the current clause that would allow additional words if the person submitting the statement paid for them

Moved by Jack Newman to implement the above discussion on *Sections 4 and 5*, including the *section* now segmented off as *section 6*. Seconded by Howard Maier.

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

6. Article IX

It was noted that the continued unavailability of the Finance Director and the resulting additional demands imposed upon the City Manager regarding the current budget process had further delayed the delivery of materials needed for productive discussions of this article. Staff noted that material should be available for the meeting of Thursday 15 November. The plan is still to have two alternative provisions for consideration, one that is minimal (its approach being essentially to rely on state requirements for handling municipal finances) and a second being an updated version of the current, more detailed provision, which, at least as to budgeting, is recognized as not conforming to the realities of getting the job done effectively.

7. Article X

Chair noted that, based on consultation with the legal staff, confirmed by staff during the meeting, this provision was not necessary, provided there would be a short provision enabling Council to deal with public utilities and franchises by ordinance, subject to the prohibition against the use of emergency ordinances for these subjects. The legal staff had drafted a proposed paragraph for consideration, and with certain adjustments to have it cover both public utilities and franchises in identical fashion, the determination was made to use the provision and place it in Article III, Section 9, leaving Article X blank but available to use for the new Ethics article.

Patrycja Ajdukiewicz moved to proceed accordingly with drafting. Craig Cobb seconded the motion.

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

8. Article XI

Initially, was noted that the date references in this Article are historical leftovers and ought sensibly to be removed. The Chair noted that he and the Facilitator had talked with Richard Wong, who observed that his department's oversight concerned itself with more than simply physical development, instead encompassing multiple considerations such as economic,

environmental and social sustainability of the community, and he recommended that these concepts be explicitly recognized in the Charter not as limitations but as examples of the very broad thinking that is expected of the department.

There followed an extensive discussion about potentially including in the charter all the commissions and other official bodies, to give recognition to the importance of their functions – much like the 1972 Charter Review Commission had prompted recognition of the Planning Commission in the Charter. Consideration was given to the Lakewood approach, which does specify multiple official bodies in the charter, including some particulars about each body, and to concerns about whether specification would, or would not, advance the City’s interests including whether it might inhibit flexibility of the Council going forward. Further, details about the various bodies are already in the code.

The conclusion was to retain in the charter the existing designations of commissions, not to add any others, and as to the Planning and Development, to eliminate the date references and add the proposed language on sustainability.

Carla Rautenberg moved accordingly. Jack Newman seconded.

Vote on the Motion: Yes – 8 No – 0 Abstain – 1

9. Article XII

It was noted that this body had already tentatively decided to add to the Civil Service Commission’s responsibilities a role in the setting of council compensation, and that a provision regarding that would appear both in the salary section of the article on Council and in this article on the Civil Service Commission. The Chair noted that following discussions with two members of the Civil Service Commission on their initial thoughts and their schedules for possibly appearing before this commission, the suggestion was that each of the Civil Service Commissioners be sent an inquiry seeking a written response on the subject. That course of action was agreed.

10. Sarah West potential resignation

Sarah West had circulated an email noting that her work responsibilities, specifically that he would be teaching on Thursday evenings until early December and that she felt it necessary to leave the Commission since she knew now that she would be unable to attend the next several meetings. The Chair asked her whether, if the Commission were to think it appropriate and

desirable, she would consider staying on if she could begin again to attend meetings beginning with the December 13 meeting, and she responded that she would consider it if the Commission found it acceptable. The strong sense of the Commission was to seek Sara's continued involvement as indicated, provided she would keep up with the Commissions activities by watching the videos and consulting the posted materials posted.

11. Final Report

After a brief discussion, the sense of the Commission was to have a final report to accompany its recommendations, having in mind the form of report prepared by the 1972 Commission as a model for consideration.

12. Future Business and Notice of Meetings

There was no additional business.

13. Public Comment

There were no public comments.

14. Adjournment

The Committee agreed by consent to adjourn.