

To: Larry Keller
From: Katie Solender
Subject: Comments on Submissions to the Commission
Date: 02.03.2019

I. Regarding Vice Mayor Yasinow's comment on the use of "his or her" (ten instances), here are some suggestions (if others can come up with better solutions, please use those instead):

3.1

The term of each member of Council shall be four (4) years or until ~~his or her~~ **each member's** respective successor is chosen and qualified, provided that the members of Council in office when the Charter becomes effective shall continue in office until the expiration of their then existing terms.

3.2

To serve as a member of Council, a person shall reside in, and be registered to vote in, the City at the time of submitting ~~his or her~~ **a** nominating petition to the election authorities as required under the terms of this Charter, and shall continue to reside in the City ~~during his or her term of office~~ **while serving on Council.**

3.6 (d)

Neither the Council nor any of its members or committees may dictate the appointment of any person to office or employment by the City Manager, or in any manner interfere with or ~~prevent the City Manager's from exercising his or her own~~ judgment in the appointment of officers and employees in the administrative service.

5.4

The Council may require any officer or employee to give a bond for the faithful performance of ~~his or her~~ **that officer or employee's** duties, in such an amount as it may determine, and it may provide that the premium for the bond shall be paid by the City.

7.3 (c)

Each person signing a petition must ~~add to the signature his or her~~ **also indicate** place of residence, with street and number and date of signing. All signatures must be made with ink.

8.3 (c)

Unless the member of Council tenders ~~his or her~~ **a** written resignation to the Clerk within no more than five (5) days after certification of the petition to Council, ~~the member of Council tenders his or her written resignation to the Clerk,~~ the Council shall provide for submitting the question of removal to a vote of the people.

8.4 (a)

Each person signing a petition must ~~add to the signature his or her~~ **also indicate** street and number of residence and date of signing.

8.4 (c)

Upon the filing of a petition the Clerk must examine it and, not later than ten (10) days after the filing, determine whether the petition has been signed by the required number of registered voters. Upon the completion of ~~his or her~~ **the** examination, the Clerk shall endorse upon the petition a certificate of the result.

II. As Vice Mayor Yasinow noted, "then existing" could be changed to "then-existing" (three instances): 3.1; 11.1; 12.1

III. Questions and observations from Vice Mayor Yasinow and Donalene Poduska regarding the 90-day time frame for vacancy filling in 3.4: I agree with our Chair's response that the CRC's goal in this section was "to have an effective selection method while avoiding an overly extended period of vacancy and limiting the potential for what has on occasion in the past been regarded by some as an opportunity for unfair handling." I'm fairly agnostic on the issue of a specific number of days. While I would not favor fewer than 90, I would not have any strenuous objections to increasing the number of days if the rest of the group decides to go there.

IV. Vice Mayor Yasinow's comments on 3.9 - Emergency Measures: I don't see a compelling reason to change the language here. Vice Mayor Yasinow raised a concern about limiting the use of emergency measures only to situations that are "necessary for the immediate preservation of the public peace, health or safety in the City." As our Chair has noted, we have not suggested a change; our recommendation is for clarification—to call this out with its own heading in the Charter and include all relevant clauses in one place. In practice, this language is not new at all, as Council has been using it for quite some time.

Here is just one recent example:

On December 3, 2018, Council passed Resolution No. 125-2018, "A Resolution authorizing the City Manager to submit the Community Development Block Grant entitlement application for the year beginning January 1, 2019; and declaring an emergency." Section 5 of the Resolution states, "This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being to permit immediate filing of the described applications with all appropriate governmental agencies in order to ensure funding prior to the commencement of the program year. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution

shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.”

I don't believe the provision we've proposed would prevent the timely passage of similar measures.

Vice Mayor Yasinow further states a concern regarding the timely passage of “resolutions declaring the importance of certain days or months, such as February being African American History Month.”

Here is just one example, from this past year, of Council's current practice:

On April 2, 2018, Council passed Resolution No. 26-2018, “A Resolution proclaiming April 2018, Autism Awareness Month and April 2, 2018, World Autism Awareness Day; and declaring an emergency.” Section 3 of the Resolution reads: “This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to recognize Autism Awareness Month and World Autism Day on a timely basis. Wherefore, provided it receives the affirmative vote of five (5) or more members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.”

Again, the provision we've proposed is unlikely prevent the timely passage of similar resolutions.

V. I am satisfied with the Chair's responses to Vice Mayor Yasinow's questions related to Section 3.11 (a), Section 4.2, and Section 8.

VI. I do not have a strong opinion about revising the preamble, as suggested by David Porter, though I tend to agree with the Chair that it doesn't seem necessary at this juncture. If, after discussion, the Commission decides to change the preamble, I would be willing to help with the editing process.

VI. I am satisfied with the Chair's response to Michael Bennett's concerns about form of government. It has been well-known, even before the Commission began meeting, that some of our residents feel, and have articulated very clearly, a lack of confidence in our current city government. All of us on the Commission admire their conviction and their investment of time and energy in an effort to see Cleveland Heights do better. We agree with that goal. I believe we have been thoughtful and deliberative in considering possible ways forward for our city. But in that process of consideration, not enough of us were convinced that our current form of government needs to change in

order to have leadership and to set the vision, values, goals, and strategies for the city and then clearly communicate them to the community.

VI. For Mayor Roe's suggestions regarding duties of the President of Council, one possibility might be to add the language in bold below:

3.11(b)

The President of Council, or in the President's absence the Vice President, shall prepare the agenda for meetings of the Council **consistent with codified ordinances.** The President of Council, or in the President's absence the Vice President, or in the absence of both the President and the Vice President, the President Pro Tem, shall preside at meetings of the Council, and shall have a voice and vote in its proceedings but no veto. A President Pro Tem shall be elected by the affirmative vote of a majority of the Council members present at the meeting. **The President of Council, or in the President's absence the Vice President, shall ensure that yearly evaluation of the City Manager is completed with input from every member of Council.** The President of Council, or in the President's absence the Vice President, shall be recognized as a non-exclusive representative of the City for ceremonial purposes.