

Intro Letter from MJK

SYNOPSIS

Cleveland City Council put out a public notice in January, 2018, inviting citizens to apply for a seat on the Charter Review Commission. Council President Kevin J. Kelley and the Council approved the following Cleveland residents to be the 2018 Charter Review Commission for the City of Cleveland: Justin M. Bibb – Gallup, Inc.; Dona Brady - Ward 11 Council Member; Frank Camardo – Attorney; Phyllis Cleveland - Ward 5 Council Member; Johnny E. Hamm – Cleveland Police Lieutenant, 2nd District Community Services Unit; Kenneth L. Johnson - Ward 4 Council Member; Brian Kazy - Ward 16 Council Member; Martin J. Keane - Ward 17 Council Member; Michelle A. Kenney - Cleveland resident; Barbara A. Langhenry – Law Director, City of Cleveland; Kerry McCormack - Ward 3 Council Member; Thomas S. McNair – Executive Director, Ohio City, Inc.; Aaron Phillips – Pastor, Sure House Baptist Church Ministries; Jasmin Santana - Ward 14 Council Member; Nicholas Vento - Attorney. The Commission selected Councilman Martin J. Keane to serve as its Chair.

The 2018 Charter Review Commission of the City of Cleveland, Ohio, had its first meeting on April 26, 2018, and its final meeting on November 15, 2018. Each of the 11 meetings during that time was advertised on the Cleveland City Council website and was broadcast over the city’s cable station, Channel 20 on Spectrum Cable. The Charter Review Commission reviewed every section of the City Charter and heard testimony from various city departments relating to charter issues that affect them, as well as from the Cuyahoga County Board of Elections on various election-related issues in the Charter. The Charter Review Commission approved 28 recommendations for Cleveland City Council to consider putting before the voters; the Commission disapproved three other proposals. Most of the approved recommendations are to update the Charter in consideration of modern practices and technology.

Staffing assistance was provided to the Charter Review Commission by the following Cleveland City Council staff: Clerk of Council Patricia J. Britt; Allan Dreyer, Deputy Clerk; Jenifer Heinert-O’Leary, Special Counsel; John James, Policy and Research Director; Joan Mazzolini, Chief of Communications; Rachel Nigro-Scalish, Special Counsel. The following City staff provided additional assistance: Tiffaney Beasley, Council Communications Staff/Graphic Designer; Kathy Allen, General Manager of Channel 20.

APPROVED RECOMMENDATIONS

NOTE: Recommendations are organized by Charter Section Number. The actual recommendation number and vote follows each recommendation in parentheses: (Recommendation #, Date of Vote. Yeas. Nays. NP=Not Present for Vote.)

Recommendation

Amend section 5 to provide that an elector of the City, in order to be a candidate for office in the City, must have been an elector of the City for at least 12 consecutive months prior to the next regular Municipal election, or the next election required by law or charter, whichever occurs first.

- **Reason:** prevents a person from running for elective office unless the person is an elector of the city for at least 12 consecutive months prior to the next regular Municipal election, or the next election as required by law or by charter, which includes any special election or primary.

§ 5 Nominating Petitions

The name of any elector of the City shall be printed upon the ballot, when a petition in the form hereinafter prescribed ~~in this Charter shall have been~~ is filed in ~~his~~ the elector's behalf with the election authorities, ~~and the elector has been an elector of the City for at least 12 consecutive months prior to the next regular Municipal election or the next election, as required by law or Charter, whichever occurs first.~~ Such petition shall be signed by at least three thousand (3,000) electors of the City, for the nomination of a candidate for an office filled by election from the City at large, and by at least two hundred (200) electors of the ward if for the nomination for an office to be filled by election from a ward.

- (#24, 7/19/2018. 10 Yeas: Brady, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McNair, Phillips, Santana; 2 Nays: Camardo, McCormack. 3 NP: Bibb, Cleveland, Vento.)

Recommendation

Amend section 7 to require that candidates use a state-wide standard candidacy and nominating petition form from the Secretary of State instead of the City of Cleveland petition form.

- **Reason:** currently, Cleveland uses its own candidacy and nominating petition form, which has different requirements than the standard form issued by the Ohio Secretary of State. No longer requiring candidates to use Cleveland’s form will eliminate confusion and maintain consistency with the rest of Cuyahoga county cities.

§ 7 Candidacy and Nominating Petition Papers

The ~~form of~~ statement of candidacy and nominating petition papers shall be standard forms of the Secretary of State as required under the general law of the State. ~~—substantially as follows:~~

~~—~~STATEMENT OF CANDIDACY

~~I, _____ (Name of Candidate), the undersigned, hereby declare under penalty of election falsification that my voting residence is in _____ precinct of Ward _____ of the City of Cleveland; that my voting residence is _____ (Street and Number); and that I am a qualified elector in the precinct in which my voting residence is located. I hereby declare that I desire to be a candidate for nomination to the office of _____ at the primary election to be held on the _____ day of _____, _____.~~

~~Dated this _____ day of _____, _____.~~

~~_____~~

~~— (Signature of Candidate)~~

~~—The statement of candidacy shall contain the penalty for election falsification as prescribed by the general law of the State.~~

~~—~~NOMINATING PETITION

~~We, the undersigned, qualified electors of the City of Cleveland (or _____ ward of the City of Cleveland), State of Ohio, whose voting residence is at the street address, ward, and precinct set opposite our names, request that _____ (Name of Candidate) be placed upon the primary election ballot as a candidate for nomination for the office of _____ at the primary election to be held in the City (or the ward) on the _____ day of _____, _____.~~

~~_____~~

~~— Signature — Street Number — Ward Precinct~~

~~_____~~

~~Date of Signing — (Must use address on file with the Board of Elections)~~

~~_____~~

_____ (Name of Circulator of Petition), declares under penalty of election falsification that the circulator of the petition is a qualified elector of the state of Ohio and resides at the address appearing below the circulator's signature; that the circulator is the circulator of the foregoing petition paper containing _____ (Number) signatures; that the circulator witnessed the affixing of every signature; that all signers were to the best of the circulator's knowledge and belief qualified to sign; and that every signature is to the best of the circulator's knowledge and belief the signature of the person whose signature it purports to be.

(Signature of Circulator)

(Address of Circulator)

The nominating petition shall contain the penalty for election falsification as prescribed by the general law of the State.

- (#15, 6/21/2018. 14 Yeas: Bibb, Brady, Camardo, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 1 NP: Cleveland.)

Recommendation

If the amendment is made to section 7 to require that candidates use a state-wide standard candidacy and nominating petition form from the Secretary of State instead of the City of Cleveland petition form, then to further amend section 7 to clarify that a candidate is not required to have a designated committee of petitioners under this Charter.

- **Reason:** because the standard state form includes a section designating a committee of petitioners, the Charter should clarify that a committee of petitioners is not required in Cleveland.

§ 7 Candidacy and Nominating Petition Papers

The ~~form~~ of statement of candidacy and nominating petition papers shall be standard forms of the Secretary of State as required under the general law of the State. Candidates are not required to designate a committee of petitioners. ~~—substantially as follows:~~

~~—STATEMENT OF CANDIDACY~~

~~I, _____ (Name of Candidate), the undersigned, hereby declare under penalty of election falsification that my voting residence is in _____ precinct of Ward _____ of the City of Cleveland; that my voting residence is _____ (Street and Number); and that I am a qualified elector in the precinct in which my voting residence is located. I hereby declare that I desire to be a candidate for nomination to the office of _____ at the primary election to be held on the _____ day of _____, _____.~~

~~Dated this _____ day of _____, _____.~~

~~_____~~

~~— (Signature of Candidate)~~

~~—The statement of candidacy shall contain the penalty for election falsification as prescribed by the general law of the State.~~

~~—NOMINATING PETITION~~

~~We, the undersigned, qualified electors of the City of Cleveland (or _____ ward of the City of Cleveland), State of Ohio, whose voting residence is at the street address, ward, and precinct set opposite our names, request that _____ (Name of Candidate) be placed upon the primary election ballot as a candidate for nomination for the office of _____ at the primary election to be held in the City (or the ward) on the _____ day of _____, _____.~~

~~_____~~

~~—Signature — Street Number — Ward Precinct~~

~~_____~~

DRAFTb 11-5-18

Date of Signing — (Must use address on file with the Board of Elections)

_____ (Name of Circulator of Petition), declares under penalty of election falsification that the circulator of the petition is a qualified elector of the state of Ohio and resides at the address appearing below the circulator's signature; that the circulator is the circulator of the foregoing petition paper containing _____ (Number) signatures; that the circulator witnessed the affixing of every signature; that all signers were to the best of the circulator's knowledge and belief qualified to sign; and that every signature is to the best of the circulator's knowledge and belief the signature of the person whose signature it purports to be.

— (Signature of Circulator) —

— (Address of Circulator)

The nominating petition shall contain the penalty for election falsification as prescribed by the general law of the State.

- (#16, 6/21/2018. 14 Yeas: Bibb, Brady, Camardo, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 1 NP: Cleveland.)

Recommendation

Amend section 8 to eliminate the extra five days a candidate has to file nominating petitions.

- **Reason:** no other city in the county allows extra time to file petitions; eliminating the extra 5 days makes Cleveland consistent with other cities in the county.

§ 8 Filing and Verification of Petitions

All separate papers comprising a statement of candidacy and nominating petition shall be assembled and filed with the election authorities as one instrument no later than four p.m. on the seventy-fifth day prior to the day of the primary election. Within ten days after the filing of a nominating petition the election authorities shall notify the person named ~~therein~~ in the petition as a candidate whether the petition is found to be signed by the required number of qualified electors. ~~If insufficient, the person named therein as candidate may, amend the petition by filing within five (5) days after notification of insufficiency by the election authorities, additional petition papers. Within five (5) days after the filing of the additional petition papers, the election authorities shall notify the person named therein as candidate whether the amended petition is found to be signed by the required number of qualified electors.~~

- (#3, 6/7/2018. 11 Yeas: Bibb, Brady, Camardo, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips. 0 Nays. 4 NP: Cleveland, Hamm, Santana, Vento.)

Recommendation

Amend section 8 to provide that the filing deadline for nominating petitions shall be on the 90th day prior to the primary election, instead of the 75th day.

- **Reason:** to provide more time between the filing deadline and the primary and to be consistent with other cities in the county

§ 8 Filing and Verification of Petitions

All separate papers comprising a statement of candidacy and nominating petition shall be assembled and filed with the election authorities as one instrument no later than four p.m. on the ~~seventy-fifth~~ ninetieth day prior to the day of the primary election. Within ten days after the filing of a nominating petition the election authorities shall notify the person named ~~therein~~ in the petition as a candidate whether the petition is found to be signed by the required number of qualified electors. If insufficient, the person named therein as candidate may, amend the petition by filing within five (5) days after notification of insufficiency by the election authorities, additional petition papers. Within five (5) days after the filing of the additional petition papers, the election authorities shall notify the person named therein as candidate whether the amended petition is found to be signed by the required number of qualified electors

- (#2, 6/7/2018. 11 Yeas: Bibb, Brady, Camardo, Cleveland, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 4 NP: Cleveland, Hamm, Santana, Vento.)

Recommendation

In section 14, eliminate language that requires tallying votes on paper at voting site.

- **Reason:** language is obsolete; paper is no longer used to vote and votes no longer counted at voting site

§ 14 Rules for Counting Ballots

~~In~~ Counting the ballots cast at every election held under the authority of this Charter, shall be administered as provided by the general laws of the State of Ohio. ~~the precinct election officers shall enter the total number of votes on a tally sheet provided therefor. They shall also enter on such tally sheet the number of votes cast for each candidate for the office for which he is a candidate and make return thereof to the election authorities as provided by general law.~~ The candidate having the largest number of votes for each office voted upon at the regular Municipal election shall be declared elected to ~~such~~ the office. In case it cannot be determined which of two or more candidates shall be declared elected, by reason of the fact that they have received the same number of votes, the election authorities shall determine by lot which of ~~said~~ the candidates shall be declared elected.

- (#4, 6/7/2018. 11 Yeas: Bibb, Brady, Camardo, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips. 0 Nays. 4 NP: Cleveland, Hamm, Santana, Vento.)

Recommendation

Amend section 16 to require that the person filing an affidavit for a recall of a member of council must live the ward in which he is seeking the recall and that the person must have voted in the last preceding regular Municipal election in that ward.

- **Reason:** to ensure that a person from another ward does not start a recall petition for a member of council that does not represent that person

§ 16 Removal Procedure of Mayor or Member of Council

The Mayor or any member of the Council may be removed from office by the electors of the City. The procedure for effecting ~~such~~ a removal shall be as follows:

Except as otherwise provided in this section, Any any elector of the City may make and file with the Clerk of the Council an affidavit stating the name of the officer whose removal is sought and the grounds alleged for ~~such~~ the removal. The elector seeking the removal of a member of Council shall live in the ward where the recall is sought and shall have voted in the last regular Municipal election in the ward where the recall is sought. The Clerk shall ~~thereupon~~ deliver to the elector making the affidavit copies of petition papers for demanding ~~such~~ a removal, printed copies of which ~~he~~ the Clerk shall keep on file for distribution as ~~herein~~ provided in this Charter. In issuing any ~~such~~ petition paper, the Clerk shall enter in a record to be kept in ~~his~~ the Clerk's office the name of the elector to whom issued, the date of issuance, and the number of papers issued, and shall certify upon each ~~such~~ paper the name of the elector to whom issued and the date of issuance. No petition paper shall be accepted as part of a petition unless it bears ~~such~~ the certificate of the Clerk and unless filed as ~~hereinafter~~ provided in this Charter.

- (#27, 8/16/2018. 11 Yeas: Brady, Camardo, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Vento. 0 Nays. 4 NP: Bibb, Cleveland, Phillips, Santana.)

Recommendation

Amend section 17 to require that a recall petition have signatures of 20% of those who voted in the City or ward respectively at the last regular Municipal election, and the signatures must be from at least in one-half of the precincts of the City or ward petitioning for recall, and from those precincts, there must be signatures equal to 10% of the total vote cast in the City or ward respectively at the last preceding regular Municipal election.

- **Reason:** this amendment would better ensure that the signatures on a petition for recall are representative of those who voted in the ward or city in the last preceding Municipal election.

§ 17 Filing Recall Petition

A petition demanding the removal of the Mayor or a member of the Council shall be known as a recall petition. A recall petition to be effective must be returned and filed with the City Clerk within thirty days after the filing of the affidavit as provided in the next preceding section, and to be sufficient, must bear the signatures of not less than twenty percent of those who voted in the City or ward respectively at the last preceding regular Municipal election. The signatures must have been obtained from at least one-half of the precincts of the City or ward petitioning for recall. From those precincts, there must be signatures equal to ten percent (10%) of the total vote cast in the City or ward respectively at the last preceding regular Municipal election. Within ten (10) days from the date of the filing of such petition, the Clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of his examination. If the Clerk shall certify that the petition is insufficient he shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate to the person designated in such petition to receive it. Such recall petition may be amended at any time within twenty (20) days after the return of a copy of the certificate of insufficiency by filing a supplementary petition upon additional petition papers, issued, signed and filed as provided herein for the original petition. The Clerk shall, within ten (10) days after such amendment is filed, make like examination of the amended petition, and if his certificate shall show the same to be still insufficient, he shall return it to the person designated in such petition to receive it, without prejudice, however, to the filing of a new petition for the same purpose.

- (#19, 6/21/2018. 14 Yeas; Bibb, Brady, Camardo, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 1 NP: Cleveland.)

Recommendation

Amend section 17 to clarify that the recall petitions must be filed by 4 p.m. on the final day of filing.

- **Reason:** to clarify when the petitions must be filed with the clerk.

§ 17 Filing Recall Petition

A petition demanding the removal of the Mayor or a member of the Council shall be known as a recall petition. A recall petition to be effective must be returned and filed with the City Clerk ~~within thirty days~~ no later than four p.m. on the thirtieth day after the filing of the delivery of the petition papers to the elector making the affidavit as provided in Charter section 16, the next preceding section, and to be sufficient, must bear the signatures of not less than twenty percent of those who voted in the City or ward respectively at the last preceding regular Municipal election. Within ten (10) days from the date of the filing of ~~such~~ the petition, the Clerk shall determine the sufficiency ~~thereof~~ of the petition and attach ~~thereto~~ to the petition a certificate showing the result of ~~his~~ the Clerk's examination. If the Clerk ~~shall certify~~ certifies that the petition is insufficient ~~he~~ the Clerk shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate to the person designated in ~~such~~ the petition to receive it. ~~Such~~ The recall petition may be amended at any time within twenty (20) days after the return of a copy of the certificate of insufficiency by filing a supplementary petition upon additional petition papers, issued, signed and filed as provided herein for the original petition. The Clerk shall, within ten (10) days after ~~such~~ the amendment is filed, ~~make like examination~~ determine the sufficiency of the amended petition, and if ~~his~~ the Clerk certifies the amended petition ~~certificate shall show the same to be still insufficient, he~~ the Clerk shall return it to the person designated in ~~such~~ the petition to receive it, without prejudice, however, to the filing of a new petition for the same purpose.

- (#7, 6/7/2018. 11 Yeas: Bibb, Brady, Camardo, Cleveland, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 4 NP: Cleveland, Hamm, Santana, Vento.)

Recommendation

In section 18, delete the requirement that the Clerk submit a certified recall petition "at once"; instead provide that the Clerk submit the certificate at the next regular council meeting or, if no regular meeting is to be held within ten days, then the Council President shall call a special meeting within the 10 day period.

- **Reason:** the current "at once" standard is meaningless because the Clerk can only submit the petition to the Council at one of its meetings. The amendment clarifies that fact and requires that the Council meet within 10 days of Clerk's certification if a regular meeting is not scheduled.

§ 18 Recall Election Ordered

If a recall petition, or amended petition, ~~shall be~~ is certified by the Clerk to be sufficient ~~he the Clerk shall at once~~ submit it to the Council with ~~his~~ the Clerk's certificate to that effect at its next regular meeting and shall notify the person whose removal is sought by ~~such action;~~ the petition; provided, however, that if no regular meeting of the Council is to be held within ten days after the Clerk certifies the sufficiency of the petition or amended petition, the President of Council shall call a special meeting of the Council to be held within the ten-day period, and the Clerk shall submit the petition to the Council. If the person whose removal is sought does not resign within five days after such notice the Council shall thereupon order and fix a day for holding a recall election. Any ~~such~~ election shall be held not less than forty nor more than sixty days after the petition has been presented to the Council, at the same time as any other general or special election held within ~~such~~ that period but, if no ~~such~~ election is to be held within ~~such~~ the period, the Council shall call a special election to be held within the time period aforesaid.

- (#6, 6/7/2018. 11 Yeas: Bibb, Brady, Camardo, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips. 0 Nays. 4 NP: Cleveland, Hamm, Santana, Vento.)

Recommendation

Amend section 18 to clarify that notice of a certified recall petition is considered received by the person whose removal is sought on the date the person whose removal is sought is personally served with notice of the recall, or on the date the notice of recall is left at the usual place of residence of the person whose removal is sought.

- **Reason:** there should be clarification of when notice of recall is considered "received" so that resignation may be timely, or an election may be fixed pursuant to the Charter section

§ 18 Recall Election Ordered

If a recall petition, or amended petition, shall be certified by the Clerk to be sufficient ~~he~~ the Clerk shall at once submit it to the Council with ~~his~~ a certificate to that effect and shall notify the person whose removal is sought by such action. Notice of the recall petition is deemed effective on the date the notice is served personally on the person whose removal is sought, or left at the usual place of residence of that person. If the person whose removal is sought does not resign within five days after ~~such~~ the date the notice is served on the person or left at the person's residence, the Council shall thereupon order and fix a day for holding a recall election. Any ~~such~~ election shall be held not less than forty nor more than sixty days after the petition has been presented to the Council, at the same time as any other general or special election held within ~~such~~ that period but, if no ~~such~~ election is to be held within ~~such~~ the period, the Council shall call a special election to be held within the time period ~~aforesaid~~.

- (#17, 6/21/2018. 14 Yeas: Bibb, Brady, Camardo, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 1 NP: Cleveland.)

Recommendation

Amend section 18 to increase the time in which a recall election shall be held to not less than 75 days nor more than 120 days after the petition has been presented to the Council.

- **Reason:** the 40-60 day window is extremely short time frame to hold an election and necessarily disenfranchises overseas and absentee voters. Increasing the time in which a recall election shall be held to between 75 and 120 days after the petition is presented to council is more manageable for elections officials.

§ 18 Recall Election Ordered

If a recall petition, or amended petition, shall be is certified by the Clerk to be sufficient he the Clerk shall at once submit it to the Council with ~~his~~ the Clerk's certificate to that effect and shall notify the person whose removal is sought by such action. If the person whose removal is sought does not resign within five days after such notice the Council shall thereupon order and fix a day for holding a recall election. Any ~~such~~ election shall be held not less than ~~forty~~ seventy-five nor more than ~~sixty-~~ one hundred twenty days after the petition has been presented to the Council, at the same time as any other general or special election held within ~~such that~~ that period but, if no ~~such~~ election is to be held within ~~such the~~ the period, the Council shall call a special election to be held within the time period ~~aforesaid~~.

- (#5, 6/7/2018. 11 Yeas: Bibb, Brady, Camardo, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips. 0 Nays. 4 NP: Cleveland, Hamm, Santana, Vento.)

Recommendation

Amend section 20 to remove the requirement that ballots be printed to provide an opportunity to mark the ballot with an "X" and replace with a provision that voters shall record their choices "in the manner prescribed by the general law of the State."

- **Reason:** as revised, the section applies to the methods of voting prescribed by state law, not just paper ballots.

§ 20 Ballots in Recall Elections

Ballots used at a recall election shall conform to the following requirements: With respect to the officer whose removal is sought the question shall be submitted, "Shall (name of person) be removed from the Council (or from the office of Mayor) by recall". Immediately below ~~such~~ the question there shall be printed on the ballots the two following propositions, one above the other, in the order here indicated:

"For the recall of (name of person)."

"Against the recall of (name of person)."

~~Immediately at the left of each proposition there shall be a square in which the elector by making a cross mark (X) may vote~~ The elector shall record his or her choice for either of such the propositions in the manner prescribed by the general law of the State.

- (#8, 6/7/2018. 11 Yeas: Bibb, Brady, Camardo, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips. 0 Nays. 4 NP: Cleveland, Hamm, Santana, Vento.)

Recommendation

Amend section 21 to provide for someone to fill in as Acting Mayor between the time when the Mayor is recalled or resigns as a result of recall petition and the election of a new Mayor.

- **Reason:** presently no one is authorized by Charter to perform the duties of Mayor between the time of recall or resignation as a result of a recall petition and the election to fill the vacancy. The proposed amendment provides for an Acting Mayor consisting of one of the heads of the departments to continue to manage the City government until the new Mayor is elected.

§ 21 Result of Recall Election

If a majority of the votes cast on the question of recalling a member of the Council or Mayor shall be against his recall he shall continue in office for the remainder of his unexpired term, but subject to recall as before. If a majority of such votes be for the recall of the member indicated on the ballots he shall, regardless of any defect in the recall petition, be deemed removed from office. When a person is removed from office by recall, Council shall immediately provide for the nomination and election of his successor for the unexpired term by fixing the time of the elections. The nomination and election of a person to succeed a person so removed shall be held within one hundred and twenty days after the date of the recall election and shall be conducted in the same manner as provided for regular Municipal elections.

When the office of Mayor becomes vacant by reason of recall election or resignation under the recall process in this Charter within five days after the notice required by Section 18 of this Charter, the duties of the office of Mayor shall be discharged by the head of one of the departments provided for in this Charter under the title of Acting Mayor until the successor for the unexpired term of Mayor is elected and qualified; provided, however that the Acting Mayor must otherwise meet the qualifications for Mayor. For purposes of this provision, the order of succession as Acting Mayor shall be as follows: Director of Law, Director of Finance, Director of Public Utilities and Director of Port Control.

- (#10, 6/7/2018. 10 Yeas: Bibb, Brady, Camardo, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair. 0 Nays. 5 NP: Cleveland, Hamm, Phillips, Santana, Vento.)

Recommendation

Amend section 21 to provide for someone to fill in as Acting Council Member between the time a Council Member is recalled or resigns as a result of a recall petition and the election of a new Council Member.

- **Reason:** presently no one is authorized by Charter to perform the duties of member of Council between the time of recall or resignation as a result of a recall petition and the election to fill the vacancy. The proposed amendment provides for an Acting Council Member chosen by a majority vote of Council excluding the Council member who was recalled until the new member of Council is elected.

§ 21 Result of Recall Election

If a majority of the votes cast on the question of recalling a member of the Council or Mayor shall be against his recall he shall continue in office for the remainder of his unexpired term, but subject to recall as before. If a majority of such votes be for the recall of the member indicated on the ballots he shall, regardless of any defect in the recall petition, be deemed removed from office. When a person is removed from office by recall, Council shall immediately provide for the nomination and election of his successor for the unexpired term by fixing the time of the elections. The nomination and election of a person to succeed a person so removed shall be held within one hundred and twenty days after the date of the recall election and shall be conducted in the same manner as provided for regular Municipal elections.

When the office of a member of Council becomes vacant by reason of recall election or resignation under the recall process in this Charter within five days after the notice required by Section 18 of this Charter, the duties of the office of member of Council shall be discharged by a majority vote of the Council under the title of Acting Council Member until the successor for the unexpired term of member of Council is elected and qualified; provided, however that the Acting Council Member must otherwise meet the qualifications for a member of Council.

- (#11, 6/7/2018. 10 Yeas: Bibb, Brady, Camardo, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair. 0 Nays. 5 NP: Cleveland, Hamm, Phillips, Santana, Vento.)

Recommendation

Amend section 21 to provide that the nomination and election of a person to succeed a person removed by recall shall be held 180 days after the date of the recall election and conducted in the same manner as provided for other Municipal elections under the Charter.

- **Reason:** to provide sufficient time for nominations, primary and general elections in light of 2008 amendments to Charter sections 4 and 8, the time period for recall elections should be extended by 60 days.

§ 21 Result of Recall Election

If a majority of the votes cast on the question of recalling a member of the Council or Mayor shall be ~~is~~ against his ~~the~~ recall ~~he~~ the Mayor or Council member shall continue in office for the remainder of ~~his~~ the unexpired term, but subject to recall as before. If a majority of ~~such~~ votes be for the recall of the member indicated on the ballots ~~he~~ the member shall, regardless of any defect in the recall petition, be deemed removed from office. When a person is removed from office by recall, Council shall immediately provide for the nomination and election of ~~his~~ a successor for the unexpired term by fixing the time of the elections. The nomination and election of a person to succeed a person so removed shall be held within one hundred and ~~twenty~~ eighty days after the date of the recall election and shall be conducted in the same manner as provided for regular Municipal elections.

- (#9, 6/7/2018. 11 Yeas: Bibb, Brady, Camardo, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips. 0 Nays. 4 NP: Cleveland, Hamm, Santana, Vento.)

Recommendation

Amend section 23 to extend the time period during which recall petitions cannot be filed against the Mayor or a member of Council after taking office from three months to 12 months, and after a recall election from six months to twelve months.

- **Reason:** after being elected, the public official should be given at least twelve months to perform in office; after the disruption of a recall election, at least one year should pass before the subject of a recall election should face the possibility of another recall election.

§ 23 Limitations on Recall Petitions

No recall petition shall be filed against the Mayor or a member of the Council within ~~three~~ twelve months after he or she takes office nor, in case of a person subjected to a recall election and not removed ~~thereby~~ by the recall election, until at least ~~six~~ twelve months after that election.

- (#18, 6/21/2018. 12 Yeas: Bibb, Brady, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana. 2 Nays: Camardo, Vento. 1 NP: Cleveland.)

Recommendation

Amend section 23 to add that recall petitions cannot be filed against the Mayor or a member of Council after taking office within the 12 month period prior to the next regular Municipal election.

- **Reason:** a public official should not be subject to a recall in the twelve month period before the next regular Municipal election because of the proximity of that regular Municipal election to a possible recall election.

§ 23 Limitations on Recall Petitions

No recall petition shall be filed against the Mayor or a member of the Council within three months after he or she takes office, nor within the twelve months prior to the next regular Municipal election nor, in case of a person subjected to a recall election and not removed thereby, until at least six months after that election.

- (#20, 6/21/2018. 9 Yeas: Brady, Hamm, Johnson, Keane, Langhenry, McCormack, McNair, Phillips, Santana. 4 Nays: Bibb, Camardo, Kenney, Vento. 2 NP: Cleveland, Kazy.)

Recommendation

Amend section 28 to provide that if the first Monday in January is a legal holiday, the first meeting of a new term shall be held on the next business day.

- **Reason:** eliminates Council having to hold its first meeting on a legal holiday after a regular Municipal election

§ 28 Meetings of Council

At seven o'clock p.m., on the first Monday in January following a regular Municipal election, the Council shall meet at the usual place for holding meetings, at which time the newly-elected members of the Council shall assume the duties of their offices; provided, however that if the first Monday in January following a regular Municipal election falls on a legal holiday, the Council shall meet at the usual place for holding meetings at seven o'clock p.m. the next business day following that holiday, at which time the newly-elected members of the Council shall assume the duties of their offices. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution. The Mayor, the President of the Council, or any five members thereof of Council may call special meetings of the Council upon at least twelve (12) hours' written notice to each member of the Council, served personally on each member or left at the usual place of residence of ~~such the~~ member. Any ~~such~~ notice of a special meeting shall state the subjects to be considered at the meeting and no other subjects shall be ~~there~~ considered at the special meeting. All meetings of the Council or committees thereof shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times.

- (#21, 6/21/2018. 13 Yeas: Bibb, Brady, Camardo, Hamm, Johnson, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 2 NP: Cleveland, Kazy.)

Recommendation

Eliminate the requirement in section 38 of printing at least 1,000 copies of the Mayor's estimate and instead provide that a sufficient number of copies of the estimate be made available electronically on a City website and to any citizen that asks, and that copies shall be made available in print or electronically to newspapers and public library branches.

- **Reason:** it is not cost effective to print 1,000 paper copies of the Mayor's estimate

§ 38 Mayor's Estimate

The fiscal year of the City shall begin on the first day of January. On or before the fifteenth day of November in each year the Mayor shall prepare an estimate of the expense of conducting the affairs of the City for the following year and shall submit such estimate to Council no later than February 1 of said the following year. This estimate shall be compiled from detailed information obtained from the various departments on uniform blanks prepared by the Director of Finance, and shall set forth:

- (a) An itemized estimate of the expense of conducting each department.
- (b) Comparisons of ~~such~~ the estimates with the corresponding items of expenditure for the last two complete fiscal years and with the expenditures of the current fiscal year plus an estimate of expenditures necessary to complete the current fiscal year.
- (c) Reasons for proposed increases or decreases in ~~such~~ the items of expenditure compared with the current fiscal year.
- (d) A separate schedule for each department showing the things necessary for the department to do during the year and which of any desirable things it ought to do if possible.
- (e) Items of payroll increases as either additional pay to present employees, or pay for more employees.
- (f) A statement from the Director of Finance of the total probable income of the City from taxes for the period covered by the Mayor's estimate.
- (g) An itemization of all anticipated revenue from sources other than the tax levy.
- (h) The amounts required for interest on the City's debt, for sinking funds and for maturing serial bonds.
- (i) The total amount of outstanding City debt with a schedule of maturities of bond issues.
- (j) ~~Such~~ Any other information as that may be required by the Council.

The Mayor shall submit the estimate ~~thus prepared~~ as set forth in this section to the Council and shall make it available electronically on a City website and electronically or in print to citizens who may call for it. ~~and at least one thousand (1,000) copies thereof shall be printed for distribution to citizens who may call for them.~~ Copies of the estimate shall also be furnished

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made available in print or electronically to the newspapers of the City, and to the public library and each of its branches.

- (#22, 6/21/2018. 13 Yeas: Bibb, Brady, Camardo, Hamm, Johnson, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 2 NP: Cleveland, Kazy.)

Recommendation

Amend section 39 to provide that the Council shall not pass the appropriation ordinance until 7 days after publication or before the first Monday in January (instead of 15 days after publication).

- **Reason:** presently, with the 15 day holdover, the appropriations ordinance cannot pass for at least two weeks after second reading. This amendment shortens the “holding over” time for the appropriation ordinance from 15 to 7 days to allow the ordinance to pass one week after it is read a second time. Currently, less time is needed for citizens to review the appropriations ordinance because it is available to people immediately due to electronic media.

§ 39 Appropriation Ordinance

Upon receipt of the Mayor’s estimate the Council shall at once prepare an appropriation ordinance, in ~~such~~ the manner as may be provided by ordinance or resolution, using the Mayor’s estimate as a basis. Provisions shall be made for public hearings upon the appropriation ordinance before a committee of the Council or before the entire Council sitting as a committee of the whole. Following the public hearings and before the third reading and final passage, the appropriation ordinance shall be published in the *City Record* with a separate schedule setting forth the items asked for in the Mayor’s estimate which were refused or changed by the Council, and the reasons for such change or refusal. The Council shall not pass the appropriation ordinance until ~~fifteen (15)~~ seven (7) days after its publication nor before the first Monday in January. Upon passage of the appropriation ordinance by the Council it shall be published in the manner provided for other ordinances.

- (#23, 6/21/2018; 13 Yeas: Bibb, Brady, Camardo, Hamm, Johnson, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana, Vento. 0 Nays. 2 NP: Cleveland, Kazy.)

Recommendation

Amend section 75 to reflect that the City Record is kept electronically and that printed copies may be made available upon request to the Clerk.

- **Reason:** recognizes new technology by allowing the City Record to be compiled and kept in electronic format; ensures hard copies will be printed if requested.

§ 75 *City Record*

The City shall ~~publish~~ compile weekly a *City Record* which shall contain the transactions and proceedings of the Council, the legal advertising of the City and such other information relating to the affairs of the City as shall be determined by ordinance. The *City Record* shall be ~~published, compiled and distributed and sold~~ in such the manner and on such the terms as the Council may determine, which may include an electronic format. If the *City Record* is kept in an electronic format, it will be made available in a printed form to the public upon request to the Clerk. No unofficial advertisements shall be published in the *City Record*.

- (#1, 5/24/2018. 12 Yeas: Bibb, Cleveland, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana. 0 Nays. 3 NP: Brady, Camardo, Vento.)

Recommendation

Amend section 76-1 to have Planning Director serve at pleasure of the Mayor without nomination by the Commission for appointment or concurrence of Commission for removal; and to have the Planning Director be the appointing authority for the Commission's staff, rather than the Commission.

- **Reason:** to reflect the actual practice: the Mayor appoints the Planning Director and the Planning Director appoints the Commission's staff

§ 76-1 Directors and Staff

There shall be a Planning Director who shall be ~~nominated by the Commission and~~ appointed by the Mayor under the Mayor's appointing authority as stated in this Charter. ~~at his discretion. He~~ The Planning Director shall be ex-officio Secretary of the City Planning Commission and shall serve until removed by the Mayor ~~with the concurrence of a majority of the Commission.~~ Upon nomination of the The Planning Director ~~the Commission shall appoint as~~ it's the Commission's staff ~~such~~ technical and office personnel and assistants as ~~it~~ the Planning Director may deem necessary within the appropriation made available for ~~such~~ that purpose. All ~~such~~ appointments, except the Planning Director and ~~his~~ the Planning Director's secretary, shall be made in conformity with the civil service provisions of this Charter. Under the direction of the Commission the Director shall supervise and control the planning staff.

- (#12, 6/21/2018. 11 Yeas: Brady, Camardo, Hamm, Johnson, Kazy, Keane, Kenney, McNair, Phillips, Santana, Vento. 0 Nays. 4 NP: Bibb, Cleveland, Langhenry, McCormack.)

Recommendation

To amend section 76-6 to add a 90 day time frame during which the city must post and fill vacancies on BZA.

- **Reason:** to cause timely filling of vacancies

§ 76-6 Board of Zoning Appeals; Board of Building Standards and Building Appeals

Within 30 days after this section becomes effective, there shall be established a Board of Zoning Appeals which shall be constituted and shall have jurisdiction as hereinafter provided. The members of the then existing Board of Appeals shall remain in office as the Board of Zoning Appeals for the terms for which such members were appointed, subject to the terms and conditions as to tenure of office set forth in the Charter at the time of their appointment, and shall retain jurisdiction of and dispose of all matters then pending before the Board of Appeals.

Within 30 days after this section becomes effective, there shall be established a Board of Building Standards and Building Appeals which shall be constituted and shall have jurisdiction as hereinafter provided.

(a) *Board of Zoning Appeals.* There shall be a Board of Zoning Appeals composed of five (5) members appointed by the Mayor. The members of the Board shall be appointed for a term of five years each. The Mayor may remove any member for cause and vacancies shall be filled in the same manner for the unexpired term. Within ninety (90) days of any vacancy on the Board, including vacancies caused by the end of a term, the City shall post an announcement of, request applications for, and fill any vacancy. Members shall be chosen from the applicants. The Chairman of the Board shall be appointed annually by the Mayor. Members of the Board shall receive such compensation as is fixed by Council.

Separate provision shall be made in the budget for the expenditures of the Board and such expenditures shall not be included within the budget provided for the Planning Commission. The planning staff shall furnish the necessary technical advice and services required by the Board.

(b) *Jurisdiction of Board of Zoning Appeals.* It shall be the duty of the Board of Zoning Appeals to hear and decide appeals made for exceptions to and variations in the application of ordinances governing zoning in the City of Cleveland in conformity with the purpose and intent thereof, and to hear and decide all appeals made for exceptions to and variations in the application of ordinances, or orders or regulations of administrative officials or agencies; except such as are within the jurisdiction of the Board of Building Standards and Building Appeals.

(c) *Board of Building Standards and Building Appeals.* There shall be a Board of Building Standards and Building Appeals which shall consist of five (5) members to be appointed by the Mayor for original terms of one, two, three, four, and five years respectively, and thereafter for terms of five years each. One of the members shall be a registered architect who shall have had at least ten years' experience as an architect; one shall be a registered professional engineer who shall have had at least ten years' experience as an engineer engaged in the design of structural work in buildings; one shall be a registered professional engineer who shall have had at least ten years' experience as an engineer engaged in the design of mechanical equipment for buildings; one shall be a builder who shall have had at least ten years' experience in the

construction, erection and alteration of buildings; and one shall be a member of organized labor representing the building trades who shall have had at least ten years' experience in the supervision of the construction, erection and alteration of buildings. Each year the Mayor shall designate one of the members of the Board as Chairman of the Board for the calendar year.

Vacancies shall be filled for an unexpired term in the manner in which the original appointments are required to be made.

Each member shall receive compensation for each day of services performed in the amount set by the Council and based upon the accepted rate prevailing at the time of appointment, which compensation per diem shall not be reduced or increased during the term of appointment. Members shall attend the hearings and executive sessions of the Board, and shall perform such other duties as may be required by the Chairman; provided that an alternate may serve in place of a member, as hereinafter set forth.

There shall be an alternate for each member of the Board appointed in the manner prescribed for members; ~~such the~~ alternate may serve in place of the member of corresponding qualifications whenever ~~such the~~ member is unable to act or is self-disqualified because of personal interest, and shall then have all the powers of ~~such the~~ member and shall receive compensation for services in the same manner as provided for ~~such the~~ member.

Separate provisions shall be made in the budget for the expenditures of the Board and such expenditures shall not be included in the budget for any other City department or agency.

The Board shall be provided with office space and all necessary office equipment, and a hearing room, and ~~such~~ technical, clerical or stenographic assistance as will be required for the proper performance of its duties.

Any member and any alternate may be removed by the Mayor on proof of official misconduct, or of negligence in official duties, or of conduct in any manner connected with ~~his the member's~~ official duties which tends to discredit ~~his the member's~~ office, or of mental or physical disability to perform ~~his the member's~~ duties; but before removal ~~he the member~~ shall receive a copy of the charges, and shall be entitled to a hearing before the Mayor in person or by counsel, and the action of the Mayor shall be final.

(d) *Jurisdiction of the Board of Building Standards and Building Appeals.* The Board of Building Standards and Building Appeals shall have the power:

To approve or disapprove materials, types of construction, appliances, devices or appurtenances proposed for use pursuant to the Building Code of the City of Cleveland.

To make, amend, and repeal rules and regulations for carrying into effect all provisions of the Building Code other than those relating to zoning and to include in ~~such the~~ rules and regulations provisions applying to specific conditions and prescribing means and methods of practice to effectuate ~~such the~~ provisions.

To hear and decide appeals from, and to review upon motion of any member of the Board, any order, requirement, decision or determination of the ~~Commissioner~~ Director of Building and Housing, or of any other administrative official or agency of the City, relating to the location, design, materials, construction, alteration, repair, equipment, use or occupancy, maintenance, removal or demolition, of any building or other structure, or any appurtenance connected or attached to ~~such~~ buildings or structures, regulated by the Building Code of the City of

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Cleveland, and any rule or regulation or amendment or repeals thereof made by ~~said~~ those officials or agencies under the authority conferred upon them by the Building Code of the City of Cleveland, by reversing or affirming in whole or in part, or modifying ~~such~~ the order, requirement, decision or determination, or rule, regulation, amendment or repeals thereof as in its opinion ought to be made in the premises, and to that end shall have the power of the officer or agency relative to whose ruling the action is taken; except that matters relating to zoning shall not come within the province or jurisdiction of this Board. In taking ~~such~~ the action, the Board of Building Standards and Building Appeals may vary or modify the application of any provision of the Building Code except provisions relating to zoning, to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, impose unnecessary hardship, or would be contrary to the intent and purpose of the Building Code, or public interest.

To review, upon the motion of any member of the Board, any rule, regulation or decision of the Board; but no ~~such~~ review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified.

To exercise with respect to buildings situated in the City of Cleveland the same powers as are exercised by the Board of Building Standards under the laws of the State of Ohio to the extent that it is competent for this Charter so to authorize the Board.

To formulate and submit to the City Council, changes in and amendments to the Building Code which the Board determines as desirable for the proper regulation of buildings and structures and the equipment thereof and appurtenances thereto in the City of Cleveland.

To establish rules and regulations for its own procedure not inconsistent with this section.

- (#14, 6/21/2018. 12 Yeas: Brady, Camardo, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Santana, Vento. 1 Nay: Phillips. 2 NP: Bibb, Cleveland.)

Recommendation

Amend section 76-6 to add that the Mayor shall appoint two alternate members to the BZA.

- **Reason:** to allow for alternates to sit for BZA members similar to Planning Commission and BBS Board; allows for a quorum when regular members cannot be at a meeting.

§ 76-6 Board of Zoning Appeals; Board of Building Standards and Building Appeals

Within 30 days after this section becomes effective, there shall be established a Board of Zoning Appeals which shall be constituted and shall have jurisdiction as hereinafter provided. The members of the then existing Board of Appeals shall remain in office as the Board of Zoning Appeals for the terms for which such members were appointed, subject to the terms and conditions as to tenure of office set forth in the Charter at the time of their appointment, and shall retain jurisdiction of and dispose of all matters then pending before the Board of Appeals.

Within 30 days after this section becomes effective, there shall be established a Board of Building Standards and Building Appeals which shall be constituted and shall have jurisdiction as hereinafter provided.

(a) *Board of Zoning Appeals.* There shall be a Board of Zoning Appeals composed of five (5) members appointed by the Mayor. The members of the Board shall be appointed for a term of five years each. Two alternate members shall be appointed by the Mayor. The alternate members may serve in place of a member of the Board who is unable to act or is self-disqualified because of personal interest, and shall then have all the powers of the member and shall receive compensation for services as determined by the Council. The Mayor may remove any member for cause and vacancies shall be filled in the same manner for the unexpired term. The Chairman of the Board shall be appointed annually by the Mayor. Members of the Board shall receive such compensation as is fixed by Council.

Separate provision shall be made in the budget for the expenditures of the Board and such expenditures shall not be included within the budget provided for the Planning Commission. The planning staff shall furnish the necessary technical advice and services required by the Board.

(b) *Jurisdiction of Board of Zoning Appeals.* It shall be the duty of the Board of Zoning Appeals to hear and decide appeals made for exceptions to and variations in the application of ordinances governing zoning in the City of Cleveland in conformity with the purpose and intent thereof, and to hear and decide all appeals made for exceptions to and variations in the application of ordinances, or orders or regulations of administrative officials or agencies; except such as are within the jurisdiction of the Board of Building Standards and Building Appeals.

(c) *Board of Building Standards and Building Appeals.* There shall be a Board of Building Standards and Building Appeals which shall consist of five (5) members to be appointed by the Mayor for original terms of one, two, three, four, and five years respectively, and thereafter for terms of five years each. One of the members shall be a registered architect who shall have had at least ten years' experience as an architect; one shall be a registered professional engineer who shall have had at least ten years' experience as an engineer engaged in the design of structural work in buildings; one shall be a registered professional engineer who shall have had

at least ten years' experience as an engineer engaged in the design of mechanical equipment for buildings; one shall be a builder who shall have had at least ten years' experience in the construction, erection and alteration of buildings; and one shall be a member of organized labor representing the building trades who shall have had at least ten years' experience in the supervision of the construction, erection and alteration of buildings. Each year the Mayor shall designate one of the members of the Board as Chair~~man~~ of the Board for the calendar year.

Vacancies shall be filled for an unexpired term in the manner in which the original appointments are required to be made.

Each member shall receive compensation for each day of services performed in the amount set by the Council and based upon the accepted rate prevailing at the time of appointment, which compensation per diem shall not be reduced or increased during the term of appointment. Members shall attend the hearings and executive sessions of the Board, and shall perform such other duties as may be required by the Chair~~man~~; provided that an alternate may serve in place of a member, as hereinafter set forth.

There shall be an alternate for each member of the Board appointed in the manner prescribed for members; ~~such the~~ alternate may serve in place of the member of corresponding qualifications whenever ~~such the~~ member is unable to act or is self-disqualified because of personal interest, and shall then have all the powers of ~~such the~~ member and shall receive compensation for services in the same manner as provided for ~~such the~~ member.

Separate provisions shall be made in the budget for the expenditures of the Board and such expenditures shall not be included in the budget for any other City department or agency.

The Board shall be provided with office space and all necessary office equipment, and a hearing room, and ~~such~~ technical, clerical or stenographic assistance as will be required for the proper performance of its duties.

Any member and any alternate may be removed by the Mayor on proof of official misconduct, or of negligence in official duties, or of conduct in any manner connected with ~~his the member's~~ official duties which tends to discredit ~~his the member's~~ office, or of mental or physical disability to perform ~~his the member's~~ duties; but before removal ~~he the member~~ shall receive a copy of the charges, and shall be entitled to a hearing before the Mayor in person or by counsel, and the action of the Mayor shall be final.

(d) *Jurisdiction of the Board of Building Standards and Building Appeals.* The Board of Building Standards and Building Appeals shall have the power:

To approve or disapprove materials, types of construction, appliances, devices or appurtenances proposed for use pursuant to the Building Code of the City of Cleveland.

To make, amend, and repeal rules and regulations for carrying into effect all provisions of the Building Code other than those relating to zoning and to include in ~~such the~~ rules and regulations provisions applying to specific conditions and prescribing means and methods of practice to effectuate ~~such the~~ provisions.

To hear and decide appeals from, and to review upon motion of any member of the Board, any order, requirement, decision or determination of the ~~Commissioner~~ Director of Building and Housing, or of any other administrative official or agency of the City, relating to the location, design, materials, construction, alteration, repair, equipment, use or occupancy, maintenance,

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removal or demolition, of any building or other structure, or any appurtenance connected or attached to ~~such~~ buildings or structures, regulated by the Building Code of the City of Cleveland, and any rule or regulation or amendment or repeals thereof made by ~~said~~ those officials or agencies under the authority conferred upon them by the Building Code of the City of Cleveland, by reversing or affirming in whole or in part, or modifying ~~such~~ the order, requirement, decision or determination, or rule, regulation, amendment or repeals thereof as in its opinion ought to be made in the premises, and to that end shall have the power of the officer or agency relative to whose ruling the action is taken; except that matters relating to zoning shall not come within the province or jurisdiction of this Board. In taking ~~such~~ the action, the Board of Building Standards and Building Appeals may vary or modify the application of any provision of the Building Code except provisions relating to zoning, to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, impose unnecessary hardship, or would be contrary to the intent and purpose of the Building Code, or public interest.

To review, upon the motion of any member of the Board, any rule, regulation or decision of the Board; but no ~~such~~ review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified.

To exercise with respect to buildings situated in the City of Cleveland the same powers as are exercised by the Board of Building Standards under the laws of the State of Ohio to the extent that it is competent for this Charter so to authorize the Board.

To formulate and submit to the City Council, changes in and amendments to the Building Code which the Board determines as desirable for the proper regulation of buildings and structures and the equipment thereof and appurtenances thereto in the City of Cleveland.

To establish rules and regulations for its own procedure not inconsistent with this section.

- (#13, 6/21/2018. 11 Yeas: Brady, Camardo, Hamm, Johnson, Kazy, Keane, Kenney, McNair, Phillips, Santana, Vento. 0 Nays. 4 NP: Bibb, Cleveland, Langhenry, McCormack.)

Recommendation

Amend section 84 to remove the requirement that Council fix the number of assistant prosecutors by ordinance and instead leave the number at the discretion of the Law Director.

- **Reason:** the number of assistant prosecutors should be left to the Council to consider during the budget process and the decision of the Law Director as to the needs of the department.

§ 84 Director as Prosecuting Attorney

The Director of Law shall be the Prosecuting Attorney of the Municipal Court. ~~He~~ The Director may designate ~~such~~ the number of assistant prosecutors as the ~~Council by ordinance may authorize. He shall~~ Director determines are necessary to prosecute all cases brought before ~~such~~ the Court and perform the same duties, so far as they are applicable ~~thereto~~, as are required of the Prosecuting Attorney of the County.

- (#25, 7/19/2018. 11 Yeas: Brady, Camardo, Hamm, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana. 0 Nays. 4 NP: Bibb, Cleveland, Johnson, Vento.)

Recommendation

Amend section 128 to make language consistent with other charter sections related to civil service, remove obsolete language, delete functions no longer performed by the Civil Service Commission, and clarify the rule making authority of the Commission.

- **Reason:** to update the Charter and maintain consistency in its sections.

§ 128 Required Provisions of Rules

The rules of the Civil Service Commission shall among other things, provide:

(a) ~~For the standardization and classification of all positions and employments~~ standardized classifications in the classified service of the City, including officers and employees of the Civil Service Commission ~~and the determination of regular status~~. ~~Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions.~~

(b) For open competitive tests to ascertain the relative merit and fitness of all applicants for appointments in the competitive class.

(c) For public notice in the *City Record* or otherwise of the time and place of all competitive tests.

(d) ~~For the creation of~~ establishing eligible lists from competitive tests. ~~upon which shall be entered~~ The lists will consist of the names of successful candidates in the order of their standing ~~in the competitive tests~~.

(e) For the rejection of candidates or those eligible eligibles who fail to comply with reasonable requirements as to age, sex, physical condition and moral, psychological, or physical character, or who have attempted deception or fraud in connection with any application or test for a position in the classified service.

(f) For the certification to the appointing authority, from the appropriate eligible list from a competitive test to fill a vacancy in the competitive class, of the ~~three- ten~~ persons standing highest on ~~such~~ the list, or of the person or persons on ~~such~~ the list when it contains ~~three ten~~ names or less.

(g) For ~~temporary~~ employment without test, in the absence of an eligible list. ~~But no such temporary~~ , but the employment shall not continue after the establishment of a suitable an eligible list for the classification.

(h) For temporary employment for periods not to exceed ~~thirty~~ ninety days.

(i) ~~For noncompetitive tests for appointments to positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character.~~ For qualifications required for positions in the noncompetitive class.

(j) For promotion based on competitive tests and records of efficiency, character, conduct and seniority.

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(k) For the period of probation for each classification, which period shall begin upon appointment and shall not continue beyond one year and for removal or demotion if the service during the probationary period is unsatisfactory.

~~(k)~~ (l) For transfer from a position to a similar position ~~in the same class and grade~~ and for reinstatement on the eligible list within one year of persons who, without fault or delinquency on their part, are separated from the service or reduced in ~~rank~~ position.

~~(l)~~ (m) For suspension, by the appointing authority, for purposes of discipline, for a period not to exceed thirty days at any one time.

~~(m)~~ (n) For discharge or ~~reduction~~ demotion in rank or compensation, only after the person ~~to be discharged or reduced~~ has been presented with the reasons for ~~such discharge or reduction~~ specifically stated in writing and has been given an opportunity to be heard in his own defense. The reasons for ~~such~~ the discharge or ~~reduction~~ demotion and any reply in writing ~~thereto~~ by ~~such~~ the employee shall be filed with the Commission.

~~(n)~~ (o) For investigating and keeping a record of the efficiency of officers and employees in the classification service, and for requiring markings and reports relative ~~thereto~~ to officers and employees in the classification service from appointing officers.

~~(o)~~ (p) For the publication of the rules and amendments ~~thereto~~ in the *City Record*.

The Commission shall adopt other rules, not inconsistent with the ~~foregoing~~ provisions of this section as may be necessary and proper for the enforcement of the ~~merit~~ civil service system, and to provide for the procedure of the Commission.

- (#26, 8/16/2018; 8 Yeas: Camardo, Hamm, Johnson, Kazy, Keane, Kenney, McNair, Vento. 0 Nays. 7 NP: Bibb, Brady, Cleveland, Langhenry, McCormack, Phillips, Santana.)

Recommendation

To amend section 200-1 to cause Council to review the Charter Review Commission's written report five years after submission to Council to see if proposed amendments that did not go to the electors initially might go to the electors at the present time.

- **Reason:** a second review of the Commission's report five years after submission ensures that recommendations are not forgotten in between required Charter reviews.

§ 200-1 Charter Review Commission

Not later than the first day of February in the year 2018 and of each succeeding tenth year thereafter, the Council shall provide for the selection of a Charter Review Commission and shall appropriate adequate funds for a comprehensive review of the existing Charter provisions.

The Charter Review Commission shall consist of fifteen electors of the City of Cleveland appointed or elected in the manner prescribed by ordinance.

Within thirty days after selection the members shall meet, choose a Chairman and Secretary, and adopt rules to govern the procedure of the Commission. The Commission may employ necessary assistants and professional services as it deems necessary, within the funds appropriated for this purpose.

Not later than one year after its organization the Charter Review Commission shall report to the Council proposed amendments to the Charter as the Commission determines to be necessary or desirable and a statement of the reasons for submitting the proposed amendments to the electors; or that no changes in the Charter are required or desired.

Upon receipt of the report of the Charter Review Commission setting forth any proposed amendment or amendments to the Charter, the Council shall determine by ordinance whether the proposed amendment or amendments shall be submitted to the electors of the City of Cleveland in the manner provided and governed by the provisions of Section 200 and in conformity with Section 9 of Article XVIII, of the Ohio Constitution.

Five years after the date a Charter Review Commission's report is submitted to the Council, the Council shall review the proposed amendments that were not submitted to the electors to consider whether any of those proposed amendments might thereafter be submitted to the electors.

- (#28, 10/11/2018. 10 Yeas: Brady, Hamm, Johnson, Kazy, Keane, Langhenry, McCormack, McNair, Phillips, Santana. 0 Nays. 5 NP: Bibb, Camardo, Cleveland, Kenney, Vento.)

Recommendation

To amend section 200-1 to provide that the composition of the Charter Review Commission be fifteen electors of the City, with Council members making up no more than one-half of the Commission.

- **Reason:** to ensure at least half of the Commission members involved in the Charter review process are regular citizens of the City and not members of Council.

§ 200-1 Charter Review Commission

Not later than the first day of February in the year 2018 and of each succeeding tenth year thereafter, the Council shall provide for the selection of a Charter Review Commission and shall appropriate adequate funds for a comprehensive review of the existing Charter provisions.

The Charter Review Commission shall consist of fifteen electors of the City of Cleveland appointed or elected in the manner prescribed by ordinance. No more than one-half of the Commission members shall currently hold the office of member of Council.

Within thirty days after selection the members shall meet, choose a Chairman and Secretary, and adopt rules to govern the procedure of the Commission. The Commission may employ necessary assistants and professional services as it deems necessary, within the funds appropriated for this purpose.

Not later than one year after its organization the Charter Review Commission shall report to the Council proposed amendments to the Charter as the Commission determines to be necessary or desirable and a statement of the reasons for submitting the proposed amendments to the electors; or that no changes in the Charter are required or desired.

Upon receipt of the report of the Charter Review Commission setting forth any proposed amendment or amendments to the Charter, the Council shall determine by ordinance whether the proposed amendment or amendments shall be submitted to the electors of the City of Cleveland in the manner provided and governed by the provisions of Section 200 and in conformity with Section 9 of Article XVIII, of the Ohio Constitution.

- (#29, 10/11/2018. 10 Yeas: Brady, Hamm, Johnson, Kazy, Keane, Langhenry, McCormack, McNair, Phillips, Santana. 0 Nays. 5 NP: Bibb, Camardo, Cleveland, Kenney, Vento.)

PROPOSALS NOT RECOMMENDED

Proposal

Amend section 5 to provide that an elector of the City, in order to be a candidate for office in the City, must have been an elector of the City for at least 12 consecutive months prior to the next regular Municipal election, or the next Municipal election at which the candidate desires to run for office.

§ 5 Nominating Petitions

The name of any elector of the City shall be printed upon the ballot, when a petition in the form ~~hereinafter prescribed in this Charter shall have been~~ is filed in his the elector's behalf with the election authorities, and the elector has been an elector of the City for at least 12 consecutive months prior to the next regular Municipal election or the next Municipal election, as may be applicable. Such petition shall be signed by at least three thousand (3,000) electors of the City, for the nomination of a candidate for an office filled by election from the City at large, and by at least two hundred (200) electors of the ward if for the nomination for an office to be filled by election from a ward.

- **NOT RECOMMENDED** (7/19/2018. 6 Yeas: Camardo, Johnson, Keane, McCormack, McNair, Phillips. 6 Nays: Brady, Hamm, Kazy, Kenney, Langhenry, Santana. 3 NP: Bibb, Cleveland, Vento.)

Proposal

Amend section 17 to increase the number of signatures on recall petitions to 30% of those who voted in the last municipal election (instead of 20%)

§ 17 Filing Recall Petition

A petition demanding the removal of the Mayor or a member of the Council shall be known as a recall petition. A recall petition to be effective must be returned and filed with the City Clerk within thirty days after the filing of the affidavit as provided in the next preceding section, and to be sufficient, must bear the signatures of not less than ~~twenty~~ thirty percent of those who voted in the City or ward respectively at the last preceding regular Municipal election. Within ten (10) days from the date of the filing of such petition, the Clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of his examination. If the Clerk shall certify that the petition is insufficient he shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate to the person designated in such petition to receive it. Such recall petition may be amended at any time within twenty (20) days after the return of a copy of the certificate of insufficiency by filing a supplementary petition upon additional petition papers, issued, signed and filed as provided herein for the original petition. The Clerk shall, within ten (10) days after such amendment is filed, make like examination of the amended petition, and if his certificate shall show the same to be still insufficient, he shall return it to the person designated in such petition to receive it, without prejudice, however, to the filing of a new petition for the same purpose.

- **NOT RECOMMENDED** (6/7/18. 5 Yeas: Brady, Johnson, Kazy, Keane, Langhenry. 6 Nays: Bibb, Camardo, Kenney, McCormack, McNair, Phillips. 4 NP: Cleveland, Hamm, Santana, Vento.)

Proposal

Amend section 28 to allow for "executive sessions" as provided for in State law.

§ 28 Meetings of Council

At seven o'clock p.m., on the first Monday in January following a regular Municipal election, the Council shall meet at the usual place for holding meetings, at which time the newly-elected members of the Council shall assume the duties of their offices; Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution. The Mayor, the President of the Council, or any five members thereof of Council may call special meetings of the Council upon at least twelve (12) hours' written notice to each member of the Council, served personally on each member or left at the usual place of residence of ~~such~~ the member. Any ~~such~~ notice shall state the subjects to be considered at the meeting and no other subjects shall be ~~there~~ considered at the special meeting. All regular and special meetings of the Council or the Council's committees thereof shall be open to the public, except that the Council or any committee of the Council, may exclude the public from executive sessions held for the purpose of considering matters that other public bodies may discuss in executive session under the general law of the State and matters subject to attorney-client privilege. ~~and any~~ Any citizen shall have access to the minutes and records ~~thereof at~~ of all public meetings of the Council at all reasonable times.

- **NOT RECOMMENDED** (6/21/18. 1 Yea: Langhenry. 12 Nays: Bibb, Brady, Camardo, Hamm, Johnson, Keane, Kenney, McCormack, McNair, Phillips, Santana, Vento. 2 NP: Cleveland, Kazy.)

REPORTS BY INDIVIDUAL COMMISSIONERS

Some individual Members of the Charter Review Commission submitted reports detailing their own perspectives on the charter review process, issues, and individual recommendations.

Council President Kevin J. Kelley:

I would like to say thank you to all the members of council for the opportunity to be a part of this very important process. It was an honor and educational experience that I will value for the rest of my life. I would also like to thank all the Charter Review Commission members for being respectful, thoughtful, and involved. The variety of members' experiences and training led to some interesting discussions and perspectives on a variety of topics.

After the Charter Review Commission member names were made public, I was informed by several Cleveland residents, including a couple of community activists, that they were unaware of the Commission or what it was doing. These residents expressed a distrust in the process of announcing the creation of the Commission and the selection of the Commission members. After several Commission meetings, I could see pre-existing relationships between several Commission members. The pre-existing relationships could give the perception that there is an alternative or specific agenda for those members. I am typically a person that is "in the know" about Cleveland politics and I was not aware of the Commission until my wife happened upon a notice. With all this in mind, I ask that for the next Charter Review Commission in 2028, a greater effort be made to publicly announce the Commission is being formed and to minimize Commission members having previous relationships with Council and one another. I realize that is a tough request based on who requests inclusion on the Commission, but it will result in a better public perception of the Commission's authority, intention, and independence.

Several Charter change topics led to protracted debates between Commissioners. I felt that the Council members on the Commission led and/or steered most of the discussions. This was primarily because their experience with local government and institutional knowledge. No matter the topic or who was expressing their views, I never felt that an opinion was ignored, unwelcome, or not valued. I disagreed with a couple views of the Council members on the Commission at times, but felt I was permitted to fully express my opinions.

I would also ask that Council review the Charter regularly and make recommendations every year or two to make the Charter more consistent and current. These smaller reviews can address inconsistencies or gender-specific language issues and place Charter changes on the ballot regularly and in small numbers. This will lessen the amount of proposed Charter changes per election cycle and not overwhelm the electorate. Future Charter Review Commission can focus on the major changes that require greater research and debate.

There are no specific Charter change recommendations I want to address or bring more attention to. I voted for them, they all have value, and I expect that Council will seriously consider each one. Again, thank you for the opportunity to be part of the process to improve the Charter of the City of Cleveland.

Johnny Hamm