

City of Cleveland Charter Review Commission

May 24, 2018

1:30 p.m.

Cleveland City Hall, Mercedes Cotner Council Committee Room 217

Attendance

Charter Review Commission Members Present: Bibb, Cleveland, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana.

Members Absent: Brady, Camardo, Vento.

Also attending: Director Freddy L. Collier, Jr. and Assistant Director Chris Garland, City Planning Commission, City of Cleveland; Board Chair Carol Johnson and Board Secretary Elizabeth Kukla, Board of Zoning Appeals, City of Cleveland.

City Council/Charter Review Staff attending: Allan Dreyer, Jennifer Heinert O’Leary, John James, Rachel Nigro Scalish.

Commission Chair Martin J. Keane called the meeting to order at 1:34 p.m.

- Chair Keane asked for comments or changes to the minutes of the last meeting (May 10, 2018). There were no comments from the Commission.
- Chair Keane reviewed Charter Chapter 1 - Powers of City. There were no comments from the Commission.
- Chair Keane began a review of Charter Chapter 11 - The Executive - and recommendations made by the 2008 Charter Review Commission.
- Rachel Nigro Scalish, Cleveland City Council Special Counsel offered an amendment to Charter Section 75 – *City Record*. The amendment recognizes new technology by allowing *The City Record* to be compiled and kept in electronic format; it will also ensure hard copies will be printed if requested. The amendment allows *The City Record* to be made public more efficiently and effectively. After a brief discussion, Chair Keane asked for a motion to recommend the proposed amendment. The motion was approved as Recommendation #1 (see motion detail).
- Chair Keane welcomed the Director of the Cleveland City Planning Commission, Freddy L. Collier, Jr., as well as Planning Commission Assistant Director, Chris Garland. Director Collier provided an overview about the Cleveland City Planning Commission, talking about the Commission’s responsibility for reviewing city-wide plans that are instrumental for the growth of Cleveland. He said that the Planning Commission has an advocacy role for the community as well as for the City administration.
- Discussion about the 2008 Charter Review Commission recommendation to amend Section 76 so that the composition of the City Planning Commission include one architect, one attorney and one real estate or real estate development professional.
- Director Collier did not agree that the amendment is necessary because the Commission has always included these professionals and they recuse themselves from discussions where they might have a conflict of interest. The Director felt that adopting the

amendment would be problematic for the Commission because it would create inflexibility in the make-up of the Commission.

- Commission Member Cleveland agreed that, when she sat on the Planning Commission, there was a good cross-section of skill sets. She added that it is important to include members of different neighborhoods that may have different skill-sets than those required by the suggested amendment. Commission Member McCormack, currently the City Council appointment to the Planning Commission, agreed.
- Chair Keane pointed out that until very recently, there have been a lot of vacancies on the Planning Commission and asked if the Charter Review Commission should recommend that vacancies be filled within a time limit, such as 6 months. He said that this approach could benefit the City administration.
- Commission Member Langhenry mentioned that the Charter does allow the appointment of alternate members who can serve in place of a regular member on the Planning Commission.
- Chair Keane asked that there be a review to determine if there should be a mandated time limit for filling vacancies on all boards and commissions, either in the Charter or the Code. This will be discussed at a future Charter Review Commission meeting.
- Discussion began regarding Section 76-3-Mandatory Referral. The 2008 Commission recommended to revise the language in section 76-3 to clarify and define the types of legislation and administrative decisions that should be referred to the City Planning Commission. Chair Keane discussed that some ordinances are stalled because of the mandatory referral process, and used improvements to the airport terminal as an example. These are public improvements but have little to do with the City Plan.
- Director Collier said that he believes the mandatory referral process is working well. He said that Section 76-3 is intentionally very broad and there should be some latitude for people to see things that other people may miss. He fears that major issues could be missed if we try to speed up this process.
- There was discussion on whether there is a way to provide more flexibility to get things done more efficiently.
- Commission Member Langhenry said that currently all public improvement contracts – even minor ones – are subject to mandatory referral; however, the less important ones do go to what is known as “administrative review” where the Director signs off. But this can still take two weeks.
- Chair Keane suggested the use of “administrative review” might go in the Charter or be codified, especially for those projects that are time-sensitive.
- Director Collier said that deleting a layer from the process would make him nervous; from his perspective, the current process works.
- Commission Member Langhenry mentioned the Planning Director does not have unlimited authority for quickly signing off under “administrative review”; the Charter requires that things affecting the city must be reviewed by the Planning Commission.
- Chair Keane asked for any recommendations, agreeing with others that the 2008 Commission amendment to 76-3 could be better written.

- Commission Member Langhenry suggested it may be helpful to the Commission members if Director Collier and his staff look at past ordinances to see if there are concrete examples on what the Planning Commission may not need to address, such as the interior renovation of buildings. Director Collier agreed to review saying that if they do come up with something it probably would be very narrow.
- Discussion about an anonymous written comment regarding 2008 Commission Recommendation 57 relative to section 76-4—Coordinating Board and Advisory Committee. Section 76-4 was repealed in 2008 because the coordinating board and advisory committee have not existed for many years. The anonymous comment seemed to indicate that design review committee should be deleted; however, this committee is not established under the Charter.
- Commission Member Langhenry asked about design review committees and how they are appointed and background. Director Collier mentioned that some of the members live in the neighborhoods and others have specific skill sets; that they serve in an advisory capacity only but have no legal authority.
- Regarding Section 76-1—Directors and Staff. In practice, the current Charter process is not followed: Commission Member Langhenry said the Planning Director is appointed by the Mayor and the Planning Director appoints the staff. Collier agrees that that the Director should appoint the staff for the Planning Commission.
- In 2008, the Charter Review Commission recommended that Section 76-1 be amended to have the Planning Director serve at the pleasure of the Mayor without nomination by the Commission and to have the Planning Director be the appointing authority for the Commission’s staff.
- A motion was made to draft amendment to 76-1 to have planning director appointed by the Mayor. A second motion was made to draft amendment to section 76-1 to give planning director have authority to hire and appoint staff. (See detail for Proposal #1.)
- Chair Keane welcomed the Chair of the Board of Zoning Appeals (BoZA), Carol Johnson, and the BoZA Secretary, Elizabeth Kukla. Kukla provided an overview on the role and function of the BoZA.
- Kukla mentioned the need to have an alternate to the Board, because there have been multiple occasions that there hasn’t been a quorum.
- There were more comments made by Commission Members about establishing a time-frame to make appointments for the alternates, and Chair Keane said that the City administration also needs to be part of this discussion.
- Commission Member Langhenry spoke about looking at a process that can be used to fill a vacancy. Alternate members would serve when a member cannot and the compensation for the alternate can be determined by the Council. Having an alternate also would help because that person would be familiar with the board and already would know what is going on.
- Commission Member Kazy mentioned that if it is a compensated board we need to determine how we want to determine the compensation; compensation is fixed by Council by ordinance. Chair Keane will bring the recommendation to Council leadership.

- A motion made to amend Section 76-6(a) to include having alternates appointed to the BoZA. (See detail for Proposal #2.)
- An anonymous comment proposed to amend Section 76-6(a) that the Chair of BoZA be elected annually by the Board. Commission Member Bibb agreed that members of BoZA should appoint the Chair but felt it does not need to be done annually.
- Commission Member Kazy expressed concern about political jockeying that could occur in such circumstances if the Board Members elect the Chair. Chair Keane did not believe this would be a concern.
- Commission Member Bibb suggested that appointments of Board Members occur every four years in order to maintain consistency. Commission Member Langhenry mentioned that the terms can be extended
- Chair Keane supports language where the Mayor appoints the Chair, and should be done in a timely manner.
- Kukla mentioned that there could be a form used that the Mayor can sign approving the appointment.
- Chair Keane suggested perhaps language can be drafted requiring the Board and Chair appointments be done in a certain amount of time.
- Commission Member Johnson commented that if the Mayor is not filling vacancies there has to be some reason on why this happening. He believes that rushing the Mayor to make these appointments could present problems; he does not want to put the Mayor into a precarious position.
- The anonymous comment had wanted to delete language from Section 76-6 that had been only recommended in 2008; it is not in the Charter.
- Next discussed was that 2008 Recommendation to amend Section 76-6 to require that the 5 members of the BoZA include one attorney and one real estate or real estate development professional. Johnson and Kukla had no objection; they felt was valuable to mandate real estate professionals be on the board. Kukla said that there should be an attorney on the board as well as a real estate person.
- Commission Member Langhenry mentioned that some conflicts of interest could cause some people to stay away from committing to serving on a board or commission.
- Chair Keane summarized the meeting and then spoke about the upcoming section on city elections that will be discussed at the next Commission meeting on June 7, 2018.

Chair Keane adjourned the meeting adjourned at 3:12 p.m.

Detail of Motions:

2018 Recommendation #1:

To amend Section 75 as shown below to reflect that *The City Record* is kept electronically and that printed copies may be made available upon request to the Clerk.

§ 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 in 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*.

Commission Member Langhenry made motion to approve 2018 Recommendation #1 and Commission Member Johnson seconded the motion.

Vote-Yeas: 12-Bibb, Cleveland, Hamm, Johnson, Kazy, Keane, Kenney, Langhenry, McCormack, McNair, Phillips, Santana. Nays: 0.

Proposals Discussed and Approved to be Drafted, but Not Yet Recommended:

Proposal #1: Amend section 76-1 to have the 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.

Proposal #2: Amend section 76-6(a) to add that the Mayor shall appoint two alternate members to the Board of Zoning Appeals.

Proposal #3: To amend section 76-6 to add a 30-day time-frame during which the City must post and fill vacancies on the Board of Zoning Appeals.