



OFFICE OF THE MAYOR

27700 Hilliard Blvd. Phone: 440.871.3300
Westlake, OH 44145 Fax: 440.617.4209

TO: Members of the Press
FROM: Mayor Dennis M. Clough
DATE: August 14, 2020
RE: Reasons for Charter Amendment Vetoes

FOR IMMEDIATE RELEASE

Westlake City Council voted to adopt 10 ordinances to amend the Westlake City Charter by a two-thirds vote at its regularly scheduled meeting on July 16, 2020. I was compelled to exercise my veto authority for six of these ordinances. My reasons for doing so are stated below.

As a matter of precedent, I have serious apprehensions about any ordinance that would alter the Westlake City Charter in a way that sidesteps recommendations by the Charter Review Committee and is likely to cause needless confusion among voters regarding proposed Charter amendments or the duties and authorities of city officials.

Additionally, I strongly believe that amendments to the City Charter should not reflect the political reasons or personal opinions of a few. After all, the Charter is essentially the City's Constitution, and has served Westlake and its residents well since its adoption in 1965.

On July 30, I was informed that City Council scheduled a special meeting for Wednesday, August 19, 2020. Council had been scheduled to be in recess through the end of August. I had therefore scheduled an out-of-town vacation in anticipation of this recess and am now unable to attend this "special meeting" on August 19th. I have respectfully requested, as an ex-officio member of City Council, that Council afford me the opportunity to explain my vetoes at the next regularly scheduled Council meeting on September 3, 2020.

Reasoning for Vetoes of Ord. 2020-82; Ord. 2020-83; Ord. 2020-84; Ord. 2020-90

There are a few fundamental, overarching reasons for my objections to the ordinances in question. First and foremost, four of the six vetoed ordinances contain language that was not recommended by the 2019-2020 Charter Review Committee, giving an appearance that the Committee's role is being circumvented.

The Charter Review Committee is made up of citizen volunteers tasked with analyzing all aspects of the City Charter. The Committee submits a report to Council and the Mayor with recommended revisions. What the

Committee does or does not recommend for modification is of equal significance. It is important to respect and seriously consider not only the sections the Committee recommends revising but also those sections that remain intact. My fear is that Council may be ignoring the latter. Clearly if the Committee does not recommend revisions, then they are satisfied with the existing law and do not deem revisions necessary.

Council's actions may be seen as undermining the Charter Review Committee after its members spent nearly a year deliberating what amendments to include on the November ballot. One amendment (Ordinance 2020-90) adopted by Council, which would allow City Council and the Law Director to each appoint one member to the Charter Review Committee, was soundly rejected by the Committee (7-2 vote). Despite the Committee's expressed opposition, Council approved the ordinance by a two-thirds vote.

While it may be appropriate in some instances for elected officials to revise the City Charter independent from those proposed by a Charter Review Committee, I would contend that the four ordinances detailed below are not necessary and will needlessly confuse voters regarding the roles and authority of the Mayor, Council and Law Director as set forth for the last five decades in the current Charter.

Ordinance No. 2020-82: This proposed legislation would introduce amended language to Article II, Section 2 of the City Charter, stating that the Mayor has the authority to appoint his own office staff and department heads but does not have the authority to appoint the Law Director or members of City Council, who are elected officials. I object to the addition of this new and amended language because:

- This language is redundant as the duties and responsibilities of Council are already clearly defined in Article III, Section 3 of the City Charter and those of the Law Director are spelled out in Article IV, Section 4.
- Rather than providing "clarity" regarding the Mayor's powers with respect to the elected Law Director and members of City Council, the new presumptive language would likely confuse voters. The Mayor's authorities are defined in the Charter, and have been status quo since 1965. The existing Charter language already states that each elected official has his/her authority to appoint staff within their respective office.
- This language was not introduced or recommended by the Charter Review Commission.

Ordinance No. 2020-83: This proposed legislation states that it would "clarify the procedures" for selecting an Acting Mayor in the event of a vacancy in the Mayor's Office. This ordinance would make the Law Director second in line for the role of Acting Mayor. This measure represents a significant change to the existing procedure of selecting an Acting Mayor. The City Charter has held for decades that such vacancies are to be filled by a department head selected by the Mayor or by the City Council President in the event that the Mayor is unable to make the selection. I object to this ordinance because:

- The use of the phrase "clarify the procedures" in the summary of the language in Ordinance No. 2020-83 is misleading, given that this ordinance represents a material and substantive change to the process of selecting an Acting Mayor.
- The existing process for filling a vacancy in the Mayor's Office has been in place for decades and the Charter should not be changed due to the opinion of a few or for personal or political reasons.
- This new process is not consistent with the election process for a vacancy in the elected Law Director position.
- This language was not introduced or recommended by the Charter Review Commission.

CORRECTION -- An earlier version of this document contained errors with respect to the order of succession for the role of Acting Mayor.

Ordinance No. 2020-84: This proposed legislation would provide the Council President the authority to determine the start time for Council meetings, rather than requiring an 8 p.m. start time as stipulated by the City Charter. I object to this ordinance because:

- It would take away the rights of the voters to determine the time that regular Council meetings would be held and place that responsibility in the hands of one individual.
- The current meeting time of 8 p.m. was determined by the Westlake voters and has existed for approximately 50 years.
- This language was not introduced or recommended by the Charter Review Commission.

Ordinance No. 2020-90: This proposed legislation would rename the Charter Review Committee, include a residency requirement and provide for two additional members – one appointed by the Council President and one appointed by the Law Director. I object to this ordinance because:

- The proposed amendment to add two members to the Charter Review Committee was soundly rejected (7-2 vote) by the Charter Review Committee.
- This ordinance would diminish the long-established 2-to-1 ratio between Westlake’s legislative and executive branches of government for appointments to the Charter Review Committee. This ratio has been in effect for at least 40 years.
- The Law Director is responsible for reviewing the legality of the proffered amendments recommended by the Committee and should not have the authority to appoint a member of the Committee to ensure impartiality and avoid the appearance of bias or impropriety.

Reasoning for Vetoes of Ord. 2020-87 and Ord. 2020-88

Ordinance 2020-87: This proposed legislation seeks to change certain nominating requirements for candidates for the position of Law Director in the City of Westlake. The ordinance would reduce the required number of signatures needed to be included on the ballot for the position of Law Director from 500 to 250 if the office of Law Director becomes vacant. I object to this ordinance because:

- Neither the ordinance summary nor the ballot language clearly explains to the public one of the major changes contained in this proposed Charter amendment, namely the change requiring only 250 signatures in a nominating petition for the position of Law Director rather than the existing requirement of 500 signatures.
- The ordinance is inconsistent with the proposed language that has been recommended for a special election in the event of a vacancy in the Mayor’s Office.
- The ordinance does not contain a provision for a 40% vote total requirement in a special election should the Law Director’s position become vacant as does the proposed provision in the event of a vacancy in the Mayor’s Office. It only requires a simple majority vote.
- The Westlake Charter is our Constitution and should not be amended for political reasons or the personal opinions of a few.
- Some of the proposed language was not introduced or recommended by the Charter Review Commission.

Ordinance 2020-88: This proposed legislation pertains to the authority of the Mayor and City Council with respect to the appointment of individuals who serve on city committees. The Charter amendment provides for the merger of the Board of Building Appeals with the Board of Zoning Appeals, clarifies terms of office for the board and various commissions and repeals Article IV, Section 11. I object to this ordinance because:

- This ordinance permits an appointment of the Mayor on various boards and commissions to serve more than a 4-year term if Council fails to approve a recommended appointment by the Mayor.
- This proposed change would remove any sense of urgency to have Council approve new appointees. The existing appointees could hold a termed appointment indefinitely, and leave no opportunity for consideration of new appointees. Council in the past has denied qualified candidates from being approved due to personal preferences for a specific individual, leaving the incumbent in place indefinitely.