

County Council of Cuyahoga County, Ohio

Resolution No. R2018-0140

<p>Sponsored by: Council President Brady on behalf of Charter Review Commission and Councilmembers Miller, Simon, Conwell, Jones, Baker, Houser, Schron, Brown, Gallagher and Tuma</p>	<p>A Resolution providing for the submission to the electors of the County of Cuyahoga an amendment to enact Article XV of the County Charter establishing the Agency of Inspector General and to provide for the appointment, removal, qualifications, and the powers and duties, including access to county information and subpoena power, of the Inspector General; and declaring the necessity that this Resolution become immediately effective.</p>
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WHEREAS, Article XII, Section 12.09 of the Charter of Cuyahoga County provides that “The Charter Review Commission may propose to the Council such amendments to this Charter as it shall deem appropriate” and “Council shall vote within sixty days after the proposals are received on whether or not to submit the proposals to the electors at the next general election held more than sixty days after its vote on the proposed amendments”; and

WHEREAS, Article XII, Section 12.10 of the Charter of Cuyahoga County provides that “[p]roposed amendments to this Charter shall be submitted to the electors of the County in the manner provided for by the Ohio Constitution”; and

WHEREAS, Article X, Section 4 of the Ohio Constitution provides that the “legislative authority” “of any county may by a two-thirds vote of its members” submit by resolution charter amendments to the electors of the county “to be voted upon at the first general election occurring not sooner than sixty days after their submission”; and

WHEREAS, the Council believes it is in the best interest of the citizens of the County of Cuyahoga to amend the County Charter as provided hereinafter.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Pursuant to Article X, Section 4 of the Ohio Constitution and Article XII, Sections 12.09 and 12.10 of the Charter of the County of Cuyahoga, this Council hereby authorizes and directs that there shall be submitted to a vote of qualified electors of the County of Cuyahoga, at the general election to be held on Tuesday, the 6th day of November, 2018, the question of enacting Article XV of the

Charter of Cuyahoga County, the respective text to be set forth herein (additions bolded and underlined and deletions stricken):

ARTICLE XV—AGENCY OF INSPECTOR GENERAL

SECTION 15.01 AGENCY OF INSPECTOR GENERAL.

(1) Powers and Duties. The Inspector General shall serve as the County’s chief ethics officer and shall direct the Agency of Inspector General. The County Executive and the County Council shall appropriate funding for the Agency’s operations, fairly allocated through the regular budget process based on available resources. The Council may, by ordinance, further delineate the powers and duties of the Agency of Inspector General, consistent with this Article XV.

(2) Jurisdiction. To the maximum extent permitted under the Constitution of the State of Ohio and this Charter, the authority of the Agency of Inspector General to investigate possible ethical violations in the conduct of County business shall extend to any employee, official, or appointee of the County and any person or entity doing business with the County.

(3) Qualifications. The Inspector General shall have at least five years’ experience as an inspector general, certified public accountant, auditor, licensed attorney, law enforcement officer, or other investigative officer involving supervisory or managerial experience.

(4) Appointment and Term. The Inspector General shall be appointed by the County Executive, subject to confirmation by Council, for a term of four years. The term of the incumbent Inspector General shall expire on December 31, 2020. Each subsequent Inspector General shall be appointed or reappointed for a term commencing on January 1, 2021, and every four years thereafter. Reappointments shall be subject to Council confirmation.

(5) Removal. During the term of appointment, the Inspector General may be removed from office only for cause by resolution receiving the affirmative vote of at least eight members of the Council. The Council shall not vote on the question of the removal of the Inspector General until the Council has provided the Inspector General the opportunity to be heard and to present his or her case for retention in office. The Council may enter executive session to discuss the question of removal as provided by general law; provided the Council holds at least one public hearing where the Inspector General and the public have an opportunity to be heard.

(6) Vacancy. In the event of a vacancy prior to the expiration of the Inspector General’s term, the County Executive shall appoint a successor to complete the unexpired term, subject to confirmation by Council. In the event a vacancy

occurs less than two years prior to the expiration of the Inspector General's four-year term, the County Executive may appoint an Inspector General to complete the unexpired term and serve a subsequent four-year term, subject to confirmation by Council.

(7) Access to County Information. The Inspector General shall have the right to obtain full and unrestricted access to all records, reports, plans, projections, matters, contracts, memoranda, correspondence, and any other materials, including electronic data, of Cuyahoga County, relevant to any inquiry or investigation undertaken pursuant to this Article XV, except as may be legally limited, such as through attorney-client privilege or provisions of the Health Insurance Portability and Accountability Act (HIPAA).

(8) Subpoena Power. The Inspector General shall have authority to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and documents, including electronic data as is deemed to be relevant to any inquiry or investigation undertaken pursuant to this Article XV.

SECTION 2. Pursuant to Article X, Section 4 of the Ohio Constitution and Article XII, Section 12.09 and 12.10 of the Charter of the County of Cuyahoga, this Council hereby directs that the proposed enactment of Article XV shall be submitted to the Board of Elections of Cuyahoga County, and the question to be submitted on the ballot shall read as follows:

PROPOSED AMENDMENT TO COUNTY CHARTER

Shall Article XV be enacted to establish the Agency of Inspector General and to provide for the appointment, removal, qualifications, and the powers and duties, including access to county information and subpoena power, of the Inspector General as the chief ethics officer of Cuyahoga County?

SECTION 3. The Clerk of this Council is directed to certify a copy of this Resolution to the Board of Elections no earlier than one hundred twenty day (120) days and not later than sixty (60) days before the November 6, 2018 election. The Clerk is further directed to take all other actions required by law relative to the submission of said amendment for said election, including, if required by law, mailing or otherwise distributing a copy of said proposed amendment to each of the electors of the County as far as may be reasonably possible prior to thirty (30) days before said election.

SECTION 4. It is necessary that this Resolution become immediately effective to enable the Clerk of Council to perform her duties in time for the amendments to be properly placed on the November 6, 2018 election. Provided that this Resolution receives the affirmative vote of eight (8) members of Council, it shall become immediately effective.

SECTION 5. It is found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Brady, seconded by Mr. Schron, the foregoing Resolution was not adopted.

Yeas: None

Nays: Miller, Tuma, Gallagher, Schron, Conwell, Jones, Brown, Houser, Simon, Baker and Brady

County Council President

Date

Clerk of Council

Date

First Reading/Referred to Committee: July 10, 2018

Committee(s) Assigned: Committee of the Whole

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July 24, 2018