

JUDAH ZEIGLER
Mayor



312 BROAD AVENUE, LEONIA, NEW JERSEY 07605-0098
(201) 446-4603
www.leonianj.gov

TO: Hon. Council Members

FROM: Judah Zeigler, Mayor *JZ*

DATE: August 14, 2021

RE: Borough of Leonia Charter Study Committee Recommendation

Council Members:

This memorandum is being written to provide my recommendations for the creation and implementation of a Charter Study Committee (“Committee”) for the Borough of Leonia (“Borough”), in the context of determining if a change in the Borough’s form of government should be recommended to the voters of the Borough.

Background/Problem Statement

The Borough of Leonia currently operates under the partisan Borough form of government. The Mayor and members of the Council are elected at-large. Current voter registration by party affiliation in the Borough is as follows:

Affiliation	Registered Voters	% of Total
Democrat	3,464	56.8%
Republican	815	13.4%
Independent/Uncommitted	1,819	29.8%
Total	6,098	100.0%

This overwhelming partisan “advantage” means that each year, candidates who are victorious in the Democratic primary are effectively assured of victory in the subsequent general election – and that 43.2% of Leonia’s registered voters are, for all intents and purposes, disenfranchised from participating in their municipality’s municipal elections, because they choose not to be registered Democrats. Likewise, only those who are registered Democrats can become municipal elected leaders in the Borough – thereby eliminating many potentially interested and certainly qualified individuals from serving in these critically important positions.

In the words of former New York City Mayor Fiorello LaGuardia, “there is no Democratic or Republican way of cleaning the streets.” Regardless of whether or not someone identifies with the ideology of a political party on a Federal or State level, that partisan affiliation should not exclude them from participating in local elections for the people who will spend a large portion of one of a voter’s largest expenses (their property taxes).

For this reason, I am recommending that the Governing Body appoint a Municipal Charter Study Committee, and empower that Committee to study potential changes to the Borough’s form of government, and return their recommendations to the Governing Body for its consideration.

Municipal Charter Study Commission vs. Recommendation for Committee

N.J.S.A. 40:69A-1 *et. seq.* proscribes the statutory method for establishing a Municipal Charter Study **Commission** ("Commission"), as well as the timeline for such a Commission to carry out its work. Under this process, a Commission of five (5) members is elected by the voters of the municipality. Candidates for membership as a member of the Commission must file petitions containing the signatures of a minimum of 3% of the total voters of the municipality, or 100 signatures (whichever is less); in the Borough's case, this would require candidates to collect a minimum of 100 eligible signatures in order to appear on the ballot.

Once elected, the Commission completes its evaluation of the various forms of government permitted for municipalities in the State of New Jersey, and submits its final report, with recommendations, to the governing body and the residents of the municipality. If the Commission recommends a new form of government, the question is then put before the voters of the municipality in the next general election and if the recommendation is approved, the new form of government is implemented, pursuant to the statute.

The challenge with following this process is two-fold: First, it would in all likelihood result in a Commission that does not include appropriate input from those who are currently disenfranchised (due to the large majority of voters representing one political party), and therefore the recommendations may or may not be as fair or impartial as we as a governing body would like them to be. In addition, following this approach would require that the process be followed to its conclusion, regardless of the final recommendations of the Commission, with no approval of the governing body required. I don't believe, and I think you will agree, that this allows for an appropriate "check and balance" with the final work product of the Commission, regardless of its makeup.

For these reasons, it is my recommendation that we follow the statutory guidance for the activities of such a Commission, but that the work be performed instead by a Municipal Charter Study **Committee**, appointed by and accountable to the Mayor and Council of the Borough of Leonia. This, in my opinion, will allow the substantive study of alternatives to be completed, while still allowing for an additional layer of review and oversight that will result in a work product that represents the best possible course of action for the Borough.

Committee Appointment Methodology

Consistent with the Borough form of government, appointments to the Committee would be made by me, with the approval of the Council. I recommend that we appoint a seven (7) member Committee, and that we appoint a Committee Chair.

I propose that we solicit all registered voters of the municipality as potential members of the Committee, except that myself, any member of the Council, any member of the Leonia Board of Education, and any member of a Democratic or Republican Committee (municipal, County, or State) would be ineligible to serve.

Solicitation would be made via the Borough's standard communication protocols (Nixle, social media, website, etc.); interested parties would be asked to complete a brief online survey and provide their name, address, telephone number and email address, as well as a brief statement as to why they are interested in serving on such a Committee.

There will be a limited time window to receive responses (not more than 21 days); after which time I will assemble all responses. I would then select the recommended members of the Committee, working in collaboration with the Council President (with whom I collaborated when selecting the members of the Mayor's Advisory Committee on Racism and Racial Equity). These names would then be placed in nomination at a regular meeting of the Leonia Mayor and Council, at which time each member of the governing body would have the opportunity to vote positively or negatively for the confirmation of the nominees. The selection of a Chair would be made following the same procedure.

Powers and Duties of the Committee

It is my suggestion that the powers and duties of the Committee in general follow the language as set forth in N.J.S.A. 40:69A-7, with amendments as follows: "It shall be the function and duty of the charter ~~commission~~ **Committee** to study the form of government of the municipality, to compare it with other available forms under the laws of this State, to determine whether or not in its judgment the government of the municipality could be strengthened, made more clearly responsive or accountable to the people or whether its operation could be more economical or efficient, under a changed form of government."

In accordance with N.J.S.A. 40:69A-8, the members of the Committee will serve without compensation. In order to assist the Committee in its work, I propose that the Committee be supported by the Borough Clerk/Deputy Borough Administrator, who may choose to delegate some of these responsibilities to staff in the Borough Clerk's office (at the Borough Clerk's discretion). I also propose that the Committee be given direct access to support from the Borough Attorney, with a budget of up to \$5,000 for such services. If the Committee requires assistance from the Borough Attorney such that the cost for such services will exceed this amount, prior approval of the governing body, via resolution, would be required.

As part of its process to arrive at its recommendations, the Committee will be required to hold a minimum of two (2) public hearings (either virtual or in-person, at the discretion of the Public Health Officer) to solicit input from registered voters.

Consistent with N.J.S.A. 40:69A-10, the Committee shall provide its final report to the Mayor and Council not later than nine (9) months from the date on which the Committee is constituted. Consistent with the provisions of N.J.S.A. 40:69A-12 (with amendments as shown), the Committee "may report and recommend:

- (a) That a referendum ~~shall~~ **may** be held to submit to the qualified voters of the municipality the question of adopting one of the plans of government authorized in this act, and such of the alternative provisions as permitted thereunder, to be specified by the ~~commission~~ **Committee**; or
- (b) That the governing body ~~shall~~ **may consider a** petition the Legislature for the enactment of a special charter or for one or more specific amendments of or to the charter of the municipality, the text of which shall be appended to the charter ~~commission's~~ **Committee's** report pursuant to Article IV, Section VII, Paragraph 10, of the Constitution of 1947 and to the enabling legislation enacted thereunder to the extent that such legislation is not inconsistent herewith; or
- (c) That the form of government of the municipality shall remain unchanged; or
- (d) That the charter of the municipality adopted under P.L.1950, c.210 (C.40:69A-1 et seq.) be amended to adopt one of the alternative provisions authorized under the current plan of government of the municipality, in which case a referendum shall be held to submit the question to the qualified voters of the municipality in the same manner as required for an ordinance adopted to that effect pursuant to sections 7 through 11 of P.L.1981, c.465 (40 :69A-25.1 through 40 :69A-25.5) and sections 17-42 through 17-47 of P.L.1950, c.210 (C.40:69A-191 through 40 :69A-196); or
- (e) Such other action as it may deem advisable consistent with its functions as set forth in section 1-7 of this article."

Recommended Responsibilities of the Mayor and Council

Upon receipt of the report from the Committee, a special Municipal Charter Subcommittee ("Subcommittee) of the Governing Body consisting of the Mayor (who shall serve as Chair of the sub-committee), the Council President and an additional member of the Council to be selected by it, shall review the report in detail, and may conduct such other activities as it deems appropriate including, but not limited to, meeting with the Committee chair, meeting with the Committee, conducting additional public hearings, and/or soliciting additional guidance from Borough professionals.

The Subcommittee shall issue its final report to the governing body, with copies to the Committee members, within ninety (90) days of receiving the Committee's report. The Subcommittee's report shall recommend either affirming the Committee's report, amending the report in one or more ways, or rejecting the report.

Upon receipt of the Subcommittee's recommendation, the governing body will, by resolution, take final action on the Subcommittee's report, together with the Committee's report, within thirty (30) days from receipt of the report from the Subcommittee.

If the governing body recommends a change to the charter of the Borough, that question shall be put to the voters of the Borough in accordance with N.J.S.A. 40:69A-14 *et. seq.* **For purposes of clarity, the Governing Body, in affirming the Mayor's recommendation to create the Committee, is also affirming that any change in the form of government of the Borough requires the approval of a majority of the eligible voters of the Borough.**

Charter Change Implementation

If the voters of the municipality approve a change to the municipality's current form of government, that change will be realized in accordance with the provisions of N.J.S.A. 40A:69-25 *et. seq.*

Proposed/Anticipated Timeline – Major Milestones

If the members of the Council are in agreement with the recommendations made herein (and/or we, after revisions, align on a revised plan), the anticipated timeline for this initiative would be as follows:

- **September 2021:** Governing Body passes Resolution authorizing creation of Committee;
- **October, 2021:** Mayor nominates, and Council confirms, Committee members and Committee Chair;
- **July, 2022:** Committee submits its report to the Governing Body;
- **October, 2022:** Subcommittee reports its recommendations to the Governing Body;
- **January, 2023:** Governing Body takes final action on Committee report;
- **November, 2023:** If change to charter is recommended, question is put forward to voters via ballot question.

Summary

Of the 6,098 registered voters in the Borough of Leonia, over 43% are effectively denied the ability to vote for the elected officials who lead their municipality. Appointing a Charter Study Committee will allow for the study of potential changes to the Borough's form of government, allowing for the potential both of greater voter engagement and a larger pool of qualified candidates who might consider serving as volunteer elected officials. Both of these outcomes are clearly in the best interest of our constituents and of our community as a whole, and I urge the members of the Council to strongly consider, and ultimately affirm, the recommendations made herein, either as written or as revised after additional discussion and collaboration.

I thank each member of the Council for your thoughtful consideration, and look forward to additional discussion of the recommendations contained herein.

Cc: A. Wardrop, Borough Administrator
A. Dodd, Borough Clerk/Deputy Borough Administrator
B. Chewcaskie, Borough Attorney