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RESOLUTION NO

TEBOOLO III	2017-233		
SPONSOR _	Ms. Shapiro		
DATE	June 17, 2019	COMMITTEE	Committee of the Whole

2019-233

A Resolution submitting to the electors of the County of Summit at the November 5, 2019 general election a proposed charter amendment, as recommended by the 2018-2019 Charter Review Commission, to repeal Article III, Section 3.01.5(C) and amend Article IV, Sections 4.01(1) and 4.01(2) and Article V, Section 5.02 of the Summit County Charter to provide for a uniform procedure for filling vacancies in County elected offices, for the Charter Review Commission, and declaring an emergency.

WHEREAS, Section 3, Article X of the Ohio Constitution provides that "[t]he people of any county may frame and adopt . . . a charter . . .;" and

WHEREAS, the voters of the County of Summit approved the adoption of the County Charter on November 6, 1979; and

WHEREAS, Article V, Section 5.06 of the County Charter provides that "[p]roposed amendments to [the] Charter shall be submitted to the electors of the County by a vote of at least two-thirds of the members of the County Council...;" and

WHEREAS, Article V, Section 5.03 of the Charter provides for a nine member Charter Review Commission to meet in September 2003 and every five years thereafter to review the Charter and make recommendations concerning the amendment of the Charter; and

WHEREAS, this Council previously adopted Motion 032-2018, which confirmed the appointments of Mr. James Armstrong, Ms. Helen J. Humphrys, Mr. Cazzell Smith, Sr., Ms. Laura Wallerstein, Ms. Lisa Miller, Mr. Omar Banks, Ms. Sylvia Trundle, Mr. Charley Sollie and Mr. Jeff Snell to the 2018-2019 Charter Review Commission; and

WHEREAS, this Council subsequently adopted Motion 004-2019, which confirmed the appointment of Ms. Katherine Procop to replace Mr. Charles Sollie on the 2018-2019 Charter Review Commission; and

WHEREAS, the Commission met from October 19, 2018, through May 21, 2019, and produced a Final Report recommending two amendments to the Charter, including the amendment that is proposed by this Resolution; and

WHEREAS, in its Final Report, submitted to this Council on June 3, 2019, the Charter Review Commission recommends the amendment of the Charter to repeal Article III, Section 3.01.5(C) and amend Article IV, Sections 4.01(1) and 4.01(2) and Article V, Section 5.02 of the Summit County Charter to provide for a uniform procedure for filling vacancies in County elected offices; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the County of Summit to adopt the Commission's recommendation and that the citizens of the County should be permitted to decide at the November 5, 2019 general election whether to amend the Charter to provide for a uniform procedure for filling vacancies in County elected offices;

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NOW, THEREFORE, BE IT RESOLVED by the Council of the County of Summit, State of Ohio, two-thirds of all the members elected thereto concurring, that:

#### SECTION 1

The following question as to whether the Charter of the County of Summit shall be amended, as set forth herein, shall be submitted to the electors of the County of Summit at the general election to be held November 5, 2019.

### **SECTION 2**

The ballot form for this question shall be as follows:

### PROPOSED AMENDMENT TO COUNTY CHARTER

A majority affirmative vote is necessary for passage.

(Vote ballot with "X")

Shall the Charter of the County of Summit be amended to provide for a uniform process for filling vacancies in County elected offices, other than the Court of Common Pleas, both before and after 120 days before a general election?

FOR THE AMENDMENT	7
AGAINST THE AMENDMENT	

### **SECTION 3**

If approved by the electors of the County of Summit, Article III, Section 3.01.5(C) of the Charter, entitled "Vacancy; Length of Appointment" is hereby repealed, Article IV, Sections 4.01(1) and 4.01(2), entitled "County Elected Officeholders" and Article V, Section 5.02, entitled "Vacancies," are hereby amended as follows:

## "SECTION 3.01.5(C) VACANCY; LENGTH OF APPOINTMENT.

In all cases, if a vacancy occurs in the first or second year of a four (4) year term, the interim appointment is for a period until the next County-wide general election at which time the position is filled for the remainder of the principal term. If a vacancy occurs in the third or fourth year of a four (4) year term, the interim appointment is until the next County-wide general election at which time the position is filled for the next four (4) year term."

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SECTION 3 (Cont.)

# "ARTICLE IV ELECTED OFFICE HOLDERS

# SECTION 4.01 COUNTY ELECTED OFFICE HOLDERS.

(1) The Clerk of the Court of Common Pleas, County Engineer, Prosecuting Attorney and the Sheriff of the County shall be elected and their duties shall continue to be determined in the manner provided by general law, except where County Council changes those duties by ordinance or resolution. County Council may set the salaries of all County elected office holders with the minimum as set by general law. <u>Vacancies shall be filled as provided by Article V. Section 5.02 of this Charter.</u>

# (2) <u>County Fiscal Officer.</u>

- (a) Consolidation of Office of County Auditor with Office of County Treasurer; Transfer of Powers and Duties. Effective upon a vacancy or as of March 10, 2003, whichever is earlier, the elective office of County Auditor is hereby consolidated with the Office of County Treasurer, and no election for County Auditor shall be held at the 2002 general election in the County. Effective upon the consolidation of the Office of County Auditor with the Office of County Treasurer, the County Auditor's powers and duties, including the powers and duties of the previously consolidated Office of County Recorder, shall be transferred to the County Treasurer, which shall be renamed County Fiscal Officer.
- (b) <u>Powers and Duties.</u> The County Fiscal Officer shall exercise all powers now or hereafter vested in and perform all duties now or hereafter imposed upon county auditors, county recorders and county treasurers by general law, except where County Council changes those duties by ordinance or resolution.
- (c) <u>Election.</u> The County Fiscal Officer shall be elected beginning at the general election held in the County in 2004 and shall hold office for a term of four years commencing on the first day of January next following such election. Any candidate for election as County Fiscal Officer shall be an elector of the County at the time of the declaration of candidacy, shall be nominated and elected in the manner provided by general law for county officers and during the entire term of office shall remain an elector of the County and shall not, except as authorized by County Council, hold or accept other employment or public office.
- (d) <u>Vacancy</u>. In the event the Office of County Fiscal Officer becomes vacant by reason of death, resignation, removal from office, failure to remain an elector of the County, or for any reason whatsoever, the position shall be filled as provided by general law for elected county officers Article V, Section 5.02 of this Charter.
- (e) <u>Salary</u>. The salary of the County Fiscal Officer shall be determined by County Council by ordinance or resolution and shall be set at a level commensurate with the duties of the office.
- (f) <u>Boards, Commissions and Committees.</u> Upon the effective date of this amendment, the County Fiscal Officer, or his designee, shall serve in the place of the County Auditor on every board, commission, committee, or any other body upon which the County Auditor is required to serve by general law. Upon the effective date of this amendment, the County Executive shall serve in the place of the County Treasurer on the County Budget Commission. Council shall provide by ordinance or resolution for the replacement of the Treasurer on every other board, commission, committee, or any other body upon which the County Treasurer is required to serve by general law.

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SECTION 3 (Cont.)

(3) <u>Eligibility for Candidacy for the Office of County Fiscal Officer.</u> Any person shall be eligible as a candidate and/or appointee for the office of Summit County Fiscal Officer if the person is an elector of Summit County and possesses the same qualifications set forth under the General Laws of the State of Ohio for the county offices of Auditor, Recorder, and Treasurer. All other Charter provisions and Charter amendments that are inconsistent with the foregoing requirements for the office of County Fiscal Officer are repealed in their entirety."

# "SECTION 5.02 VACANCIES.

In the event the office of the County Executive, County Council, County Fiscal Officer, County Clerk of the Court of Common Pleas, County Engineer, County Prosecuting Attorney or County Sheriff becomes vacant by reason of death, resignation, removal from office, failure to remain an elector of the County, or for any other reason whatsoever, the position shall be filled as provided by general law for elected County officers, except as stated herein. In event of a vacancy in the office of the County Executive, the President of Council shall succeed to the office of County Executive on an interim temporary basis and shall serve until the position is filled as provided by general law for elected County officers this Section.

The vacancy of a member of County Council shall be filled as provided by general law for elected County officers. The interim temporary succession of the President of County Council to the office of County Executive as provided herein shall not create a vacancy in the membership of County Council or in the position of President of County Council.

In the event that an elected office set forth in this Section becomes vacant one hundred twenty days or more before the County-wide general election in the second year of a four (4) year term, any temporary appointment is for a period until the next County-wide general election, at which time the position shall be filled for the remainder of the unexpired term as provided hereinbelow. In the event that an elected office set forth in this Section becomes vacant less than one hundred twenty days before the County-wide general election in the second year of a four (4) year term, any temporary appointment is for the remainder of said four (4) year term.

In the event the vacancy occurs in an elected office set forth in this Section on or before the one hundred twentieth day prior to a County-wide general election in the second year of a four (4) year term, the appropriate committee of each political party may select a person as the party candidate for election for such unexpired term at that general election, and certify the person's name to the appropriate election official not later than four p.m. on the ninetieth day before the day of that general election. Upon that certification, the name shall be printed as the party candidate under the proper titles and in the proper ballots for use at the general election.

Each person desiring to become an independent candidate to fill an unexpired four (4) year term of an elected office set forth in this Section shall file a statement of candidacy and nominating petition with the appropriate election official not later than four p.m. on the ninetieth day before the next County-wide general election. The nominating petition shall contain at least the number of signatures required by general law, and no more than three times the number of signatures required by general law, of qualified electors of the district, political subdivision or a portion of a political subdivision in which the office is to be voted on. However, if a vacancy occurs in the County Executive's office or a County Council position, the petition must contain at least fifty signatures, and no more than one hundred and fifty signatures of qualified electors of the district, political subdivision, or a portion of a political subdivision in which the office is to be voted on."

This Section shall be effective January 1, 2020 for vacancies in County elected offices.

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### **SECTION 4**

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The Clerk of Council shall certify the question set forth herein to the Board of Elections of the County of Summit no later than the ninetieth day prior to the General Election of November 5, 2019.

### **SECTION 5**

Notice of the proposed amendment set forth herein shall be given by the Clerk of Council by publishing the full text of the proposed amendment once a week for at least two (2) consecutive weeks in a newspaper published in the County as set forth in Section 307.70 of the Ohio Revised Code.

### SECTION 6

This Resolution is hereby declared an emergency in the interest of the health, safety, and welfare of the residents of the County of Summit, and for the further purpose to ensure that this Resolution takes effect before the Board of Elections' deadline for submitting the proposed Charter Amendment.

## **SECTION 7**

Provided that this Resolution receives the affirmative vote of eight (8) members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

#### **SECTION 8**

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this 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.

INTRODUCED June 3, 2019	
ADOPTED June 17, 2019	
	Selled asie
CLERK OF COUNCIL	PRESIDENT OF COUNCIL
APPROVED June 18, 2019	

June 18, 2019

**ENACTED EFFECTIVE**