



*January 9, 2013 at 5:00pm*  
*Notice posted*

## **Minutes**

**Meeting of the Charter Review Commission  
Cuyahoga County  
January 9, 2013 at 5:00 P.M.  
Cuyahoga County Administration Building, 4<sup>th</sup> Floor**

Required notices were provided and posted and the meeting was called to order at 5:15 PM by the Chair. The roll was called.

**Present: McLaughlin; Akers; Tarter; Albright; Riley; Russell**

**Absent: Headen;**

**(Note: Dietrich arrived at 5:40PM; Callahan arrived at 5:50PM)**

A quorum was present.

**Akers** called for public comments. There were no public comments.

**Akers** introduced **Nancy Fuerst, Presiding Judge of the Cuyahoga County Court of Common Pleas**. **Fuerst** asked the CRC to amend the Charter to allow the control and appointment of the Clerk of Courts to fall under the Courts rather than the County Executive. She stated that this change would be consistent with the mission of the court as well as to permit consistency in operations. She noted that the Clerk's role is integrated into the operations of the Court and the processes are largely administrative.

**Fuerst** detailed some areas that she felt would be beneficial for the Court to appoint the Clerk of Courts. These included:

- Compliance with applicable ORC provisions;

- Accountability for budgetary issues via the County's budget process;
- Decreased level of bureaucracy by eliminating an additional layer of administration;
- Reduction of partisan politics as the Clerk would not be subject to removal as the Executive changes;
- Heightened level of integration with the Courts that may lead to advances in technological and training advances;
- Elimination of any legal challenges from the Court system.

**Fuerst** took questions from the CRC members. **Riley** asked her to comment about the statement that the Courts would not challenge the decision to have the Clerk appointed by the Courts. **Fuerst** discussed two options—one, having an elected Clerk of Courts; and second, having an appointed Clerk. She preferred having an appointed Clerk and felt that the County Judiciary would support that prospect. **Riley** asked how “the Courts” would select a Clerk. **Judge Palos** noted that this would need to be addressed but that the various Courts often have to make selections and they have been able to work through the issues that have arisen. **Judge Melody Stewart** indicated that the criteria listed in the Charter would be followed and any process would be open and transparent.

**Akers** noted that a decision made by 34 separately elected judges could become politicized and asked how we could be sure that appropriate personnel standards were followed. **Akers** indicated that was one of the reasons that the Charter made the Clerk's position an Executive appointment. **Fuerst** pointed to the process used to hire a Court Administrator and restated that any hiring decisions would not be made lightly or with any level of political connection.

**Fuerst** stated that the current form of County government has not always been willing to answer the Court's complaints. She noted that previous requests to move stored files has not been resolved and stated that **Executive FitzGerald** would not allow the three Administrative Judges to participate in interviews to hire the Clerk of Courts.

**McLaughlin** questioned the relevance the comment that Court staff had not received pay raises in five years. **Palos** noted that the Domestic Relations Court has been trying to rebuild itself and eliminate bureaucracy. She noted that on-going procedural problems have become more costly. **Fuerst** noted that some filing matters take hours to complete because various functions are not housed in the same building. **McLaughlin** asked whether some of the institutional concerns

that **Fuerst** raised could be addressed currently. **Fuerst** stated that the Courts could effect changes better with control of the office.

**Court Administrator Popovich** noted that the public often confuses the office of the Clerk of Courts with the Courts themselves. **Tarter** asked **Fuerst** what involvement the Courts have had with the County Council in the confirmation process. **Fuerst** stated that the Courts were not invited to comment. **Tarter** inquired if the Courts took any other steps to get involved in the process. **Fuerst** felt that it was too late to offer input when the appointment was before the County Council for confirmation. **Gross** noted that involvement is beneficial early in the process but that the County Council confirmation is by no means a rubber stamp of the Executive's nominee.

**Tarter** continued his questioning and asked **Fuerst** what process she preferred—election of a Clerk or appointment of a Clerk? **Fuerst** felt that appointment, by the Courts, was the preferred mechanism to select a Clerk. She noted that the Executive branch may have some ability to direct the Judiciary but not control it. **Tarter** sought clarification concerning potential legal challenges. There was further discussion about boxes of files that **Popovich** and **Fuerst** felt had not been resolved. Additionally, **Popovich** detailed an event whereby the Board of Commissioners evidently tried to shut down the Court system due to budgetary issues. This was evidently resolved but there was an issue of separation of the branches. **Popovich** noted that any charter amendments needed to focus on the long-term operations of the Clerk's office rather than the current situation.

Next, **Akers** introduced **Cuyahoga County Fiscal Officer Wade Steen**. **Steen** provided some background about his work experience and some of the duties that he performs as the Fiscal Officer. He noted that he had previously served as the Franklin County Treasurer and in that capacity, was a member of the Franklin County Board of Revision.

**Steen** detailed the operations performed by a Board of Revision including the determination of property values. He also addressed the various provisions in the current version of the County Charter. **Steen** noted that the current provisions in the Charter give the hearing officers set terms of three years. He asked what the result would be if there simply was not enough work for the officers to do. **Steen** detailed instances in which the appointed members refused to accept direction from the **Board of Revision Administrator Shelley Davis**. The appointed members stressed that they were independent and would perform their tasks as they saw fit.

**Steen** noted that the workload of the Cuyahoga County BOR is equal to that of the next five counties combined. He noted that Cuyahoga has over 20,000 filings per year. Franklin has approximately 10,000 per year and Summit has about 5,000. **Steen** noted that a balance must be achieved to allow the various hearing officers to maintain their independence in rendering valuations while still providing that the workers abide by the same rules and policies of the other county agencies. **Steen** re-iterated that each County only has one, single Board of Revision. In most counties this body is comprised of the Treasurer, the Auditor and a County Commissioner. Summit County's BOR is comprised of the County Executive, the Fiscal Officer and the Clerk of Courts, all of whom are elected county-wide. **Steen** proposed that the Cuyahoga County BOR be comprised of the County Executive, the County Fiscal Officer and one member of the County Council. **Steen** also felt that the respective hearing boards (currently there are 7, three-member hearing boards) could be contract employees, hired on an "as needed" basis. He stressed that the most important aspect was to have fair hearings handled by knowledgeable hearing officers. He also stressed that political affiliation was not needed and actually hindered the process of finding the best candidates.

**Steen** completed his presentation and fielded questions from the CRC members. **Albright** asked **Steen** for a synopsis of expected qualifications would be required for the hearing officers. **Steen** felt that at least some experience in appraisal or real estate matters or legal background would be needed. He stated that if the CRC wanted, he could return with a more in-depth analysis of pertinent experience.

**McLaughlin** noted that the hearing panels seemed "dysfunctional" in some aspects. **Steen** noted that things had improved but Cuyahoga County was still digging out of the hole left by the Russo administration. Often, files cannot be found because they have not been filed appropriately. **McLaughlin** sought clarification about the Fiscal Office's ability to discipline any of the hearing officers. **Steen** stated that it was unclear under the Charter whether this could occur and noted that some of the appointed hearing officers seemed to test that issue by leaving work whenever they felt like it. He noted that the officers appointed by the County Council seemed more willing to test the bounds of their authority. **Russell** noted that her work experience involved operating within governmental and organized labor and she was surprised to hear **Steen's** comments.

**Steen** addressed the provisions in the ORC that preclude any partisan, political activity. He noted that the hearing officers did agree to sign the acknowledgement form on this issue. **Steen** noted that he did not observe that there were any

violations with this provision and had he felt that any issues were present, he would have brought the situation to the attention of the IG. **Tarter** inquired as to the application of the Hatch Act and **Steen** agreed that he would retrieve any information that the CRC wanted.

**Akers** led a discussion about the scheduling of upcoming CRC meetings.

At 7:00 PM, **Riley** made a motion to adjourn. The motion was seconded by **McLaughlin**. The motion was unanimously approved by a voice vote of the CRC members.

Draft 1-16-13  
Issue 1-16-13  
App. 1-23-13  
Posted 1-28-13

Handwritten initials "JPB" circled in black with a checkmark to the right.