February 20, 2013 at 3:00 pm
Notice posted

Minutes

Meeting of the Charter Review Commission
Cuyahoga County
Wednesday, February 20, 2013 at 3:00 P.M.
Cuyahoga County Administration Building, 4th Floor

Required notices were provided and posted and the meeting was called to order at 3:30 PM by the Chair. The roll was called.

Present: **Akers; Tarter; Dietrich; Riley; McLaughlin;**
Absent: **Albright; Headen; Russell; Callahan**
A quorum was present. (Note: **Headen and Russell** appeared at 5PM)

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

Akers acknowledged the presence of **Lynda Mayer** and **Penny Jeffrey** from the League of Women Voters. **(LWV)**. **Jeffrey** serves as the President of the LWV Cleveland Area Chapter. The CRC has invited the LWV to discuss possible amendments to the County Charter in response to a letter, dated January 27, 2013. In this letter, the LWV detailed specific changes that the LWV felt were warranted.

Jeffrey was asked to comment on the proposed amendments that were recommended. She noted that it was recommended that the Sheriff and the Clerk of Courts positions continue to be appointments of the County Executive, subject to confirmation by the County Council. As such, the LWV was not asking for any amendments on those issues.

Relative to the independence of the office of the County Prosecutor, **Mayer** noted that numerous of the issues that led to the institution of the County Charter could be directly linked to the autonomy that county officeholders had under the previous form of government. She noted that the LWV was seeking a centralized form of governance. **Akers** asked whether there was a desire to have the office of the County Prosecutor be appointed by the County Executive rather than remaining as an elected position. Mayer noted that having the position be appointed might not be politically feasible and stated that a change such as that would necessarily require public input and assessment. She noted that the LWV studies all issues before taking a public stance.

Akers sought the LWV position on the allocation of duties of the Law Director. **Mayer** stated that the LWV felt that it was desirous that as much of the county's legal work as possible should be handled by the Law Director and the Department of Law. She also noted that the County Council should be able to hire counsel if it saw fit to do so. **Mayer** noted that any conflicts between the Prosecutor and the Law Director should be minor and an overriding goal is to have all aspects of the county structure be open and transparent in all manners, including the awarding of contracts.

Relative to the office of the Inspector General it was noted that the most important aspect of any such office was the maintenance of its independence. **Mayer** noted that again, numerous of the previous problems occurred due to unethical and/or criminal behavior. With the IG's office in place, there was now a "chief ethics officer" for the county. The LWV noted that a dedicated and reliable source of funding for the IG's office was mandated. When questioned by **Akers** on the issue of "dedicated and reliable" funding, the LWV did not offer specifics, but noted that as a policy implementation may fall to the legislative branch. **McLaughlin** asked about the possible dismissal of the IG and asked if there was agreement for removal for cause subject to a supermajority of council. **Mayer** noted that this would require the acquiescence of 8 council members and agreed with this.

Relative to the HRC, the LWV supports the inclusion of clarifying language for charter section 9.02. **Mayer** noted that the current language creates some points of contradiction that could be solved with clearer wording. **Dietrich** noted that this request was also being sought by the HRC members. Additionally, **Mayer** noted that some issues regarding the enforcement of the Ethics Ordinance might exist and illuminated that fact that few counties have an IG and those that do, most have an Ethics Board rather than Executive appointment.

Addressing the office of the Public Defender, **Jeffrey** noted that it was essential that the office remain strong and independent. The current process of having the Public Defender appointed by the PD Commission was not a best practice and noted that this process only created another layer of insulation. **Mayer** noted that possible alternatives to this process would necessarily require an in-depth analysis of Ohio law and the Ohio Revised Code. However, the LWV was clear that having an elected PD was not called for.

Akers thanked **Jeffrey** and **Mayer** for their work as well as the rest of the members of the LWV who has assisted. **Akers** introduced attorney **Gene Kramer** to address the CRC. **Kramer** has an instrumental role in drafting the charters of both Summit and Cuyahoga Counties. **Kramer** provided some background information about the process of drafting the charter and gave an historic accounting of this process.

Relative to the position of Clerk of Courts, **Kramer** noted that it was likely unconstitutional to have the position be a judicial appointment. He noted that the state constitution did not provide for this power and noted that the courts are specifically not part of the county government. It seemed clear to **Kramer** that imposing a duty on the court system was inappropriate and the skill set of the individual judges was not conducive to managing an entire clerk's office. He stressed that the Clerk of Courts should continue to be an Executive appointment. **McLaughlin** asked for clarification on the constitutional issues. **Kramer** stated that the courts are not part of the county structure and are regulated by the Supreme Court. He noted the similarities to the Board of Elections. **Riley** sought guidance regarding best practices. **Kramer** asked why three judges would be a better process than having one person, the Executive, make the selection.

Relative to the delegation of legal duties, **Kramer** felt that the AG's opinion was incorrect and issued a letter to the AG stating his position. **Tarter** asked why the charter did not specifically give civil duties to the law department. **Kramer** bluntly stated that former **Prosecutor Mason** was part of the discussion and would not consent to including this language. **McLaughlin** noted the process used in the federal system. **Riley** noted that the *O'Connor* decision was still a valid opinion and litigation would likely ensue if changes were instituted. **Kramer** agreed and stated that litigation was likely in any fashion so we might as well do it now. **Kramer** stated that the current parties were working well together but that cannot be expected to last forever. Also, the law mandates that governmental bodies cannot alter its legal obligations but can alter who and how those obligations are fulfilled. **Tarter** asked whether **Councilman Schron's** idea of a single, nonelected county attorney was possible. **Kramer** was unsure but did not rule it out. **Kramer** noted that there really was no compelling reason to change to that extent.

Kramer next addressed the operation of the HRC. He noted that he and **Akers** had met with staff members of the HRC to discuss the current operations of the body. A lengthy discussion by members of the CRC occurred and numerous issues about the management of the HRC took place. **Headen** noted that issues with the operation of the HRC should be addressed by its management and she noted that any management issue was not really a problem that needed to be addressed via an amendment to the charter. **Akers** provided some historic background about the need for the HRC including a desire for uniform employee evaluation and the creation of a centralized HR function. **McLaughlin** noted that the Executive should be in a position to clear up any issues that the HRC had. **Russell** noted that the real problem seemed to be the management of the HRC. **McLaughlin** noted the issue surrounding charter section 9.05 and its inconsistency with a strong Executive form of government.

Kramer took questions from the HRC members. **Dietrich** asked why the PD's office was not given the stature and independence that it seems to require. **Kramer** noted that the drafters of the charter at one point wanted to have the PD elected but noted that this was not a good idea and wanted to eliminate politics from this position. **Tarter** inquired as to the absence of any campaign finance language. **Kramer** stated that this issue did arise in early discussions. However, as the dialogue continued, it was clear that the complexity of the issue would likely preclude any strong action by the county. **Kramer** noted that the lack of truly contested political county-wide elections precluded any real baseline analysis to determine if campaign finance limits were truly necessary.

Tarter also asked about the configuration of the County Council districts. **Akers** stated that the then-current State Representative Districts were used as a starting point. **Kramer** noted that it was desired to have minority representation as well as a continuation of traditional like-minded communities.

In closing, **Kramer** noted that amendments to the County Charter should really be viewed as a last effort and not as a mechanism to start discussions.

Tarter had a few proposals to present to the HRC. He offered a charter amendment that would memorialize a county policy that would ban the hiring of individuals who were already receiving a government pension. (double dipping). **Tarter** noted that this process has impeded the progression of younger members of the work force. Upon questioning, **Tarter** noted that exceptions would be provided for lower salary positions and military veterans. **Riley** noted that double dipping is a bad practice and it is not permitted in Gates Mills. **Mahklouf** noted some legal hurdles that may exist. Russell expressed opposition to **Tarter's** proposal. **Akers** noted that it did not appear that there was a consensus from the CRC to allow continued discussion on this issue. **Akers** also noted that the banning of the practice of double dipping might be accomplished through the issuance of an executive order rather than through a charter amendment.

Next, **Tarter** addressed the subject of campaign finance reform. He noted that this issue had been discussed by the members of the Transition Advisory Group. Russell noted that she is fundamentally opposed to limits. Other CRC members noted that the state and federal election groups could be used as guides for the county to follow if there was a desire to continue this conversation. **Mahklouf** noted that **Greenspan** had done some preliminary legislative drafting that might be a good starting point for the conversation. It was determined that this legislation, although not passed by the County Council, would be distributed to the CRC members for review. **Headen** noted that the most important issue should be to search the data base of contributors and to enforce the disclosure rules.

Akers provided the CRC with information about additional presentations for future meetings and scheduling.

There being no further business before the CRC, **Tarter** made a motion to adjourn. The motion was seconded by **McLaughlin**. The motion was unanimously approved by a voice vote of the CRC members.

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