



*February 2, 2013 at 8:30am*  
*Notice posted*

## **Minutes**

**Meeting of the Charter Review Commission  
Cuyahoga County  
Saturday, February 2, 2013 at 8:30 A.M.  
Cuyahoga County Administration Building, 4<sup>th</sup> Floor**

Required notices were provided and posted and the meeting was called to order at 8:43 AM by the Chair. The roll was called.

Present: **Akers; Tarter; Russell; Dietrich; Riley; Callahan; McLaughlin**

Absent: **Albright; Headen;**

A quorum was present.

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

**Akers** called for a Motion to approve the minutes from the meeting of January 16, 2013. **Russell** moved to accept the Minutes as written; The Motion was seconded by **Dietrich**. **Akers** called for a voice vote on the Motion. All CRC members voted in the affirmative. (NOTE: **McLaughlin** abstained from vote as he was not present at the meeting). The Minutes are approved.

The CRC engaged in discussions about the manner in which the body would move forward and other procedural matters. Additionally, discussions took place about additional presentations. **Akers** noted that the LWV, the party chairs, **Homer Taft** and possibly, members of the BOR wanted to address the CRC. It was agreed that these matters would be placed on the agenda for the next meeting of the CRC, set

to occur on February 20<sup>th</sup>. Discussions about communication from **Judge Fuerst** took place. **Riley** noted that perhaps **Fuerst** had misinterpreted the conversation after she presented to the CRC. **Riley** noted that he felt that he did not need additional information on the Clerk of Courts issue. **McLaughlin** noted that a possible “overkill” could take place but noted that bullet point documents from the various parties mentioned by **Fuerst** might be appropriate. He further stated that gathering documents, in advance, was always preferred.

The CRC engaged in discussions about the process to bring the issues to the public in several hearings around the county. It was agreed that the CRC would hold four public hearings in various locations around the county. Further discussions occurred to address the format that would be followed. **Russell** asked that the structure of the meeting be addressed so as to allow maximum public dialogue. **Akers** agreed and noted some procedures that had been used in previous public discussions. **Dietrich** requested that comment cards be used as well. **McLaughlin** stressed that public comments needed to be focused so the meetings would not drift off-topic. **Akers** agreed. **Russell** and **McLaughlin** further added that it was important that the public comments should be incorporated into the CRC’s discussion and no firm decisions should be reached prior to hearing from the public. **Tarter** also stressed that the public comments could bring up issues that had not been addressed yet.

The CRC next moved to discussing matters that had been brought up in earlier presentations. **Akers** asked for comments regarding the BOR and the various matters that had been addressed. **Riley** stated that there was only one BOR and then numerous hearing boards. The CRC members present agreed. **Riley** felt that political affiliation requirements for the hearing officers should be removed as the position really had no political component. **Riley** felt that qualifications should be used as the hiring criteria, not the political affiliation. **Mahklouf** provided some legal background about the import of the party affiliation. **Riley** stated that the BOR should be composed of the Executive, the Fiscal Officer and one representative from the County Council. This body, the BOR, should delegate the necessary work to the hearing panels. **Akers** stressed that having firm qualifications was essential.

**Joseph Nanni, Chief of Staff to the County Council** was introduced. **Nanni** noted that the County Council was more concerned with having competent hearing officers rather than political designees. He related issues with previous attempts to fill hearing officer positions when better candidates had to be by-passed because they were not of the requisite political party. **Tarter** stated that perhaps the need

for political diversity could be addressed at the BOR level by mandating that a council member of a different party than the Executive serve. **McLaughlin** noted that the past political affiliations were a large part of the problems that arose in the past. The CRC members reached a consensus that removing the political party affiliation language from the Charter regarding the BOR was warranted. Additionally, clear language about qualifications should be included.

Next, the CRC discussed the appointing authority for the Clerk of Courts. **Riley** stated that he did not feel that any changes were needed. **Callahan** disagreed and pointed to the need for the court to be involved in the process. He illuminated the fiduciary relationship that existed between the courts and the clerk. He referred the CRC to the comments from **President Connally** on the issue. **Riley** did not agree that a constitutional issue was present and noted that no complaints had been raised in the past by the judges. **Riley** felt that having the Executive continue to appoint the Clerk of Courts would create accountability for the work performed by the Clerk. **Russell** also felt that no changes were needed for this charter provision. **McLaughlin** noted that the federal system allowed the judges to appoint the clerk but the budget was not set by the judges. **Akers** noted that a consensus to not alter the provision was present but the additional information that **Fuerst** had earlier referenced would be reviewed.

(NOTE: **Russell** departed at 10:40AM)

The CRC next addressed the issue of “Council Action Not Requiring Executive Approval” that had been raised by **Miller**. **Akers** provided background information and **Mahklouf** discussed pertinent Charter provisions including Section 3.09. He noted that some matters are clearly administrative, citing the example of the implementation of the County Council Rules. He further added that this provision could be at issue if a referendum matter was introduced. After some discussion, a consensus was reached that the Law Director would assemble revisions that would address this charter provision.

Next, the CRC addressed issues occurring when a Council or Executive vacancy occurs. **Mahklouf** explained the legal issues involved in the timing that a vacancy is created and when the next election would be held. **Dietrich** inquired as to whether it was desirable to have special elections to fill vacancies, citing low turnout and costs to hold the elections. **Riley** also noted the costs affiliated with conducting special elections. **Dietrich** further noted the disruption to operations that occur with special elections. **Callahan** discussed his background as a Common Pleas Judge and having to run for office both an unexpired and full term

of office. **Tarter** also asked whether partisan primary elections would still be needed. This question was also brought forth by **Dietrich**, noting that more time would be needed to conduct both a special primary and general election.

**Mahklouf** noted an issue that could arise if an Executive vacancy occurred during the first year. The charter currently calls for the Council President to assume to the Executive position but a new council president would be chosen at the beginning of the next year. **McLaughlin** noted this legal issue and asked that the CRC be cognizant of the costs affiliated with holding special elections. **Tarter** stated that perhaps special elections were not needed but that permanent replacements could be made at the next general election.

The CRC next addressed issues that had arisen with the HRC. **Akers** noted that specific language had not been included by the HRC members. After discussion, the CRC discussed the inclusion of the political affiliation language in the appointment of the three members of the HRC. **Mahklouf** noted that there is legal precedence for this inclusion on civil service bodies. **Akers** asked if there was consensus on this issue. **Riley, Tarter and McLaughlin** all agreed that the political affiliation language should remain in the HRC appointment section.

Relative to the appointing authority for the HRC, **Dietrich** felt that having Council make the appointments might be preferred. **McLaughlin** noted that the appointing issue was really only one of perception rather than real substance. **Riley** added that if the qualifications were more concise, the appointing process will likely not be as important. The CRC decided to continue this discussion and seek additional information.

**Prosecutor McGinty** had raised the issue of having an annual audit of the Justice System performed and including this mandate in the Charter. **McLaughlin** noted that the idea of having this audit performed was a good idea but perhaps it did not need to be done an annual basis. He felt having it performed every other year might be preferable. **Dietrich** also had questions about how often this review should be performed and other CRC members felt that the process of gathering the data might be difficult. **Riley** wanted a judicial perspective on this issue. **Callahan** stated that an audit was performed in 1990 and he stated that he did not have any strong feelings on the matter. **Callahan** also noted that all of the pertinent records are public and should be easily to obtain. **Nanni** noted that the real issue was not in obtaining the pertinent documents, but rather, in performing the data-mining that was needed for the audit. **Mahklouf** felt that it was important to determine who was actually going to perform the work and assemble the data as

this project was not in any department's budget. **Riley** noted that it would probably be necessary to ask **McGinty** to weigh in on that issue. After additional discussion, **Akers** inquired about a possible consensus. It was determined that the consensus was that an audit should be performed every other year.

The CRC briefly addressed the issues concerning the effective date of redistricting and its effect on council eligibility. After brief discussions, the CRC decided to defer those discussions.

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.

Draft \_\_\_\_\_

Issue \_\_\_\_\_

App. 2/23/13

Posted 3/4/13