



February 27, 2013 at 3:00pm
Notice posted

Minutes

**Meeting of the Charter Review Commission
Cuyahoga County
Wednesday, February 27, 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 3:25 PM by the Chair. The roll was called.

Present: Akers; Albright; Russell; Dietrich; Riley; McLaughlin; Tarter, Jr.;

Absent: Callahan; Headen;

A quorum was present.

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

Akers introduced **Attorney David Kutik**. Akers noted that Kutik had served on the Transition Advisory Committee (TAG), including three subcommittees: Legal Services, Law Enforcement and the Court System. He noted that David Eichenthal had been hired as a consultant to draft a report to suggest best practices that Cuyahoga County should enact. In this report it was recommended that the County assess the appointment process for the Clerk of Courts. Kutik offered his opinion that the presiding judges from the three impacted courts, Common Pleas, Court of Appeals and Domestic Relations, should jointly make the appointment of the Clerk of Courts. He proffered three reasons for his posture. First, he felt that this arrangement would clear up an "inherent conflict" in the Charter, noting that the Clerk of Courts works primarily for the Courts. Next, he felt that this process

would eliminate politics from the Clerk's Office. Finally, he held the position that having the three judges make the appointment would allow a greater level of accountability. He felt that the County could fulfill any oversight obligation via the annual budget process. He noted that there was no County in the State of Ohio that had the appointment system that he was proposing but he had looked to other courts outside of Ohio for guidance in reaching his position.

McLaughlin asked Kutik to discuss how he reached the opinions that he offered. ~~sought some background information about the data that Kutik had acquired in reaching his opinions.~~ Kutik stated that he spoke to then-Clerk of Courts Fuerst and various members of the Court of Common Pleas. Kutik stated that the sole issue that was brought to his attention concerned boxes of documents in the basement of the Court House. McLaughlin sought clarification of how Kutik envisioned the three judges would utilize to select a Clerk. Kutik responded that it should not be too difficult. Upon questioning from Akers, Kutik noted that he was unable to find other Executive-forms of government that had the Executive appoint the Clerk of Courts. Tarter recited some contents of the TAG reports and asked how the County could insure that efficiencies would be achieved. Kutik noted that this would be difficult to quantify.

Riley noted that other presenters had felt that the Ohio Constitution precluded the Courts from taking on the additional task of hiring and providing administration for the Clerk of Court's Office. Kutik did not agree with the premise but felt that if challenged, his posture would be upheld by courts.

Regarding the process that the judges would utilize, Makhlof noted that the process would be subject to open meeting requirements under Ohio law.

(NOTE: Callahan arrived at 4:00PM)

Albright asked Kutik where the concern on this issue was before. She noted that Fuerst has been both the elected and appointed Clerk of Courts. Kutik did not find the lack of concern to be an issue in the total decision of what the best practice should be. Akers asked what had occurred in the last two years, since the Clerk has been appointed. Kutik did not know the answer. Akers thanked Kutik for his presentation.

Akers welcomed Clerk of Courts Andrea Rocco. Rocco provided background information on her experience and detailed the work that she has performed since taking office in January of 2013. She detailed the work that she had completed to

implement electronic filing by the end of 2013. She discussed the arrangements that were made with the Ohio Attorney General's Office to collect delinquent court costs and fines. Ms. Rocco discussed the storage of the boxes of documents and stated that ~~Relative to the issue of the issue of boxes that were not properly stored,~~ she noted that under previous leadership, record retention had been an issue but in the short time that she had been in her position, she had resolved that issue and had no complaints from any party. McLaughlin asked how the boxes had piled up. Rocco noted that the then-Clerk and the Judges all were responsible in some capacity and the issue had grown over time. She stated that judges mentioned the issue to the Clerk but nothing seemed to happen to resolve the issue.

Rocco continued and noted that she was conducting performance evaluations of the employees to determine if efficiencies could be attained. She stated that data had been collected over the last two years but no action had been taken. She noted that the physical maintenance of the office was clearly deficient and she was taking steps to update, clean and modernize the facilities. She felt that these steps would not only make the office more productive but would increase employee morale.

McLaughlin had several operational questions. McLaughlin sought the origin of the mandates that Rocco had addressed upon taking office. ~~He asked where the mandates for the matters that Rocco had addressed since taking office had come.~~ Rocco stated that these directives did not come from the courts. McLaughlin inquired about the level of interaction with the courts and/or judges. Rocco stated that she had met with the three Administrative Judges upon taking office. She agreed that open communication was needed but there was not regular contact with the judiciary. Headen asked for some clarification regarding the interaction with the court. Rocco reiterated that open lines of communication were vital and while contact between the Clerk and the judges did not ~~need to occur~~ on a daily basis, it should be present.

Callahan asked about the lines of authority and accountability for the Clerk. He asked Rocco if she felt the Clerk responded to the Executive. Rocco replied that the appointing authority was obvious from the wording of the Charter but the obligations of the position of Clerk made her responsive to the taxpayers and mandated compliance with the provisions of the Ohio Revised Code regardless of what the Executive's position on any issue was. Callahan illuminated the provisions of Title XXIII of the Ohio Revised Code and its application to the Clerk of Courts. Rocco agreed with Callahan's assertion but noted that the provisions in the County's Charter dictated the appointment process. Callahan stressed the need

for the branches of the government—Executive, Legislative and Judicial, needed to remain independent.

Tarter asked how operations would work in a “snow day” scenario where the county government was closed. Rocco stated that if the Courts were open, the Clerk would of course be operating as well. Akers thanked Rocco for her time and her presentation.

Akers introduced Elise Hara, Human Resource Director for Cuyahoga County. Hara worked with a PowerPoint presentation, a copy of which is attached hereto. Hara detailed the work that she had undertaken since becoming the HR Director. She discussed the comprehensive classification plan that had been performed and compared the current structure of the county’s workforce to the previous versions. She noted that the HR Department had an excellent working relationship with the HRC and they had collaboratively worked to create a classification system for all county employees. Upon questioning from Tarter, Hara detailed the changes that had been made to create uniform systems of employee evaluation, promotion, training and discipline.

Robert Wolff, a member of the HRC, provided some comments. He addressed the rules regarding processes for lay-offs and detailed the provisions of the ORC that were utilized in the HRC’s decision making process. Headen asked about the County’s policy for unpaid leave. Hara stated that she looks at all options before paid leave is permitted and that discipline was used as authorized rather than waiting for a criminal indictment to arrive before taking employment action. Headen sought comment from Hara regarding the employee training and the costs affiliated with this training. Hara noted that she made some adjustment in her budget to make sure that the needed training was provided and did not exceed her budget. Hara detailed the discipline process from verbal warning up to and including termination.

Akers and McLaughlin asked Wolff to comment on the wording of Charter Section 9.05 and how it currently functions. Wolff noted that the HRC is an independent body but HR is an administrative function, reporting to the Executive. While Wolff noted that the language was confusing and could use some clarification, the real issue was enforcement and consistency. Wolff also stated that any current issues were being addressed and clarification would be beneficial “down the line”. McLaughlin asked both Hara and Wolff if the HRC was independent of the Council and the Executive. Both agreed that the HRC was independent. Riley asked whether the HRC sets policy. Wolff stated that the HRC is not a “policy

making” body. Akers summarized, stating that it appeared that the HRC was simply seeking clarification. Hara also added that consistency in the civil service realm must be required.

Wolff noted that there were very minimal qualifications required for membership on the HRC. Tarter asked whether the HRC was working now due to the current membership, as opposed to the process that was outlined in the Charter. Dietrich asked about the relationship between the HRC and the IG. Wolff noted that there are some areas that overlap and stated that the HRC does have the authority to issue subpoenas, while the IG does not. Headen asked whether the HR Director should be confirmed by the County Council. Hara did not feel that this was needed, but did feel that having a defined set of qualifications for the position would be beneficial.

Regarding the appointment process for the members of the HRC, Wolff felt that having an Executive nomination, subject to County Council confirmation was preferred. Wolff also stated that the current membership of the HRC was working well and the presence of diverse political affiliations on the HRC allowed the HRC’s discussions to be fruitful. ~~and he also added that the HRC’s current roster, including representation from different political parties, has worked well and had provided the HRC’s conversations to be broad based and non-partisan.~~ Akers thanked Hara and Wolff for their time and their comments.

Akers introduced Harriet Applegate, Executive Director of the NorthShore AFL-CIO. Akers provided background on her experience and her involvement in the genesis of the County’s Charter and some of its provisions. Applegate discussed the AFL-CIO’s posture on the competing reorganization initiatives, Issues 5 and 6. She noted that virtually all participants, and obviously the voters, realized that fundamental changes to the County’s operations were needed. She provided an historic perspective, going back to the Progressive Era.

On specific topics, Applegate made it clear that she was speaking individually, rather than on behalf of her organization. Her main point of conversation surrounded mechanisms to allow increased and more effective voting patterns and processes. She discussed the desire to have At-Large County Councilmembers. She discussed some of the parochial attitudes that have resulted in the City of Cleveland as a result of having only Ward Councilmembers. She also espoused a position of using proportional voting that would allow voters to have a greater involvement outside of the current system using party primary elections to narrow the electoral field. She noted that the political parties do not like proportional voting because this system limits the parties’ level of importance. She also

expressed concerns regarding the creation of “safe seats” in our legislative bodies and felt that this has had a negative impact on the system of governance.

Riley and McLaughlin asked Applegate to discuss her thoughts on moving from so many elected positions to mainly appointed positions. Applegate noted that the current system is working extremely well. McLaughlin asked for comments on the salary of the County Councilmembers. She noted that she fought to increase the salary so that serious candidates would be encouraged to get involved in the new government. Upon questioning from Tarter, Applegate noted that the layoffs in the county had occurred but the reliance on seniority in the process was still needed. She stated that experience should matter. Akers thanked Applegate for her comments.

The CRC engaged in discussion concerning scheduling of upcoming meetings and arrangements for additional presenters. Akers provided an update concerning pending matters and scheduling of the CRC’s public hearings. Additionally, Akers detailed discussions that he had with Paul Levin, a member of one of the BOR’s hearing panels.

There being no additional business before the CRC, at 7:35 PM, **Dietrich** made a Motion to Adjourn. The Motion was seconded by **Tarter**. A voice vote was taken and the meeting was adjourned.

Draft _____

Issue _____

App. _____

Posted _____