



May 11, 2013 at 10:30am
Notice posted

Minutes

**Meeting of the Charter Review Commission
Cuyahoga County
Saturday, May 11, 2013 at 10:30 A.M.
Cuyahoga County Administration Building, 4th Floor**

Required notices were provided and posted and the meeting was called to order at 10:35 AM by the Chair. The roll was called.

Present: Akers; Dietrich; Riley; McLaughlin; Headen; Albright; Callahan
Absent: Russell; Tarter

A quorum was present. Also in attendance were Acting Clerk Daniel Humphrey; Assistant Director of Law Michael King; County Council Chief of Staff Joseph Nanni; and Bob Reid.

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

The minutes for the following meeting were previously distributed to all the members of the CRC:

- April 6, 2013;
- April 11, 2013;
- May 1, 2013

Dietrich moved that the minutes from April 6, 2013 be approved as written. The Motion was seconded by McLaughlin. A voice vote was taken on the Motion. The Motion was unanimously approved. The minutes have been approved.

Dietrich moved that the minutes from April 11, 2013 be approved as written. The Motion was seconded by McLaughlin. A voice vote was taken on the Motion. The Motion was unanimously approved. The minutes have been approved.

Dietrich moved that the minutes from May 1, 2013 be approved as written. The Motion was seconded by McLaughlin. A voice vote was taken on the Motion. The Motion was unanimously approved. The minutes have been approved.

Akers again mentioned that Councilman Greenspan had invited the CRC to attend a meeting of the Council's Rules Committee on Monday, June 3rd. Akers noted that this date may be too early and may cause confusion as matters that had not yet been resolved. Akers sought the opinions of the other members of the CRC on this issue. McLaughlin stated that the meeting was likely premature and the other members of the CRC agreed.

Akers next moved to New Business matters and introduced Bob Reid, former Cuyahoga County Sheriff. Akers provided background details on Reid's experience in law enforcement and governing, including his active participation with the Mayors and Managers Association when Reid was serving as City Manager of the City of Bedford. Reid provided additional background information including his education and aspects of his service with the Sheriff's Office and with the City of Bedford. Reid discussed the circumstances that led to the resignation of Sheriff McFaul and his arrival at the Sheriff's Office. He noted that he was not an "insider" in this position and had lots of work to perform upon taking office. As an elected official, his position was autonomous and powerful.

Reid discussed the historic aspects of the position of County Sheriff and noted that the ORC mentions "Sheriff" over 100 times. Reid noted that sheriffs are elected in all states but Vermont and Texas and Cuyahoga County is the only appointed sheriff in Ohio. Reid discussed the provisions in our charter and noted that, overall, the charter was well drafted. He did state that the experience requirements in the ORC were added in the 1980's. Reid stated that the process of hiring appraisers was outlined in the ORC but upon the institution of the new government, the Executive began making these selections.

Reid stated that discipline within the administration of the Sheriff's Office was vital. As a law enforcement and paramilitary entity, it was essential that increased discipline be put in place. With collective bargaining components, it was possible that changes to one unit could necessitate changes in another area. Reid detailed

some issues that he had come across in dealing with the HR Department, including a matter involving potential discipline of a deputy. Reid also stated that he had some differences of opinion with the Executive that were both private and professional.

Reid took questions from the CRC members. McLaughlin inquired about disagreements with the Executive and asked Reid to discuss. Reid discussed a threat made on the Executive by an employee. Reid stated that the Executive seemed to think that the investigation did not move fast enough. Another issue occurred involving the termination of a deputy who had exposed himself in a park area. The Executive and Reid met to discuss the matter. Reid wanted to wait to terminate the deputy until the criminal process had concluded whereas the Executive wanted to dismiss the deputy immediately. The Executive agreed to wait and the deputy was convicted and then terminated from his position.

Relative to his termination, Reid stated that he believed he was fired for the handling of the county jail. He stated that the county jail houses 2000 prisoners each day and the facility is a maximum security jail. Reid noted that Metro Health was taking over the medical responsibility for the jail in 2011. The hiring process was very lengthy and there were disagreements about whether the employees would be at-will employees or civil service employees. Reid said the hiring process was taking too much time and he believed that delays in hiring were related to a desire to have fewer employees over the entire county structure. Reid stated that this reduction on county staffing would be newsworthy. Reid also detailed a matter in which some of his staff members, including the manager of the jail hospital, brought issues directly to the Executive's Chief of Staff, rather than Reid. Reid stated that this showed a perception that Reid could not, or would not, control his own staff.

Regarding his termination, Reid stated that he did not expect to be let go. He stated that he thought he was meeting with the Executive for his annual evaluation. Reid stated that he had expressed concerns with the Executive regarding what he felt was micromanaging of the Impact Unit and the Executive's desire to interview the deputies himself. He stated that the Executive did not want one of Reid's choices for the Impact Unit and some confusion had existed due to communication deficiencies. McLaughlin asked if there were any other issues with employment matters. Reid stated that the only issues he had with the Executive involved discipline matters not hiring or firing.

Riley asked Reid if there were any issues with the Executive interfering with any investigations. Reid said no such conflicts had occurred. Reid stated that he never questioned the Executive's integrity. McLaughlin noted that Reid had recently written an op-ed piece in the Plain Dealer calling for either an elected sheriff or greater protection for an appointed sheriff. McLaughlin asked Reid to comment on providing greater job protection for an elected sheriff. Reid again detailed the manner in which he was terminated and indicated that he did not really understand why he was let go. Reid stated that his management style clashed with that of the Executive. Upon questioning, Reid stated that he would not run for election if the position of Sheriff were to revert back to an elected office. Reid stated that he had been in discussions with the Cuyahoga County Democratic Party about the possibility of running for County Executive. McLaughlin asked what protections should be given to an appointed Sheriff. Reid pointed to those protections for other positions, including the IG. He said that perhaps having the sheriff be appointed by the Executive, confirmed by Council and any termination requiring Council approval by a majority vote.

Riley noted that all the matters that Reid had brought forth were administrative in nature and could exist in any office. Riley noted that having an elected sheriff would not provide a guarantee that the position would be filled with a competent individual. Reid acknowledged that no system is perfect but the ORC experience requirements were obviously important to having competent sheriffs around the State of Ohio. Akers asked Reid to comment on having a specified term of office, including a staggered term. Reid found that prospect interesting and noted that having staggered terms would preclude a newly elected Executive from firing the Sheriff upon taking office. Akers thanked Reid for his time and comments.

Next, the CRC addressed the issues surrounding the appointment of the Clerk of Courts. The CRC members discussed some of the pros and cons of the current arrangement as well as what changes to the charter, if any, were needed to allow better productivity. Dietrich noted that the charter was designed to allow a strong County Executive and she was having some competing thoughts on this issue. Albright added that she was not convinced that the judiciary would institute needed improvements and thought that leaving the charter as written was preferred. She noted that the next CRC could address this matter. This would allow the current system to continue. Callahan strongly stated that having Executive control over the Clerk's Office was not "good government." He noted the inclusion of the Clerk in Chapter 23 of the ORC as well as the work that the Clerk of Courts actually performs. Callahan stated that this current arrangement was likely going to lead to lawsuits if not addressed in a charter amendment. Callahan concluded by

stating that tension between the Clerk and the Courts will likely increase and it will only be resolved by having either a judicially appointed Clerk or an elected Clerk.

Riley next addressed this issue. He noted that he was unfamiliar with this issue prior to his service on the CRC. Riley did not find the Courts' position compelling and noted that we would be the only court in the State of Ohio with judicial control of the Clerk's Office. Riley noted that his major concern involved the various judges' lack of clarity about how they intended to operate the office if they were granted control. He noted that the recent issue surrounding the overuse of certified mail was only opposed by the Courts. Callahan noted that this matter was really a requirement of the ORC, not an internal policy.

Headen noted that she felt comfortable leaving the appointment of the Clerk as it is currently written in the charter. She noted that Judge Fuerst did not have a clear plan of how to operate the office and manage the current employees. McLaughlin next spoke on this issue. He noted that the comments from the judiciary appeared to be more emotional than reasoned. He noted that no process of appointing the Clerk would guarantee improvements but did not see any reason to change the process now. He noted that any failures in the Clerk's Office would be attributed to the Executive and ultimately, the new government demanded accountability. Akers noted that there appeared to be consensus to continue to allow the Executive to appoint the Clerk of Courts. Akers noted that Callahan's comments and arguments were much more compelling than those offered by the Courts. Akers noted that continued observation of the workings of the Clerk's Office was needed to determine if the current system was optimal. He agreed with McLaughlin's assessment that Clerk Rocco was impressive so far in her tenure as Clerk. Dietrich asked to review Title 23 of the ORC. Callahan agreed to send it to Dietrich.

Dietrich noted that some judicial input was a preferred but it must be balanced with a need for accountability in performance. Callahan noted that this issue crops up all over our government and accountability from the judges, and the administration of each court, is not a new concept. He noted that in the Federal Court system, the Court appoints the Clerk. Akers sought input from the CRC and noted that it appeared that a majority of the members were in favor of keeping the language as is. Headen noted that she was "on the fence" on this issue and noted that all of the parties that had appeared on this issue were passionate and competent in their field.

Dietrich asked if the appointing language in the charter could be addressed to allow judicial input. Akers asked if language allowing the judiciary to forward "recommendations" for the Clerk of Courts could be included. Riley indicated that

perhaps language allowing the Executive to appoint, after consultation with the Administrative Judges. After discussion with the CRC, it was agreed to allow the "consultation" language to a proposed charter amendment.

Next, the CRC began to address the BOR, including the comments distributed by Doug Cooper at the Public Meeting held in Westlake. Akers noted that some amendments were needed including the use of plural "Boards of Revision" in sections of the charter. Cooper stated that he felt that all the members of the single Board of Revision should be elected officials. McLaughlin noted that this was not possible under the current form of government. Akers offered that a good composition of the single BOR might be: County Executive; Fiscal Officer and one member of County Council. Headen inquired about the root of the issues involved in the BOR and what problems the CRC was actually trying to eliminate.

McLaughlin noted that one of the issues with the BOR involved the manner of control over the workers and the fact that the hearing panels felt that they were independent of the entire county employment system. Riley proposed that the charter include language that the (one) BOR be composed of the County Executive, the Fiscal Officer and one member of the County Council. He noted that this would involve the Executive and Legislative branches.

Akers noted that there was consensus with the CRC on this issue and next, moved to whether the BOR should have mandatory political diversity. McLaughlin noted that the charter did call for political variation and proposed that the Council member appointed to serve on the BOR be from a party different than the Executive. Regarding the need for county residency to serve on the hearing panels, most of the CRC felt this was preferred. Headen noted that this would require that the Fiscal Officer reside in the county. (as elected officials, both the Executive and a member of Council would have to be county residents).

Regarding the hearing panels, the CRC discussed whether needed changes could simply be made in the BOR by-laws, rather than in the charter itself. This issue was discussed in the context of the preferred employment status of the hearing officers. The CRC decided to drop the political requirements for the hearing panel members as well as the three year terms. Albright noted that having minimal requirements for service on a hearing panel could be addressed in the BOR by-laws.

Akers noted additional matters that the CRC was still going to address, including the allocation of legal duties between the Prosecutor and the Director of Law. Dietrich noted that additional conversation regarding the proposals forwarded by the HRC was also needed.

There being no further business before the CRC, **Albright** made a motion to adjourn. The motion was seconded by **McLaughlin**. The motion was unanimously approved by a voice vote of the CRC members. The meeting was adjourned. The next meeting will take place on Wednesday, May 22nd.

Draft _____

Issue _____

App. 6-1-13

Posted 6-3-13