



MINUTES
CUYAHOGA COUNTY CHARTER REVIEW COMMISSION
WEDNESDAY, APRIL 4, 2018
CUYAHOGA COUNTY ADMINISTRATIVE HEADQUARTERS
COMMITTEE ROOM A – 4TH FLOOR 4:00 PM

1. CALL TO ORDER / ROLL CALL 4:10pm

Commission Members: Chairperson Ronald B. Adrine, Michael W. King, The Honorable Susan A. Drucker, Diane Downing, Claire Rosacco, Victor A. Ruiz, The Honorable Thomas P. Perciak. A quorum was established. Commission members Davida Russell and Vice Chairman Dennis G. Kennedy were not in attendance.

2. MINUTES

Chairperson Ronald B. Adrine called for a motion to accept the minutes from the March meeting. Motion was made by Susan A. Drucker, seconded by Thomas P. Perciak the motion was made to approve the minutes. Amendment to the motion; Diane Downing was in attendance at the March 14, 2018 meeting. The record will so reflect her attendance. With no objections the minutes will be accepted as distributed.

3. DISCUSSION: PRESENTATION BY WILLIAM TARTER JR.

Proposal – Campaign Finance

PowerPoint presentation: Campaign Finance Language for The Charter of Cuyahoga County.

- Research and Acknowledgements
- Thesis

*“The Philadelphia campaign finance law applies to candidates for City elective offices. The City’s campaign finance law sets limits on political contributions to candidates, requires candidates and political committees to electronically disclose campaign finance information to the Ethics Board and gives authority to the Board to enforce and provide guidance on the law. **The intent of the campaign finance law is to reduce the influence of large political contributors and to promote public confidence in our elected officials.** As such, the City’s campaign finance law is an integral part of the City’s Public Integrity Laws.”*

- Introduction and Order
- History – Campaign Finance Reform Committee Members
- History – County Limits Has Bi-Partisan Support
 1. In 2012 the inaugural Charter Review Commission sought to tackle the topic of campaign finance limits.

2. Presented to Council thinking that the ambiguity would empower the Council to add specific language. This did not work. Without the specific language there was no opportunity for debate or dialogue.
- Present Day
 1. Federal, Judicial Races, State, City of Cleveland – all have Campaign Finance Limits, Cuyahoga County does not.
 - Purposes
 - Question #1 Can the County Charter Create Limits? Yes
 - Question #2 What Would Campaign Finance Language Look Like? National Perspective
 - Other Comparable Areas – San Diego, Philadelphia (comparable population to Cuyahoga County)
 - Proposed Ideas For A Vote – Limits
 - Proposed Language – (Idea 1, Part A) Council has to be granted the authority.
 - Proposed Language – (Idea 1, Part B) Actual Limits Summary
 - Proposed Language – (Idea 1, Part 2) Actual Limits
 - What Are Some Objections? – The Rich Candidate Theory
 - What Have Successful Campaigns Looked Like In Cuyahoga County?
 - “If It Ain’t Broke, Don’t Fix It”
 - Proposed Language – (Idea 2)
 - Opportunity

Proposed Language Section 3.09

SECTION 3.09 POWERS AND DUTIES OF THE COUNCIL The legislative power of the County, including the power to introduce, enact and amend ordinances and resolutions relating to all matters within the legislative power of the County, is vested in the Council. All powers **and duties** of the Council shall be exercised by ordinance or resolution and shall include, but not be limited to, the following:

(13) To enact campaign finance laws governing the election of any County officers and officials including, without limitation, campaign finance limits and donor disclosure requirements.

SECTION 12.13 CAMPAIGN FINANCE

Council shall, submit the following language to the electors, to be enforced for minimum of four years from date of passage, and if not changed through ordinance, thereafter:

Actual Language

No individual shall make total contributions per calendar year, including contributions made to or through one or more political committees, of more than seven thousand five hundred dollars (\$7,500) to a candidate for County elective office.

Modified Language (Based on San Diego Municipal Code)

It is unlawful for an individual to make, or for a candidate or controlled committee to solicit or accept, a contribution that would cause the total amount contributed by that individual to the candidate and the candidate’s controlled committee to exceed \$7,500 for any single election for a County Council office, or to exceed \$7,500 for any single election for the office of County Executive.

Council may, after four years, through ordinance, increase the individual campaign finance limits to an amount not to exceed campaign finance limits for state representative, as governed by the Ohio Revised Code.

PROPOSED LANGUAGE

SECTION 3.14 CONTRACTOR LIMITS

Actual Language (Based on U.S. Code 52 U.S. Code § 30119)

It shall be unlawful for any person— who enters into any contract with Cuyahoga County or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to Cuyahoga County or any department or agency thereof or for selling any land or building to Cuyahoga County or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by County Council, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political [purpose](#) or use; or

(2) knowingly to solicit any such contribution from any such person for any such [purpose](#) during any such period.

Modified Language (Committee Federal Register (CFR) § 115.2 Prohibition)

- It shall be unlawful for a County contractor as defined in § [115.1\(a\)](#), to make, either directly or indirectly, any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any such contribution or expenditure to any political party, committee, or candidate for County office or to any person for any political purpose or use. This prohibition does not apply to contributions or expenditures in connection with State or federal elections.
- This prohibition runs for the time period set forth in the contract.
- It shall be unlawful for any person knowingly to solicit any such contribution from a County Contractor.

4. DISCUSSION

Committee members asked questions of Mr. Tartar pertaining to his presentation for Campaign Finance limits, which he answered accordingly. Questions were asked by committee members Chairperson Ronald B. Adrine, Michael W. King, Claire Rosacco, which Mr. Tarter answered accordingly.

Chairperson Adrine: Will, I didn't see or maybe I wasn't listening closely enough but I didn't see or hear a lot of emphasis on some things I've read in here earlier about emphasis on transparency, you know enhancing transparency by making it possible or making it fairly impossible for you to give significant amounts of money without either you or the committee that you donated to letting folks know that that's what you did. Can you speak on that aspect of things?

William Tarter: one of the things that I did when I was exploring how would having a limit of \$7500 influence current elections? People who were running for office. And in fact there was 95% of the

contributions that were given in these local elections at the county level were below that \$7500 dollar threshold. There were only a handful of individuals who gave more than \$7500 dollars.

Chairperson Adrine: Are you talking about 95% of the people who gave?

William Tarter: yes, gave less than 7500

Chairperson Adrine: or the dollar amount of that the people who gave more than that? What percentage of the total was that?

William Tarter: I think there was 5, in the most recent campaign finance limits there was 5 that was over 7500.

William Tarter: By the way I printed out all of the campaign finance reports that I could find on the website. And to try to go thru them line by line and to see how many fell beneath that 7500 there is no way right now to electronically sort by dollar value amount, it's easier for me to sort the value of a car on Auto Trader then it is for me to be able to sort campaign contributions. And I think that is something that if we're talking about transparency and accessibility that I would love to see change.

In those that I was able to those I was able to go thru line by line by line I was only able to see a handful in the most recent County Executive and even the past County Council and executive I can count on two hands. In the most recent County Executive and even the past county council

Claire Rosacco: Does Summit county have limits?

William Tarter: Summit county does not have limits right now and they also have more elected offices as well that would be affected by something like this, I think they have an elected sheriff's and I think they have an elected fiscal officer as well, they have quite a few that would fall under this as well. In this case we just have two of the countywide ones.

Chairperson Adrine: Any more questions? Mike?

Michael W. King: Just to clarify on who, which office this would apply to? I'm assuming it would apply to the Council, Executive and Prosecutors the three charter elected offices?

William Tarter: yes, that's right.

Michael W. King: Just wanted to get that on the record.

Michael W. King: I'm somewhat intrigued about your proposal to prohibit contributions by contractors in particular it seems to address an acute concern beyond simply setting limits on contributions the more generally. It also avoids a lot of the devil in the details that we've been talking about here today. I think my concern on the limits is and If we attempt to create a level playing field by putting limits in place, you can because of the Supreme Court rulings that have come out create an unlevel playing field inveterately, you know and I know you mentioned the rich candidate theory. I think that is a concern, but also dark money and I think local elections without high dollar amounts are particularly susceptible to outside influences in some instances.

But in general, I agree with the concept of campaign finance I think it is a good impulse. So those are some of my thoughts. I don't have a particular question for you on that. I'm just curious if others have similar thoughts.

William Tarter: and I'm open to approaches on both issues, they're two very different issues. One is the actual financial fiscal support and the other is a conversation about the influence of contractors and so I'm open if there is agreement on the commission in saying, okay, maybe this one warrants additional details or exploration but this one we're more comfortable with. I'm open to that conversation as well. This is literally putting the thoughts out there into the marketplace of ideas to get feedback.

Chairperson Adrine: Another consideration that is running around in my mind has to do with presentation of some of these ideas. I think it's one thing maybe to present all as a package. I think that's one way to go. But there might be other things where some things are more likely to meet with approval than other. A situation where it would be better to get something than to go away with nothing because it was all package together. Did you have any thoughts (you know) as you're constructing this about the efficacy of going one direction or the other?

William Tarter: well Mr. Chair just when I look at the experienced that I had in the last commission. The lack of specificity was the issue. In this particular case it was saying okay, if we wanted to have some sort of specific limits or specific language. What would that look like?

Are there best practices that we can look at elsewhere that have been upheld in court or have been utilized effectively to build trust in government? San Diego and Philadelphia are but just two examples of places that have it.

So, I would probably caution against saying, well I am more comfortable with this but I'm not 100 percent on board with this as presented. And if there are short comings or concerns, we can work through that. As opposed to just saying you know, yes on this or no on this. I would respectfully ask and say, okay, if this is a yes, fantastic. If this is a not yet, what are some of the concerns?

Maybe it's the calendar year discussion versus the election year. I'm open to two buckets, two different ideas, but also getting feedback and suggestions on how to strengthen both.

Chairperson Adrine: Fine, I am not going to prolong this, but I guess what I am saying is I think that there may be some things that if they are connected to some other things would doom the whole package.

Regardless of how you tweak it, you know that when it gets to council the recommendation that comes from us is likely not to be adopted, whereas there may be a process, by which you could decouple some things that would allow at least some of them an opportunity to get through, even if some other things didn't get through, and recognizing how some of this hangs together, and probably make sense as a package and maybe not make as much sense if it was decoupled.

I am still kind of curious about process wise. How we get this to council in a way that would end up with something positive coming out of it? That was the genesis of the question.

William Tarter: so like let's say for example, just make sure maybe I understand, if there was say a campaign finance section, just hypothetically, a campaign finance section and there's two suggestions from this commission and there would be two votes taken, one on this and one on this, and if either one of them make it fantastic, amen and we would move forward.

I'm open to separating them into two buckets. It's the same topic and therefore because we're frankly meeting one meeting per topic is why I had to couch them together. I'm open to two votes on those things, that just happen to be tied together in the same section.

Chairperson Adrine: I think we would have to have a lot of intentionality to recognize in some respects if you divided some of these things apart it probably wouldn't make sense. If one was passed and the other was not passed. That is something I think we would have to take into consideration. But in other respects that might be something that the proposals might be separable, so you can pass one and not pass the other. Going forward.

William Tarter: as long as something gets done, sorry, didn't mean to interrupt you, but something, that's the big part

Chairperson Adrine: I guess the other side that I'm struggling with is given the nature of what the ultimate goal is I don't want to make it so that it would be easy for council to dismiss the area of campaign finance, because of the fact or important parts of the issue of campaign finance, because of the fact we've decouple it. So, I think as we are looking at this we really are going to have to be intentionally about how we either put things together or how we divide them apart.

William Tarter: sure

Chairperson Adrine: If that makes any sense?

William Tarter: I appreciate that.

Chairperson Adrine: anymore questions for Will? Was somebody else part of your presentation?

William Tarter: there are individuals here who would testify on this issue.

Chairperson Adrine: during public input?

William Tarter: yes

Chairperson Adrine: okay we're do that. Any other additional discussion from members of the commission? Thanks Mr. Tartar. I think we're down to public input then. Jenae?

Susan A. Drucker: Before we go to public input so what are our next steps with this issue? Are we going to go back maybe rewrite this are taking our questions and suggestion or what is the next step for this particular topic?

Chairperson Adrine: I was really thinking we would do something similar with this to what we did with regard to succession. That is give the opportunity to fine tune based upon the discussion that's been

added today and give us an opportunity to see the redraft and then come back again and see where we are.

What's kind of clear is we are working thru this is that each one of these things that we decided on are going to require multiples and also this will give us an opportunity once there is a redraft. First of all for us to clarify some of our own personal thinking but also give to us an opportunity to have staff and the law dept kind of way in on thoughts that they might have. I think that will be kind of useful for us. If everybody is agreement with that.

Thomas P. Perciak: Judge I concur 100 percent, and I think until we get some of this back, I understand the need for public input but I don't know what input they could present at this time that would help me in my mind make a better decision until all of the things you pretty much listed would be clarified. Because of right now I have a lot of questions too. You're the chairman that's your call.

Chairperson Adrine: the time is now 5:03 and we do have people here.

Agreement by the commission members to go ahead and have public input.

5. PUBLIC INPUT:

1. Councilman Dale Miller: addressed the Commission regarding the proposed amounts for campaign finance limits.

- I do favor the approach of limits. I like the suggestion that the primary cycle runs from the day after the general election until the next primary and the general election cycle runs from the day after the primary till the day of the general election.
- I think \$7,500 is way too high. I suggest \$1,000 for County Council and \$2,500 for County Executive. I don't think we should authorize the Council to go to state the limit which is the highest in the country. I think authorizing the council to modify limits from time to time to go by inflation.
- Regarding the prohibitions on contributions on contractors; we already prohibit corporate contributions, so I presume we are talking about prohibiting contributions associated with contracting companies. Is it only from the CEO or from anyone that works for the company? I as a prospective candidate I can't always know who all the contractors are for the county, and I wouldn't want to be in a situation (legal) where I would unknowing accept a contribution from a contractor who do business with the county.

Close by saying that whatever you send to the council it's not an all or nothing situation. Council would welcome your best suggestions regarding Campaign Finance limits.

2. Ms. Loh addressed the Commission regarding the proposed amounts for campaign finance limits.

- Calendar year may not be best – if a candidate starts late going by the calendar in their fund raising this could put them behind
- Voucher may be best – gives same access to contribute to the candidate – not just for people who have the money to contribute. It solves the problem that only rich people can contribute to their candidate. We should encourage people to vote.
- We need to encourage people to vote.

3. Councilwoman Sunny Simon addressed the Committee

- The impulse is good to have campaign finance reform however in reality, with the 2010 Citizen United decision was issued by the U.S. Supreme Court we have seen an up rise in Dark Money or PACS. PACS that allow unlimited amounts of money by anonymous donors.
- In theory it's great but in today's world because of the United State Supreme Court we cannot control and stop millionaires from funding themselves.
- It was a reason why council was not in favor of this and did not approve this at the last charter, and why I am opposed to this because of the history of Cuyahoga County and the Supreme Court decision.

4. Ms. Linda M. (League of Women Voters) - addressed the Committee

- We are in principal supporting Mr. Tartars' proposal for campaign finance. Suggest the commission should never attempt to write the proposal ordinance itself. It would be easier to make it short and general and it should create a charge or parameters of the characteristics that the Council should address when they pass the ordinance.
- Have not included the elected office of prosecutor; this should be included. Also, the proposal should address self-funding millionaire candidates and it seems that the Philadelphia plan does do exactly that.
- Specify candidate control committee; this loophole should be addressed and disclosure. The council is better suited and more likely to approve if

5. County Executive Armond Budish addressed the Committee

- This is well intentioned and in theory it would be great to have campaign finance reform. The question is how/what is the way to campaign finance reform? The answer is (1) to change the Supreme Court or change the constitution. Neither of those is something the council can do. In my view it makes campaign finance unworkable and irrelevant.
- If limits would work, it would give an edge to wealthy candidates and the second advantage it gives someone with a good ballot name an huge advantage in this county.
- It works against a good democracy; campaign finance does not work because of the Supreme Court. You can't stop people from putting money into PACS. If this commission decides to recommend campaign limits I think you're just going to push more money into dark money.

Chairperson Ronald B. Adrine: we need to select two dates for the special meetings. A doodle will be sent out to the commission members.

6. ADJOURNMENT - Chairperson Ronald B. Adrine called for a motion to adjourn. Motion moved by Thomas P. Perciak seconded by Diane Downing, no objections. Chairperson Ronald B. Adrine adjourned the meeting.

Next Meeting: May 2, 2018, 4:00 PM