

Meeting Minutes for the Charter Review Commission
June 11, 2014
Columbus City Hall, Conference Room 225

Attendance:

- Marchelle E. Moore, Esq., co-chair
- Representative Michael F. Curtin, co-chair
- Jeff Cabot, commissioner
- City Auditor Hugh J. Dorrian, commissioner
- City Clerk Andrea Blevins
- Josh Cox, chief counsel, city attorney's office
- Bryan Clark, Columbus City Council liaison to the Commission

Ms. Moore welcomed fellow Commissioners, staff, and the public to the fifth meeting of the Charter Review Commission.

Approval of the Minutes: Mr. Cabot requested the following change to the minutes from the last meeting: On the fifth page, fourth paragraph from the bottom, remove "or ORC". Ms. Moore requested the following correction to the minutes from the last meeting: On the fourth page, in the second paragraph from the bottom, change "29.2941" to "2921.41".

Mr. Cabot made a motion, seconded by Auditor Dorrian, for adoption of the Minutes for the May 22, 2014 meeting as Amended.

- Yeas – 4
- Nays – 0
- Motion carried

Clerk Blevins summarized the public comments received on the commission website since the May 22, 2014 Commission meeting. The first comment was received on May 22, 2014 on the subject of Council composition. The second comment was received on May 30, 2014 on the subject of Council composition, rules for speaking before Council, and campaign finance laws. The final comment was received on June 2, 2014 on the subject of Council composition, campaign finance law, and appointments to City Council. Clerk Blevins stated copies of the comments are reflected in the Commissioners' packets.

Auditor Dorrian referred to the packet provided and letter signed by all the members on the subject of Council composition and stated his endorsement of the letter and supported the present composition of the seven, at-large members. Mr. Cabot agreed and stated the current Charter provides adequate avenues for representation and is supportive of the current status of Council. Mr. Curtin stated he wanted to remain open minded and reserve judgment on the issue but defaults to agreement with Auditor Dorrian and Mr. Cabot. Mr. Curtin stated he would need to see a strong educational campaign to change his decision. Ms. Moore added the Commission would not take any formal action today and wait for additional action if required.

Auditor Dorrian asked if there were any documents pertaining to public access television. Mr. Cabot asked if this comment was submitted online. Mr. Curtin asked why this would be considered a Charter issue. Auditor Dorrian did not support a change. Mr. Cabot asked for a brief history of public access television. Mr. Clark replied that Council took action in 2005/2006 to defund public access television because there was low public interest and it was being used, at times, for obscene purposes. Mr. Clark

also stated that Council continued funding CTV and that there is adequate access and even better options for the public to access information on the activity of the City and its officials.

Ms. Moore asked if there was any reference to public access television in the Charter. Mr. Clark replied that there is not and never has been any reference to it. Ms. Moore stated that the Commission would not follow up on this issue with respect to the City Charter.

Mr. Clark gave a summary of the current rules for speaking before Council and stated these rules could be changed at any time by an ordinance of Council. Auditor Dorrian agreed that the rules for speaking before Council can be addressed and changed under the current City Code.

Ms. Moore addressed the issue of minimum wage. Auditor Dorrian stated support for minimum wage but did not support it as a Charter issue. Mr. Curtin agreed and referred to the state minimum wage and the federal minimum wage and that it should not be handled on a municipal level. Mr. Cabot agreed that it should not be a Charter item. Ms. Moore also agreed.

Mr. Cabot asked if the Commission was going to address the number of signatures needed on a petition. Mr. Clark responded it would be presented at the next meeting.

Mr. Clark added that Chapter 329 establishes a city minimum wage for City contracts and workers cannot be paid less than the lowest paid unionized employee of the City, \$13.13 an hour, unless the company has less than 25 employees.

Mr. Clark addressed the public comment of not having automatic appointments to Council and opening vacant seats to the public and noted that the 1993 comprehensive Charter review made a change to the section in the Charter that would allow an election earlier in the year after an appointment and was passed by the voters in Columbus.

Auditor Dorrian commented on the change to Section 32, Balances of bond issues, which added the Mayor and the City Treasurer to the City Auditor as the offices presenting data and certifying funds for the tax budget ordinance to Council. Auditor Dorrian stated this was a recommendation from the Council President's office that he could accept.

Auditor Dorrian asked for a postponement of consideration for changes to Sinking Fund and Utilities amendments so other sources of revenue could be considered. Mr. Cabot asked if wording in Section 32 was plural because it covered more than Franklin County. Auditor Dorrian responded Mr. Cabot was correct.

Ms. Kish presented the changes on the Utilities Sections 118-124 and 194 and how the terms now cover the full range of services of the Department of Utilities. Ms. Kish added staff was still working on Section 120 and will add changes as an addendum.

Ms. Moore asked for clarity on the section regarding non-profits that could not pay debts. Ms. Kish replied that she did not know about for-profit organizations but relief could be granted to non-profit organizations with the new language. Mr. Clark added that new Charter provisions in this area would allow Council to create a program to provide funds. Auditor Dorrian added that funding would have to come from the general fund. Ms. Moore asked if this language would be in line with the current practice. Ms. Kish replied the language would allow Council to have the additional program, if desired, to provide assistance through the general fund.

Mr. Cabot asked for additional information on the granting of franchises. Mr. Clark responded that the addition would bring in a common provision used in other Ohio cities for granting a franchise for a public purpose and ensures taxpayers and rate payers are protected from discrimination.

Mr. Clark presented proposed ethics changes and the additional update in footnote 2, which could move this section to the qualifications section instead of the ethics section.

Mr. Cabot stated he supported changes and asked whether “willful” should be stricken. Auditor Dorrian agreed with Mr. Cabot and asked if there was something like an inadvertent violation. Mr. Curtin added that the Charter should have a strict ethics provision but did not want there to be unintended consequences that might cause an otherwise decent and honorable office holder to lose his or her office. Mr. Cox added that there was language in the Code that addresses this issue. Mr. Cabot asked if Mr. Cox could report back on the actual wording.

Mr. Clark asked if the Commission would like to see footnote 2 added to the ethics section. Mr. Cabot asked if it pertained to Council members only. Mr. Clark replied it pertained to the Council President specifically. Mr. Cabot responded it should pertain to everyone and should fall under ethics.

Mr. Clark presented the equal rights language drafted to add to the Charter.

Mr. Cabot asked about outside contractors and their adherence to the language. Mr. Clark responded that there is a non-discriminatory clause that must be in place for City contracts that largely mirrors the language proposed. Auditor Dorrian asked how far reaching the language was. Mr. Curtin stated the City Attorney’s advice was needed on the intended and unintended consequences of putting this language in the Charter. Ms. Moore asked that staff would report back at a future meeting. Mr. Curtin asked for a few examples of current contracts with the Lutheran or Catholic Church or other entities that might have a conflict with this language.

Recreation and Parks Director Alan McKnight presented on Sections 128 and 129 including how positions appointed at the recommendation of the Board of Education and Council of Social Agencies has not been consistent and that an appointment from the Franklin County Metro Parks board is appropriate and that he doesn’t believe that individual should have to be qualified in the field of forestry, as the city has representatives from that field already included.

Mr. Cabot asked where the Commission came from and why does the Recreation and Parks department need to answer to a commission instead of operating as the other Department Directors do. Director McKnight responded that many cities across the country have a board and they are unique to the department, but do serve a purpose.

Auditor Dorrian commented on the residency issue. Mr. Cox responded the language regarding residency applies to City employees. Auditor Dorrian offered that the wording could be changed to the phrase “Franklin county or a county contiguous”. Director McKnight stated he would not be opposed to that language.

Mr. Curtin commented that in the future there might be a natural merger with other entities like Metro Parks and there should be discussion that should look at the expansive future in terms of governing and financing. Director McKnight stated there was merit in that discussion and commented on the surrounding areas that have the same type of systems and how there needs to be cooperation and partnership among them.

Auditor Dorrian asked if there are recreation or park facilities in either Delaware or Fairfield county. Director McKnight stated there were the O'Shaughnessy Reservoir, Hoover Dam, and other neighborhood parks.

Ms. Moore charged staff with drafting language for the Commission to review in line with the comments given by the Commissioners.

Mr. Clark reported on the Temporary and Permanent Inability of Officeholders and recommended a charter amendment that establishes a uniform process to declare temporary inability, adjudicate permanent inability, and assure clear lines of acting authority and of successors for each elected official of the city.

Auditor Dorrian stated that 45 days is a very short period of time and that it should be no less than 90 days. Auditor Dorrian added that a medical professional should determine inability either permanently or temporarily and should include the Health Commissioner and a majority vote of the Health Commission members. Mr. Curtin agreed with Auditor Dorrian but also believed there were other forms of inability, which should fall under the decision of the judicial branch.

Mr. Clark responded that the 90 days sounded reasonable and added that only an elected official or their agent can trigger temporary inability as opposed to permanent inability.

Mr. Cabot commented there was no specific process in place in case an elected official or agent waited to declare inability. Mr. Clark added that staff could come back with a hybrid approach to provide a broad framework for the Charter so it could be specified by ordinance and would not become unwieldy.

Ms. Moore asked about provisions in other Charters about emergency preparedness. Mr. Clark replied that this would not only be the first city in Ohio to address the issue but also the first in the nation to properly address the issue.

Mr. Clark presented on elected official qualifications and recommended the following be added to all qualifications: residency in the city for at least one year and continuing residency during office, service in the US Armed Forces as a permitted public office, prohibition on any interest in a contract, job, work or service for the municipality, and forfeiture of office if the official lacks any qualification.

Auditor Dorrian agreed but asked that the one-year residency requirement be given further thought. Mr. Curtin asked if the prohibition of any interest in a contract should apply to the individual's immediate family as well as himself or herself. Mr. Cox replied this is addressed in the State ethics law of what constitutes immediate family. Mr. Cabot agreed that there is no need for the one-year residency requirement.

Mr. Cabot asked if serving on a board would be taking another public office even if it is not compensated and stated it should not be prohibited. Mr. Cox replied that the Attorney General has several definitions of what constitutes a public office and looking at that is a good starting point for that analysis.

Mr. Clark presented the prohibited use of public funds and did not recommend incorporating state law by reference and including a provision to nullify the exclusion of charter municipalities from the definition of political subdivision in ORC 9.03 but instead either choose a general or specific approach to address the misuse of public funds.

Auditor Dorrian asked if the language proposed would restrict a city employee how she or he could spend money earned from the city to what was outlined in the Charter. Mr. Clark responded this language was

lifted from the Revised Code and the intent would not be an employee but a recipient of public funds like a contractor. Auditor Dorrian replied that many contractors received public funds. Mr. Clark responded that only public money could not be used and gave the example of how an organization that might be funded solely by the government could not use funds to advocate for an initiated ordinance or ballot issue. Mr. Cabot stated the issue of deciding when public fund became private funds should be addressed. Mr. Clark presented Council provisions and gave specific amendment recommendations to provide citizens a clear, logical sequence of powers and duties applicable to the legislative branch of city government and reflect current practice for council.

Auditor Dorrian asked if there were any changes in addition to the added language to Section 5 and Section 5.1-5.2. Mr. Clark responded there was not. Auditor Dorrian asked for clarification on the language proposed for special meetings of council. Mr. Clark responded that special meetings are not addressed in the Charter and the suggested provisions already exist in the Ohio Revised Code and would control the way Council would conduct an emergency or special meeting.

Auditor Dorrian asked if the new language would embed Council committees in the Charter. Mr. Clark responded it would not embed the specific committees but how Council, at its discretion, can specifically reference both the formation of and the rules of standing and special committees.

Mr. Curtin asked about specific investigative authority and whether the history of the city has shown any limitations on investigative authority of other officers. Mr. Clark responded the Mayoral section can investigate without notice and has wide discretion to investigate any officer or employee of the city. Mr. Clark also stated the added language would allow Council to have an authorized individual that acted on its behalf to conduct an investigation. Auditor Dorrian added the Auditor's investigative authority is over a single expenditure.

Ms. Moore announced the future meeting dates would be Thursday, June 19, 2014; a meeting and a public hearing on Thursday, June 26, 2014; and a meeting on Monday, June 30, 2014.

Ms. Moore made a motion, seconded by Mr. Cabot, to adjourn the meeting.

- Yeas – 4
- Nays – 0
- Motion carried