

Meeting Minutes for the Charter Review Commission
June 26, 2014
Columbus City Hall, Council Chambers

Attendance:

- Marchelle E. Moore, Esq., co-chair
- Representative Michael F. Curtin, co-chair
- Dawn Tyler Lee, commissioner
- 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
- Christie Angel, serving as Mayor's Office Liaison to the Commission for this meeting

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

Approval of the Minutes: Mr. Curtin requested the following change to the minutes from the last meeting: On the second page, last paragraph, change "not uncomfortable" to "not comfortable". Auditor Dorrian requested that on the fifth page, in fourth paragraph from the bottom, change "statues" to "statutes". Ms. Moore requested that on the first page, third paragraph, change the date from "May 25th" to "June 11th". Finally, on the fourth page, fifth paragraph, change the language to reflect that the issue of residency was discussed as opposed to removed.

Mr. Cabot made a motion, seconded by Ms. Tyler Lee, for adoption of the Minutes for the June 19th meeting as Amended.

- Yeas – 5
- Nays – 0
- Motion carried

Mr. Clark stated there are no new public comments received on the commission website to report.

Mr. Clark summarized staff recommendations and changes regarding the Elections Charter amendment under the categories of general provisions, campaign finance, ballots, nominations, petitions for ordinance, referendum, recall, charter amendment, initiative and referendum, charter amendments, and recall.

Mr. Curtin asked for clarification that the language on page four of the Initiative, Referendum, Recall, Charter Amendments, lines 31 and 32 will be stricken. Mr. Clark replied that language would be stricken from the Charter. Mr. Cabot stated those lines referred to actual voting, not signing petitions. Mr. Clark clarified that the correct lines that will be stricken are on page six, lines 4-8. Mr. Cabot asked if there would still be a provision for a write in a candidate on the ballot. Mr. Clark responded there would still be a provision to write in an individual under state law.

Auditor Dorrian stated the new petition template referenced in the proposed language would fall under the public records category and would be required to have prompt delivery of the document and be available

upon request. Mr. Clark responded the item would more than likely be added to the City Council website for easy access and would be considered a public record. Mr. Cox concurred.

Auditor Dorrian stated the Ohio Revised Code (ORC) requires petitions be filed with the City Auditor and asked if the proposed language clarifies that petitions do not have to be filed with the City Auditor. Mr. Cox replied the proposed new language in the Charter states petitions should be filed with the City Clerk and would take precedence over state code provisions.

Auditor Dorrian stated that in the summary under Recall, there was a reference to 15 percent of the last regular municipal election and asked for clarification that the recommendation would change the reference to the last mayoral election. Mr. Clark responded that it would.

Mr. Cabot made a motion, seconded by Ms. Tyler Lee, to approve the proposed language to be drafted into a final format for consideration by the Commission.

- Yeas – 5
- Nays – 0
- Motion carried

Ms. Amy DeLong, Director of the Civil Service Commission, presented residency for city employees issue and asked the Charter Commission for additional time to consider this issue due to the complexity of the issue and the numerous parties involved and affected by the decision.

Ms. Moore asked if Ms. DeLong was requesting that the Commission not take any action on the residency issue at this time. Ms. DeLong responded affirmatively.

Mr. Curtin asked if staff was in agreement with the suggestion. Ms. Angel stated the administration agreed with the suggestion. Mr. Clark stated Council agreed with the suggestion.

Mr. Cabot asked if the Commission was being asked to ignore an inoperable section of the Charter. Mr. Cox added Ms. DeLong's statement was based on the State Supreme Court decision and the decision would not be appealed. Mr. Cabot responded he did not believe the Commission was doing its job if it left an invalid and inoperable provision in the Charter.

Ms. DeLong stated the provision should not be left for a stagnant period of time, while at the same time understands that this Commission has a short period of time to make its recommendations. Ms. DeLong added there are numerous parties that could be affected and would need input from all parties involved if expecting the proposed language to be successful at the ballot. Mr. Curtin asked if the Commission was not being asked to ignore the provision for the entire life of the Commission but only the current meeting. Ms. Moore asked if this meant there would be another presentation on the issue at the next meeting. Mr. Clark replied during this phase of the Charter Review Commission, staff recommendation to leave this issue off the table because it is intertwined with other Civil Service issues that will take more time to review.

Auditor Dorrian asked for clarification on whether there would be a recommendation brought before the Commission in the near future to address the residency matter. Ms. Angel replied further discussion is warranted before a complete recommendation can be made to this Commission and asked to table the issue until a comprehensive recommendation could be made.

Ms. Moore asked how much more time staff would need for recommendations. Ms. Angel replied staff had not had enough time to discuss the issue completely and would likely need the balance of the year at a minimum to formulate a recommendation. Mr. Curtin stated it seemed the administration, Council, and

Civil Service Commission believe the factors involved do not allow for a recommendation and was comfortable not acting at the current meeting but would like to receive information on the anticipated length of the process from staff before the next meeting and then at the next meeting the Commission could discuss what should be done going forward. Ms. Moore asked for further information at the next meeting on next steps and how best to proceed.

Mr. Cabot asked if provision were removed and state law changed, could council, by ordinance, adopt a residency requirement. Mr. Cox replied that there were options beyond repealing or not repealing the provision, but before any action could be taken, the Charter provision would have to be changed. Mr. Cabot asked if Council could take action inconsistent with the Charter provision even though the provision has been declared invalid and unenforceable by state law and state courts. Mr. Cox replied that nothing could be done by Council at this point.

Mr. Clark stated there was precedent in previous Charter reviews in 1993 and 1998 that had issues that were so unique and took so much time that further study was needed before action. Ms. Moore asked for a time frame and what steps need to be taken to bring the matter to closure.

Mr. Clark presented on inability of officeholders updated language on page 1, line 22, “or six months have passed”. Mr. Clark added there was no limitation on how long temporary disability could be declared and staff gave recommendations on rescinding a temporary declaration of inability.

Mr. Cabot asked what happens when the six months has expired. Mr. Clark responded that is when the 90 day time period for permanent inability would begin. Mr. Cabot asked if that was explicitly stated in the language. Mr. Clark stated it was.

Mr. Curtin made a motion, seconded by Ms. Tyler Lee, to approve the proposed language to be drafted into a final format for consideration by the Commission.

- Yeas – 5
- Nays – 0
- Motion carried

Mr. Clark presented Officeholder Compensation and the proposed language of a cost of living provision limiting the Charter’s ability to increase salary, and creation of a Citizens’ Commission on Elected Official Compensation.

Ms. Moore asked how often that commission would meet. Mr. Clark responded the commission would meet every four years. Members would be appointed by the second Council meeting of the year, have three months to conduct its work, and Council would have 30 days to act after the recommendation was received.

Mr. Cabot stated that in his opinion, the cost of living provision is a level of detail that does not belong in the Charter. Mr. Curtin replied that nothing is more sensitive to an elected official than having to set their own salary, and that a cost of living adjustment review would set the appropriate tone. Ms. Tyler Lee stated support for the recommendation. Ms. Moore stated her support for the recommendation.

Mr. Cabot made a motion, seconded by Mr. Curtin, to approve the proposed language to be drafted into a final format for consideration by the Commission.

- Yeas – 5
- Nays – 0
- Motion carried

Mr. Clark presented the updated language for public records. Mr. Cox stated the proposed language appropriately reflects state law provisions.

Mr. Clark presented the updated language for open meetings and read the proposed section in its entirety.

Ms. Moore addressed Auditor Dorrian's concern at the previous meeting about confidentiality conflicts. Mr. Cox corrected a previous statement and stated that the Board of Tax Appeals is a decision making body but is not subject to open meetings law.

Auditor Dorrian made a motion, seconded by Ms. Tyler Lee, to approve the proposed language to be drafted into a final format for consideration by the Commission.

- Yeas – 5
- Nays – 0
- Motion carried

Mr. Clark presented the updated language for prohibited use of public funds and proposed two options for the Commission's consideration.

Mr. Curtin asked if language would allow the city to continue to produce brochures concerning items like bond issue packages that are explanatory in nature but would not allow public funds to be used for television or radio commercials or communication urging the passage of such. Mr. Cox responded this was correct. Ms. Tyler Lee asked if staff had a preferred option. Mr. Clark responded option 2 would provide much greater flexibility. Ms. Angel concurred with Council that the administration's preference is option 2.

Auditor Dorrian made a motion, seconded by Mr. Curtin, to approve the proposed language in option two to be drafted into a final format for consideration by the Commission.

- Yeas – 5
- Nays – 0
- Motion carried

Mr. Clark presented the proposed updated language regarding city official qualifications.

Mr. Cabot clarified that the state requirement is one year residency prior to running for office in that municipality and the current Charter requirement is that the individual is simply an elector of the city. Mr. Clark responded that was correct. Mr. Cabot stated he believes the current Charter has been and is sufficient, and the history of elected city officials in Columbus has been excellent. Auditor Dorrian was not supportive of the one year requirement. Ms. Moore stated she was in favor of the one year residency but could accept its removal.

Ms. Tyler Lee asked why Auditor Dorrian supported the removal of the one year residency provision. Auditor Dorrian replied the history of the current Charter has worked well and does not see the need to place additional restriction on the eligibility to run for elected office. Mr. Curtin supported not adding a residency requirement to the provision.

Ms. Moore asked if staff had a position. Mr. Clark stated Council is neutral and is seeking guidance on the issue. Ms. Angel concurred the administration was seeking guidance from the Commission. Auditor Dorrian made a motion, seconded by Mr. Cabot, to approve the proposed language, with no one year residency provision, to be drafted into a final format for consideration by the Commission.

- Yeas – 4
- Nays – 1, Tyler Lee opposed
- Motion carried

Mr. Clark presented on the updated language for the Ethics Charter amendment. Mr. Cox added the language proposed would defer to the state standard. Ms. Moore clarified that the standard is a knowing, intentional violation. Mr. Cox stated that was correct and that the language would not be imposing any new duties to city officials and staff. Mr. Cabot stated that this provision would bring the Charter up to state law and supported the provision moving forward. Auditor Dorrian also supported the provision.

Mr. Cabot made a motion, seconded by Auditor Dorrian, to approve the proposed language to be drafted into a final format for consideration by the Commission.

- Yeas – 5
- Nays – 0
- Motion carried

Mr. Clark presented on the proposed updated language on the Council Charter amendment.

Ms. Tyler Lee stated that in Section 9.3, there is an acknowledgement of a permanent inability clause but not temporary inability. Mr. Clark replied the intention was to reference something that could lead to the forfeiture or vacancy of office, and temporary inability cannot lead to vacating the office so only permanent inability is referenced in this section. Mr. Clark added Council can pass a resolution excusing a Councilmember missing more than 8 meetings.

Auditor Dorrian made a motion, seconded by Mr. Cabot, to approve the proposed language to be drafted into a final format for consideration by the Commission.

- Yeas – 5
- Nays – 0
- Motion carried

Ms. Angel presented the proposed updated language regarding Recreation and Parks and provided two options for consideration.

Auditor Dorrian asked if option 2 was the preferred option of the administration and the Recreation and Parks department. Ms. Angel stated option 2 was the preferred option.

Auditor Dorrian made a motion, seconded by Mr. Cabot, to approve the proposed language in option two to be drafted into a final format for consideration by the Commission.

- Yeas – 5
- Nays – 0
- Motion carried

Ms. Moore announced future meeting dates including the public hearing June 26th and the final meeting on June 30.

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

- Yeas – 5
- Nays – 0
- Motion carried