



May 22, 2013 at 4:00pm
Notice posted

Minutes

**Meeting of the Charter Review Commission
Cuyahoga County
Wednesday, May 22, 2013 at 4:00 P.M.
Cuyahoga County Administration Building, 4th Floor**

Required notices were provided and posted and the meeting was called to order at 4:20 PM by the Chair. The roll was called.

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

A quorum was present. Also in attendance were Clerk James Boyle; Assistant Director of Law Michael King; County Council Chief of Staff Joseph Nanni; County Council Staff Members Kalil Seren and Joanne Gross; County Councilman Dale Miller; County Law Director Majeed Mahklouf; and attorney Gary Johnson.

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

The minutes for the meeting held on May 8, 2013 were previously distributed to all the members of the CRC. Tarter made a Motion to amend the minutes to reflect that he was present at the May 8, 2013 CRC Meeting. The Motion was seconded by Akers. A voice vote was taken on the Motion. The Motion was unanimously passed. Dietrich moved that amended minutes from the May 8, 2013 meeting of the CRC be approved as written. The Motion was seconded by McLaughlin. A voice vote was taken on the Motion. The Motion was unanimously approved. The

amended minutes have been approved. Akers noted that the minutes from the most recent CRC meeting, held on May 11, 2013 had been distributed but to allow a review by the members, approval of those minutes would not occur until the next meeting of the CRC.

Akers asked if there was any old business for the CRC to discuss. Tarter noted that his review of the minutes and his recollections, Prosecutor McGinty had stated that he was "OK with having an appointed County Prosecutor". In support of this comment, Tarter stated that Homer Taft had offered the proposition that both the County Sheriff and the County Prosecutor should be appointed by the Executive, subject to confirmation by the Council and only to be removed for cause. Upon receiving this proposal from Taft, Tarter noted that McGinty had indicated his approval. After discussion among the CRC, McLaughlin stated that in the entire body of comments from McGinty, it was clear that McGinty was in favor of continuing to have an elected Prosecutor. He noted that McGinty had stated on numerous occasions that he felt that selecting a Prosecutor in any manner other than an election was unconstitutional. After continued discussion, the CRC agreed to have Akers contact McGinty to definitively ascertain McGinty's position on the selection of the Prosecutor.

Calling for new business items, Akers distributed the draft proposals constructed by King and the County Law Department. McLaughlin noted the time constraints that the CRC was under and requested that all draft language be distributed as soon as possible. The CRC and the Law Department discussed this issue and noted that all proposals would be done in a timely fashion to allow ample time for review.

Akers asked the CRC to address the possibility of amending Charter Section 2.03 to allow 60 days, rather than the current 30 days, for Council confirmation of Executive nominations. Tarter stated that he would be in agreement with this proposal as long as the 30 day time for confirmation remained for the appointment of future CRC's. Tarter noted the strict time frames and deadlines that the Charter placed on this, and future CRC's, and felt that if the confirmation dragged on for 60 days, the time frames could become difficult to meet. Mahklouf noted that an additional hurdle could arise if the Council rejected some nominees after nomination. McLaughlin agreed with Tarter's comments. Headen did not agree on this issue. Headen and Dietrich stated that they felt as members of this CRC, that they had ample time to discuss the issues and proposed amendments. Headen noted that she had previously voiced a concern that the CRC was not moving fast enough in completing its work. After continued discussion, Akers noted that there appeared to be consensus on the amendment. McLaughlin made a Motion to

accept the proposal, as drafted. The Motion was seconded by Dietrich. Akers called for a voice vote. The Motion was unanimously approved.

Akers turned the CRC's attention to the next proposal submitted by the Law Department. This proposal was submitted by the Next Generation Council and also sought to amend Charter Section 2.03. The proposed language would seek to include new language that would require the County Executive and Council to "use good faith efforts" in appointing board and/or commission members who belong to "emerging and/or underrepresented demographics." Dietrich sought comment from the Law Department regarding the ability to have both proposed amendments to Charter Section 2.03 be presented as a single matter. Mahklouf stated that each amendment, even if amending the same Charter Section, would need to be a separate proposal. Mahklouf noted that Council could vote on each item separately.

Dietrich stated some concerns about the phrase "attention paid to emerging and/or underrepresented demographics" and how that phrase would be interpreted and followed. McLaughlin offered an amendment which deleted a portion of the proposed language. The language would now read: Subject to any applicable qualifications or requirements for officers and members of each board, agency, commission or authority, the County Executive and the Council shall use good faith efforts to consider emerging trends and/or underrepresented demographics." After discussion, the CRC reached a consensus on this amended language and directed the Law Department to draft an amended proposal.

Turning to the next issue in the proposals submitted by the Law Department, Akers asked for comments concerning the possibility of instituting some form of campaign finance limits and other related topics. Akers noted that this proposal had been submitted by Tarter. Tarter respectfully requested that the CRC defer discussing this proposal until a later date. Mahklouf noted that tying the county limits to state limits, in a charter amendment, would make any future alteration difficult. McLaughlin noted that Charter Section 3.09 gave Council the power to enact campaign contribution legislation but it did not appear to give Council a duty to do. After additional discussion, the CRC agreed to defer this issue. Akers noted that there did not appear to be a consensus within the CRC to recommend a Charter amendment on this issue and felt that dedicating more time to the issue was not productive.

Next, the CRC discussed the Clerk of Courts and the manner of selecting a Clerk. The language submitted by the Law Department allowed the judiciary to

participate in the hiring of the Clerk in an advisory capacity. Akers noted that this issue had been discussed on numerous occasions and the CRC felt comfortable with the proposed language. Headen noted that she wished to join Callahan in drafting a minority report on this issue.

The CRC commenced a discussion of the BOR and reviewed the amendments proposed by the Law Department. King articulated the amendments that had been offered. Tarter and McLaughlin asked for clarification regarding the prohibition of BOR Hearing Officers discussing matters “during” the pendency of the case. McLaughlin noted some issues that could arise if the definition of “ex parte” was expanded beyond that to be anticipated by attorneys. Headen asked what sanctions would be available if there was a violation by any of the Hearing Officers. Mahklouf noted that any remedies would be in the civil, not criminal, realm. Johnson asked if it would be wise to address the possibility of having a Hearing Officer having to recuse himself from a hearing. Mahklouf did not feel that the issue of possible recusals warranted additional discussion or amended language.

Relative to the composition of the three-member BOR, Mahklouf stated that the proposal would place the County Executive, either the County Treasurer or the County Fiscal Officer, and one appointee of the Council President. Additionally, the proposed language would mandated that no more than two of the three members of the BOR could belong to one political party. Headen asked whether the CRC should make a recommendation about whether it was preferred for the Treasurer or the Fiscal Officer to serve on this body. Mahklouf noted that this issue was up to the CRC to decide but the proposed language allows the Executive to choose either the Treasurer or the Fiscal Officer. Headen sought clarification on the continuation of the employees if/when the work load decreased. Mahklouf noted that the desire would be to have the employees be deemed “unclassified” so that the county could have flexibility as needs changed over time.

Finally, the CRC discussed the proposed language regarding the need to address Council matters that should not properly be approved by the County Executive. Akers noted that the genesis of this issue was from Councilman Miller and noted that the current provisions mandate that the County Executive sign off on all matters, including some that pertain to the staffing of the Council. The CRC reviewed the proposed language and there was a consensus that the proposed language was appropriate.

The CRC asked Johnson to comment on the progress of discussions between the Law Department and the Prosecutor’s Office. He noted that he had met with

Attorney Terry Kenneally on three separate occasions and documents had been exchanged. While no resolution had been achieved, Johnson did note that progress is being made.

The CRC discussed with King the provisions for the upcoming meetings. King asked for some guidance on a few issues, including the possible language for a Justice System Audit and for the Council Re-Districting issues.

The CRC discussed future meetings and set the next meeting on Saturday, June 1, 2013 at 9:00AM.

There being no further business before the CRC, **Tarter** made a motion to adjourn. The motion was seconded by **Dietrich**. The motion was unanimously approved by a voice vote of the CRC members. The meeting was adjourned.

Draft _____

Issue _____

App. 6-1-13

Posted 6-3-13