



AGENDA
CUYAHOGA COUNTY RULES, CHARTER REVIEW, ETHICS & COUNCIL OPERATIONS
COMMITTEE MEETING
TUESDAY, JULY 10, 2012
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
11:00 AM

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT RELATED TO THE AGENDA**
- 4. APPROVAL OF MINUTES FROM THE MAY 29, 2012 MEETING**
- 5. MATTERS REFERRED TO COMMITTEE**
 - a) Discussion regarding proposed Charter Amendments
- 6. MISCELLANEOUS BUSINESS**
- 7. OTHER PUBLIC COMMENT**
- 8. ADJOURNMENT**

*In accordance with Ordinance No. O2011-0020, complimentary parking in the Huntington Park Garage will be available for the public **beginning at 4:00 p.m.** on any day when the Council or any of its committees holds evening meetings. Please see the Clerk to obtain a parking pass.



MINUTES

**CUYAHOGA COUNTY RULES, CHARTER REVIEW, ETHICS & COUNCIL OPERATIONS
COMMITTEE MEETING
TUESDAY, MAY 29, 2012
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
1:00 PM**

1. CALL TO ORDER

Chairman Greenspan called the meeting to order at 1:08 p.m.

2. ROLL CALL

Chairman Greenspan asked Assistant Deputy Clerk Thurman to call the roll. Committee members Greenspan, Miller, Brady and Connally were in attendance and a quorum was determined. Committee member Simon entered the meeting shortly after the roll call was taken.

3. PUBLIC COMMENT RELATED TO THE AGENDA

No public comments were given.

4. APPROVAL OF MINUTES FROM THE MAY 22, 2012 MEETING

A motion was made by Ms. Connally, seconded by Mr. Miller and approved by unanimous vote to approve the minutes of the May 22, 2012 meeting.

5. MATTERS REFERRED TO COMMITTEE

- a) Discussion regarding proposed Charter Amendments

Chairman Greenspan addressed the Committee regarding the legislation for the proposed Charter Amendments. Discussion ensued.

Mr. Majeed Makhlouf, Law Director, and Mr. Wade Steen, Fiscal Officer, addressed the Committee regarding the draft Resolution for Charter Proposal 4. Discussion ensued.

Committee members asked questions of Mr. Makhlouf and Mr. Steen pertaining to the item, which they answered accordingly.

On a motion by Mr. Greenspan with a second by Mr. Brady, the draft Resolution for Charter Proposal 4 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for referral to the Committee of the Whole.

Mr. Makhlouf and Mr. Ed Morales, Assistant Law Director, addressed the Committee regarding the draft Resolution for Charter Proposal 1. Discussion ensued.

On a motion by Mr. Greenspan with a second by Ms. Connally, the draft Resolution for Charter Proposal 1 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for referral to the Committee of the Whole.

Mr. Makhlouf addressed the Committee regarding the draft Resolution for Charter Proposal 6. Discussion ensued.

Committee members asked questions of Mr. Makhlouf pertaining to the item, which he answered accordingly.

Mr. Greenspan introduced a written amendment on the floor to the draft Resolution for Charter Proposal 6 to delete *“replace the joint authority of the County Executive and County Council”* and insert *“provide that the County Council shall have the exclusive authority”*; and to delete *“through joint action by appointment and removal by the County Executive, subject to confirmation by County Council, to transfer such authority to be carried out by County Council exclusively.”*

A motion was then made by Mr. Greenspan, seconded by Mr. Miller and approved by unanimous vote to amend the draft Resolution for Charter Proposal 6.

Mr. Ed Fitzgerald, Cuyahoga County Executive, addressed the Committee regarding the draft Resolution for Charter Proposal 6.

On a motion by Mr. Greenspan with a second by Mr. Miller, the draft Resolution for Charter Proposal 6 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for referral to the Committee of the Whole, as amended.

Mr. Makhlouf addressed the Committee regarding the draft Resolution for Charter Proposal 2. Discussion ensued.

Committee members asked questions of Mr. Makhlouf pertaining to the item, which he answered accordingly.

Mr. Miller addressed the Committee regarding the draft Resolution for Charter Proposal 2. Discussion ensued.

On a motion by Mr. Miller with a second by Mr. Greenspan, the draft Resolution for Charter Proposal 2 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for referral to the Committee of the Whole.

Mr. Makhlouf and Mr. Morales addressed the Committee regarding the draft Resolution for Charter Proposal 3. Discussion ensued.

Committee members asked questions of Mr. Makhlouf and Mr. Morales pertaining to the item, which they answered accordingly.

Mr. Miller addressed the Committee regarding the draft Resolution for Charter Proposal 3. Discussion ensued.

Mr. Greenspan introduced a written amendment on the floor to the draft Resolution for Charter Proposal 3 to delete *“provide that”* and insert *“clarify the powers and duties of”*; to delete *“shall have the authority to pass ordinances and resolutions, without submission to the County Executive for approval, that provide for the County”* and insert *“with respect to”*; and insert *“and to identify those actions requiring only the approval of Council.”*

A motion was then made by Mr. Miller, seconded by Mr. Greenspan and approved by unanimous vote to amend the draft Resolution for Charter Proposal 3.

On a motion by Mr. Greenspan with a second by Miller, the draft Resolution for Charter Proposal 3 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for referral to the Committee of the Whole, as amended.

Ms. Connally addressed the Committee regarding the draft Resolution for Charter Proposal 9. Discussion ensued.

Mr. Makhlouf addressed the Committee regarding the draft Resolution for Charter Proposal 9. Discussion ensued.

Committee members asked questions of Mr. Makhlouf pertaining to the item, which he answered accordingly.

On a motion by Ms. Connally with a second by Mr. Miller, the draft Resolution for Charter Proposal 9 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for referral to the Committee of the Whole.

Mr. Miller addressed the Committee regarding the draft Resolution for Charter Proposal 5. Discussion ensued.

Mr. Makhlouf addressed the Committee regarding the draft Resolution for Charter Proposal 5. Discussion ensued.

Committee members asked questions of Mr. Makhlouf pertaining to the item, which he answered accordingly.

Mr. Greenspan introduced a written amendment on the floor to the draft Resolution for Charter Proposal 5 to delete "*clarify*" and insert "*establish*"; to insert "*of the Board of Revision as consisting of the Cuyahoga County Executive, Fiscal Officer, and a member of Council*"; and insert "*and to clarify*"; to delete "*replace the County Treasurer's membership on the Board with a member*" and insert "*provide that the membership of the Board include one member*"; and insert "*to remove the political party affiliation from the Hearing Board requirements.*"

A motion was then made by Mr. Miller, seconded by Ms. Connally and approved by unanimous vote to amend the draft Resolution for Charter Proposal 5.

On a motion by Mr. Greenspan with a second by Mr. Miller, the draft Resolution for Charter Proposal 5 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for referral to the Committee of the Whole.

6. MISCELLANEOUS BUSINESS

There was no miscellaneous business.

7. OTHER PUBLIC COMMENT

No public comments were given.

8. ADJOURNMENT

With no further business to discuss, Chairman Greenspan adjourned the meeting at 2:51 p.m., without objection.



CHARTER REVIEW FORM

<p>Sponsor's Name: Cuyahoga County Common Pleas Court, General and Domestic Relations Divisions & Eighth District Court of Appeals c/o Presiding/Administrative Judge Nancy A. Fuerst</p>
<p>Date Submitted: June 19, 2012</p>
<p>Sponsor's Phone: 216-443-8687</p>
<p>Sponsor's Email: cp1nf@cuyahogacounty.us</p>
<p>GENERAL TOPIC (e.g. Council Redistricting)</p> <p>Clerk of Courts-Charter Amendment to confer appointment of Clerk of Courts to the Administrative Judges <i>served</i> by the Clerk.</p>
<p>CHARTER SECTION(S) AFFECTED (e.g. Sections 3.04 (2) & (3) – Council Districts)</p> <p>5.01 Appointment: Confirmation by Council 5.04 Clerk of <i>Courts</i>: Power and Duties</p>
<p>CURRENT LANGUAGE OF SECTIONS AFFECTED</p> <p>5.01 APPOINTMENT; CONFIRMATION BY COUNCIL. Each of the officers provided for in this Article V shall be appointed by the County Executive, subject to confirmation by Council, and shall <i>serve</i> at the pleasure of the County Executive.</p> <p>5.04 CLERK OF COURTS; POWERS AND DUTIES. All powers and duties now or hereafter <i>vested</i> in or imposed by general law upon the office of clerk of common pleas relating to serving the operation of the courts shall be exercised and carried out by the appointed Clerk of Courts. The Clerk of Courts shall also <i>have</i> such powers and duties as shall be established by this Charter or by ordinance that are not inconsistent with those provided by general law for the office of clerk of court of common pleas.</p>
<p>SUMMARY AND RATIONALE FOR CHANGE</p> <ol style="list-style-type: none"> 1. By law, the Clerk of Courts serves the Common Pleas Court, General and Domestic Relations Divisions, O.R.C. 2303.01 and the Eighth District Court of Appeals, O.R.C. 2303.03. The clerk of courts is only the arm of the court issuing its process, entering its judgments and performing like duties which the court itself might perform. The Clerk performs no functions for the County Executive or County Council. 2. The clerk's responsibilities are specifically enumerated in O.R.C. Chapter 2303. In the event the clerk fails to perform certain tasks, the court has authority to remove the clerk. O.R.C. 2903.17. The clerk of the common pleas shall exercise the powers conferred and perform the required statutory and common law duties; and in the performance of his duties, he shall be under the

direction of his court. O.R.C. 2303.26. While the current relationship between the courts and the new County government has been open and respectful, it is plausible that at some point in time, a legal challenge will ensue.

3. While Article X, Section 3 of the Ohio Constitution confers the right of the people to adopt a charter form of government, it appears that Ohio statutes only grant the county executive the power to appoint county personnel pursuant to O.R.C. 302.18 (B) & (C). Compare Charter Section 1.02 POWERS LIMITED. Acknowledgment that there are divisions of government which by law cannot be affected by the Charter.
4. Recommendations to adopt an amendment to shift the appointment of the Clerk of Courts to the Administrative Judges served by the Clerk were made by members of the Justice Service Workgroup at the formation of the charter form of government. This request is now submitted to efficiently integrate and properly align the Clerk's functions while the Courts implement e-filing (now in progress), adopt streamlined processes to issue notices and incorporate available technologies, i.e. electronic transcripts, record keeping and performance outcomes pursuant to changes in the law.
5. The three courts presently served by the Clerk of Courts have enjoyed unprecedented collaboration for the past two years and are eager to discuss, increase and incorporate changes which will improve and enhance the clerk and court functions, including the collection of costs. Currently, the clerk function is woven into the court operations. For instance, our bailiffs, schedulers and judges enter orders which are e-signed and submitted to the clerk. Court adoption of new technologies and new rules of operation, compilation of required reports and outcomes, establishment of fees, fines and costs, and the storage and security of court records, directly affect the Clerk's operation. Further, resources are shared between the Clerk and the Courts. The appointment of the Clerk of Courts by the Administrative Judges will promote accountability and improve efficiencies and service to the public in the future.

The Clerk should be chosen by agreement of the Administrative Judges of the divisions served. Those Judges should establish criteria for the qualification and selection of the Clerk of Courts

PROPOSED LANGUAGE (WITH DELETIONS CROSSED OUT AND ADDITIONS BOLDED)

SECTION 5.01 APPOINTMENT; ~~CONFIRMATION BY COUNCIL.~~

~~Each of the officers provided for in this Article V shall be appointed by the County Executive, subject to confirmation by Council, and shall serve at the pleasure of the County Executive.~~ **The Administrative Judges of the General and Domestic Relations Divisions of the Common Pleas Court and the Eighth District Court of Appeals shall appoint the Clerk of Courts, who shall serve under the supervision of and at the pleasure of the Administrative Judges.**

SECTION 5.04 CLERK OF COURTS: POWERS AND DUTIES.

All powers and duties now or hereafter vested in or imposed by general law upon the office of clerk of the court of common pleas relating to serving the operation of the courts shall be exercised and carried out by the appointed Clerk of Courts. ~~The Clerk of Courts shall also have such powers and duties as shall be established by this Charter or by ordinance that are not inconsistent with those provided by general law for the office of clerk of the court of common pleas.~~



CHARTER REVIEW FORM

Sponsor's Name: Councilwoman Sunny Simon
Date Submitted: June 26, 2012
Sponsor's Phone: 698-2035
Sponsor's Email: ssimon@cuyahogacounty.us
GENERAL TOPIC (e.g. Council Redistricting)
Clarification of the Law Director's role
CHARTER SECTION(S) AFFECTED (e.g. Sections 3.04 (2) & (3) – Council Districts)
4.01 and 5.06
CURRENT LANGUAGE OF SECTIONS AFFECTED
See redlines below
SUMMARY AND RATIONALE FOR CHANGE
The intent is to fix the Charter language with respect to the role of the Law Director in advising and representing the County in all matters, including litigation. Under this clarification, the Prosecutor's duties remain the same for all criminal matters. Additionally, the Prosecutor's duties are unchanged for all civil matters for courts, judges, townships, and independent boards. The amendment clarifies the Law Director's role to advise and represent the County, its officials, and other authorities, including the retention of outside counsel, which are to be handled by the Law Director.
PROPOSED LANGUAGE (WITH DELETIONS CROSSED OUT AND ADDITIONS BOLDED)
4.01 PROSECUTING ATTORNEY: ELECTION, DUTIES AND QUALIFICATIONS
The Prosecuting Attorney shall be elected, and the duties of that office <u>relating to criminal matters</u> , and the compensation therefore, including provision for the employment of outside counsel, shall continue to be determined in the manner provided by general law. <u>The Prosecuting Attorney shall also continue to advise and represent, including representation in court litigation, the Cuyahoga County courts and judges, townships, and the following boards and commisions: the Cuyahoga County Board of Elections; the Cuyahoga County Board of Health, the Cuyahoga County Board of Developmental Disabilities; the Cuyahoga County Alcohol, Drug Addiction and Mental Health Services Board; the Cuyahoga County Public Library Board, the Metro Health System Board of Trustees, the Cuyahoga County Veterans Service Commission, and the Cuyahoga County Soldiers and Sailors Monument Board of Trustees. The Prosecuting Attorney shall also have such other powers and duties as shall be established by ordinance that are not inconsistent with this Charter.</u>

5.06 DIRECTOR OF LAW: POWERS, DUTIES AND QUALIFICATIONS.

The Director of Law shall be the legal advisor to and representative of the County Executive and County Council.

5.06 (1) Legal Services. Effective January 1, 2013, the Director of Law shall perform all legal services for and advise and represent Cuyahoga County, its County Executive, County Council, departments, agencies, offices, and officers in all matters, including all transactional matters and all litigation matters in court and arbitrations. The Director of Law shall also, except as enumerated in Section 4.01, advise and represent the County's boards, commissions, committees, and other county authorities, including the Economic Development Commission, Human Resource Commission, Board of Revision, Audit Committee, Solid Waste Committee, and Planning Commission, in all matters, including all transactional matters and all litigation matters in court and arbitrations.

5.06 (2) Retention of Outside Counsel. The Director of Law shall also be responsible for the selection and retention of outside counsel for all matters under his or her jurisdiction, including the advice and representation of Cuyahoga County, its County Executive, County Council, departments, agencies, offices, officers, boards, commissions, committees, and other authorities in all matters, including all transactional matters and all litigation matters in court and arbitrations.

Notwithstanding any other provision in the Charter or at general law, the retention of outside counsel shall be governed by the County's contracting procedures for professional services established by ordinance. Provided that any requisite approval by a county contracting approval authority is obtained pursuant to the County's contracting procedures established by ordinance, the Law Director shall not be required to obtain court approval for the retention of outside counsel and there shall be no monetary or other limits restricting the scope of such retention.

5.06 (3) Other Powers and Duties. The Director of Law shall also have such powers and duties as shall be established by ordinance that are not inconsistent with this Charter.

5.06 (4) Qualifications. The Director of Law shall be an attorney at law in good standing in the State of Ohio and shall have had at least five years' experience in advising or representing political subdivisions in Ohio.



CHARTER REVIEW FORM

Sponsor's Name: Councilman Jack Schron
Date Submitted: June 26, 2012 (rev June 28)
Sponsor's Phone: 698-2010
Sponsor's Email: jschron@cuyahogacounty.us
GENERAL TOPIC (e.g. Council Redistricting)
Change the Charter to allow for a two year (biennial) budget
CHARTER SECTION(S) AFFECTED (e.g. Sections 3.04 (2) & (3) – Council Districts)
2.03 (9), 2.03 (10), 2.03 (11) and 3.09 (5)
CURRENT LANGUAGE OF SECTIONS AFFECTED
See redlines below
SUMMARY AND RATIONALE FOR CHANGE
To allow in the Charter for biennial (two year) operating and capital improvements budgets. The affected sections of the charter currently require or allow annual or fiscal year operating and capital budgets. In 2011, Council proposed and adopted the practice of a two-year budget, which was designed to provide for more advanced planning and fiscal stability for the departments, offices and agencies affected. The State of Ohio operates on a biennial budget cycle, and as the state's funding cycle affects the county's operations, consistency with state practice may be helpful. Council will continue to monitor the budget on at least an annual basis.
PROPOSED LANGUAGE (WITH DELETIONS CROSSED OUT AND ADDITIONS BOLDED)
<p>2.03</p> <p>(9) To submit to the Council prior to the beginning of each biennium fiscal year, a proposed operating budget for the upcoming biennium fiscal year, which shall contain at least the following:</p> <ul style="list-style-type: none"> (a) A statement of estimated revenues from all sources, including fund balances from the preceding biennium year; (b) A statement of proposed expenditures, shown by department, office, agency, authority, board and commission, and by activity, character and object; (c) A schedule of estimated revenues and proposed expenditures for each County department, office, agency, authority, board and commission, on a monthly basis; and

(d) A summary of the contents of the proposed operating budget.

(10) To submit to the Council prior to the beginning of each **biennium** ~~fiscal year~~ a capital improvements program, which shall contain at least the following:

- (a) The capital improvements scheduled for, or proposed to be undertaken within that **biennium** ~~fiscal year~~, along with the estimated cost of each improvement and the proposed or established method of financing;
- (b) A summary of the detailed contents of the program for the current **biennium** ~~fiscal year~~; and
- (c) The capital improvements projected for the five years next succeeding the current **biennium** ~~fiscal year~~.

(11) To submit a written message to the Council accompanying the proposed operating budget and capital improvements program explaining the budget both in fiscal terms and in terms of work to be done, outlining the proposed financial policies of the County for the current **biennium** ~~fiscal year~~ and describing the important features of the budget. The message shall include any proposals for major changes in financial policies and in expenditures, appropriations and revenues as compared with the preceding **biennium** ~~fiscal year~~ and the reasons for such proposals, and an itemization and explanation of each proposed capital improvement.

3.09

(5) To adopt and amend the County's annual tax budget, **biennial** operating budget and **biennial** capital improvements program and to make appropriations for the County.