

MINUTES  
CHARTER REVISION COMMISSION  
December 15, 2005

Chairman Arthur called the meeting to order at 8:00 am. The Clerk called the roll and announced that a quorum was present. Chairman Arthur announced that County Executive Joel Giambra would be present at 8:30 to make a presentation to the Commission.

Chairman Arthur announced that Mr. Conway Porter Jr. has been appointed by the County Executive to replace Rev. Chapman. In addition, the local law which extends the time for the Commission to complete and submit its report to the Legislature has been approved by the Legislature and signed by the County Executive.

Chairman Arthur announced that he would like to have regularly scheduled meetings with the committee chairs. The first meeting would be on December 22, 2005 immediately following the meeting of the full Commission. Beginning in January, 2006, the chairs will meet the first Thursday of each month following the full Commission meeting. The purpose of these meetings will be to discuss jurisdictional concerns and scheduling issues. Beginning with the meeting of January 12, 2006 each committee will give a report to the full Commission on the status of their activities. In the event that a committee had a report or needed to discuss an issue of importance before the full Commission, then special arrangements could be made to accommodate that need.

Chairman Arthur suggested that the Commission should hold three public hearings and that the last hearing should be June, 2006 after the Commission has completed its work. After the hearings, the Commission would take approximately a week to review the results of the hearings and incorporate the public's input into the Commission's final report if the Commission so desired. The Commission held a general discussion about the timing of certain events including the Legislature's vacation, the requirements for getting items on the ballot and how they might impact the Commission's work. Chairman Arthur requested that Commissioners Hamilton and Zabel work up a tentative schedule for the Commission's consideration.

Chairman Arthur introduced Joel Giambra, County Executive for Erie County who provided the Commission with a recommendation for a change in the form of government in Erie County. Mr. Giambra reported that at his request a group of private citizens reviewed the various forms of government employed in managing county and city governments around the United States and Canada. The group concluded and the County Executive agrees that the Erie County charter should be revised to include a County Manager form of government. Under his recommendation, the manager would be selected after a national search conducted by a committee of citizens appointed by the County Executive, the Chair of the Legislature, Minority Leader of the Legislature and the Comptroller. The manager would be credentialed by the ICMA and be confirmed by the Legislature. The manager would report to the County Executive and the Legislature

and serve as chief operating officer of the county. The manager would have the responsibility for hiring all the Commissioners and act as chief budget officer of the county. The County Executive would be able to remove the manager for cause and the term of the manager would not run concurrent with that of the Executive.

Chairman Arthur opened the floor for questions from the Commissioners to Mr. Giambra regarding this specific recommendation or any other charter concerns.

Commissioner Reese inquired whether the county needs both an elected executive and a manager and sought clarification of the role of the executive under the recommendation. Mr. Giambra responded that the research indicates that those governments who started with the strong manager with no elected leader have decided that a elected leader is preferred. Under his recommendation, the County Executive would serve as the CEO of the county and be responsible for setting the vision and setting the policy for implementing that vision in concert with the Legislature and the manager would serve as the COO of the county with the responsibility for implementing that policy and running the day to day operations of the County.

Commissioner DePasquale inquired about exactly how the recommendation would help the county's government be more efficient in terms of service and cost since it appears we would be adding positions and expense. Mr. Giambra responded that in 2008, Erie County will have a new County Executive (who will not be him) and the new County Executive will have a manger to run the operations of county government. The Manager would be responsible for the hiring of all Commissioners thus removing partisanship and politics from that selection process. Mr. Giambra noted that previously Erie County had two deputy county executives (one for policy and one for operations) but one was lost during the budget cuts, this concept restores that balance. Mr. Giambra also clarified that the committee selecting the manager would have seven members: four appointed by the County Executive and one each appointed by the Chair of the Legislature, the Minority Leader and the Comptroller. The goal here is to have an inclusive process from the very beginning of the process.

Commissioner Lillis inquired whether the impact of the recommendation is just to add another level of layer of government. Mr. Giambra responded that no other government have cut spending by 80 million dollars and he believes that Erie County when compared to other governments is providing service in an extremely cost effective manager and this recommendation will exactly help the county continue this trend.

Commissioner David Kelly inquired whether the charter should be revised to include a recall provision for the County Executive and whether the independently elected officials should be allowed to submit their budget requests directly to the Legislature. Mr. Giambra responded that he believes that recall is prohibited by the New York State Constitution and absent an amendment to the constitution a recall process would have no operative effect in Erie County. Mr. Giambra also suggested that it does not appear to be a need to change the process by which budgets are submitted by the independently elected officials, in his opinion the current system provides for necessary checks and

balances which protect the taxpayer. Mr. Giambra suggested that the Commission should review and consider whether Erie County should continue to have an elected County Clerk and an elected Comptroller. He noted that Erie County is one of the few counties which continue to do this and suggested that perhaps it is time to change and have these two offices filled by appointment rather than election.

Commissioner Hamilton commented that he believes that there is significant interest among Commissioners regarding the county manager form of government and stated that he was certain the Commission would fully study the issue. Commissioner Hamilton inquired whether Mr. Giambra had any recommendations on potential charter changes relating to the Legislature. Mr. Giambra responded that he believes the current size of the Legislature appears appropriate for a county the size of Erie. Mr. Giambra indicated a concern about the costs associated with the Legislature and suggested that a reduction of Legislators salaries might encourage the Legislature to be part-time and operate in a more efficient and cost effective manner.

Commissioner Gerald Kelly commented that he has an article from the Public Administration Review entitled "The Changing Structure of American Cities: A Study of the Diffusion of Innovation" which tracks the development of the manager model and he will share it with all Commissioners for their review. Commissioner Kelly inquired whether it might be a good idea to invite Mr. David Smith who is currently the County Manager of Maricopa County and formerly Deputy County Executive of Erie County here to share his unique perspective on the issue. Mr. Giambra responded that he thought that it might be a good idea to hear from Mr. Smith.

Commissioner Kruly inquired what would be the role of the other deputy county executive under this recommendation or could the position be eliminated from the charter completely. Mr. Giambra responded that current Deputy County Executive should perhaps have a title change to Chief of Staff with an appropriate reduction in salary under his proposal so that basically the position could and should be eliminated from the charter.

Commissioner Duquin commented that he was inclined to be supportive of the manager concept but inquired whether this model would relieve the Executive of the temptation to use one-shot revenues to avoid tax increases. Commissioner Duquin inquired whether the County Executive had considered the possibility of shifting all financial concerns to the Office of the Comptroller and leaving the management concerns with the County Executive thereby enhancing the checks and balances in place and reducing the possibility further fiscal crisis. Mr. Giambra clarified that he believes his fiscal policy decisions were not the cause of the 2004-05 budget crisis but rather that increasing cost of unfunded state mandates were the cause of the crisis. Mr. Giambra restated his opinion that the county should eliminate the office of the elected Comptroller and the debt management functions of the Comptroller transferred to the Executive's office. The independent audit functions of the Comptroller's office could be handled by either the County Manager or perhaps we could create an Office of Inspector General to do this job.

Commissioner Flaherty inquired whether the County Executive was aware of any other counties in New York State used the form of county manager government he was recommending to the Commission. Mr. Giambra responded that in general local governance and its structure has changed much and that in general we have too many layers of government in New York State. Mr. Giambra identified Niagara County as a nearby government which uses the County Manager form of government but he noted that the Chair of the Legislature serves as the elected head of Niagara County government. Mr. Giambra suggested that the Commission should examine counties nationally and evaluate their experiences with the county manager form of government.

Commissioner Rath inquired about whether the County Executive had any recommendations about the idea of creating an independent budget office and requiring an earlier submission and approval process for the county's budget. Mr. Giambra responded that if we eliminate the elected Comptroller, then an independent budget office might be appropriate and commented that he has no objection to an earlier start for the budget submission and approval.

Commissioner DePasquale inquired about who would be responsible for establishing the salary of the county manager and wondered the Legislature would have a role in the dismissal process. Mr. Giambra responded that the salary would be established by the budget process and negotiations after a candidate had been identified by the search committee. Mr. Giambra noted that his proposal recommends that the manager receive a five year contract and that he believed to get the best and the brightest the salary range would be between 150,000 to 200,000 dollars. He also noted that under his proposal the Legislature would have no role in the removal process.

Commissioner Hannah inquired whether the recommendation was revenue neutral or would it result in increased costs to taxpayers. Mr. Giambra responded that the cost associated with the recommended may result in increased costs to the taxpayers but the benefits from having a professional manager responsible for the day to day operations and the elimination of politics as usual in Erie County government will far outweigh that increased cost.

Commissioner Lillis expressed concern about the length of the proposed contract for the County Manager and inquired whether Mr. Giambra had a position on term limits for the Executive. Mr. Giambra responded that without a contract of at least five years, it would be difficult to get the best possible candidate for the job and he responded that he favored a limit of two terms for the Executive.

Commissioner Reese noted that several speakers at the December 1, 2005 public hearing suggested a return to the Board of Supervisors model for governing Erie County and that at least one suggested abolishing Erie County completely and he inquired whether the County Executive was concerned that because of the costs associated with the recommendation, taxpayers might be inclined to renew these type of calls for a different form of government. Mr. Giambra responded by pointing out that Erie County was a one

billion dollar business and that the county needs a professional manager to insure that it is run professional and efficiently.

Commissioner Zabel inquired whether the County Executive felt that it might be appropriate to create a chief financial officer position to manage the county's finances. Mr. Giambra responded that if the Comptroller's position was changed to an unelected position, the budget Director would be the CFO and have responsibility for debt management on behalf of the County.

Commissioner Smith inquired whether the County Executive had encountered any other area in the charter which had inhibited his ability to do an effective job as County Executive and whether he has any other recommendations for change to the charter. Mr. Giambra responded that he will be providing a complete list of recommended changes to the Commission in the very near future.

Chairman Arthur thanked the County Executive for his participation and assured him that the Commission looked forward to working with him in the future.

Commissioner Magavern announced that the Administration & Legislation Committee and the Form & Scope Committee will hold a joint meeting on December 16<sup>th</sup> to hear a presentation from Mr. Len Matarese. All Commissioners are invited to attend this meeting which will begin at 8:00 am. Commissioner Rath announced that the Form & Scope Committee will meet on Thursday, December 22<sup>nd</sup> and will hear from the County manager of Genesee County about his experiences. Commissioner Lillis suggested that the Commission arrange to hear from Mr. David Smith of Maricopa County on the subject and Chairman Arthur agreed to see if that was possible. Chairman Arthur announced that Commissioner Kruly has been selected to serve as a member of the Erie County Fiscal Stability Authority and will soon be leaving the Commission.

Chairman Arthur accepted a motion to adjourn from Commissioner Reese. Commissioner Kruly provided a second for the motion and the meeting was adjourned.