

MINUTES OF JOINT MEETING

Committee on Form and Scope of County Government Committee on Administration and Legislature

February 21, 2006

A joint meeting of the Charter Revision Commission's Committees on Administration and Legislature ("A&L") and on Form and Scope of County Government ("F&S") met at 10:30 a.m. on February 21, 2006 in a meeting room of the County Legislature. Present were Commission Chair, George K. Arthur, Committee members Ed Rath, Chair (F&S), Grant Hamilton (F&S), James L. Magavern, Chair (A&L), William Greiner (F&S), Gerald Kelly (F&S), Dave Comerford (A&L) and Chris Duquin (A&L). Also present by invitation were Brian White, Assistant County Attorney, Peter Reese, Commissioner, Jon Lines, Political Science Instructor, Buffalo State College, John Davis, Legislative Clerk, Hank Bromley, Commission Research Analyst, and Hon. Dan Kozub, Legislator, 1st District.

Mr. Magavern suggested that the first order of business should be to determine an agenda for the meeting. After discussion, and upon motion duly made, seconded and unanimously carried, it was resolved that the Committees should identify, review and respond to the issues and concerns raised in the discussion of the Committees' County Manager report by the full Commission at its meeting on February 16, 2006, so as to facilitate a resolution of those issues by the Commission.

Further discussion led to the identification of ten issues:

1. Describe the difference between the traditional unitary (e.g. town board, county board of supervisors) and separation of powers (e.g. strong mayor, county executive) forms of government.
2. Describe and explain the rationale for the trend toward hybrid forms of local government in larger urban areas. That is, answer the question why have both a county executive and a county manager.
3. Explain the relative roles of the county executive and the county manager and list their respective powers.
4. Demonstrate that the proposed hybrid form of government will be budget neutral or cost saving. Set forth staffing plan to be prepared by Mr. Duquin.
5. State the proposed qualifications for the position of county manager (MPA or equivalent training, 10 years public sector management experience, accreditation by LCMA).
6. Explain the proposed method of selection of the county manager (bi-partisan search committee with representation of the legislature; national search process).

7. Explain the procedure for annual review of the performance of the county manager by a board of review made up of the county executive and majority and minority leaders of the legislature.

8. Explain the method for termination of the county manager's appointment (expiration of the term of the appointing county executive, at the initiative of the county executive, subject in certain cases to a hearing and possible overruling by the county legislature as described below).

9. Means to insulate the county manager from partisan political influence, e.g. professional qualifications, search committee and process, bi-partisan performance review, employment contract with severance pay, necessity for statement of reasons for termination.

10. Respond to layers of government concern. See Mr. G. Kelly's comments.

Messrs. Greiner, Rath and Hamilton agreed to draft a report of the committees to the full commission, responding to those issues and concerns. They will send a first draft to the committee members on Monday, February 27, and will transmit the final draft to Mr. Davis on Tuesday, February 28.

The committees then turned to discussion of the question whether the approval of the County Legislature should be required for the termination of the County Manager by the County Executive. On the one hand it was argued: (1) that such a requirement would help to assure that the Manager will be appropriately independent of the Executive and appropriately responsive to the Legislature; and (2) that if legislative approval is required for appointment then logically it should be required for termination of the Manager. On the other hand it was argued: (1) that consistent with the direct accountability of the executive branch to the voters, and to assure against a worst case scenario of a county manager and county executive unable to work together, the manager should serve at the will of the executive; and (2) that, by way of analogy, the appointment of department heads is typically subject to legislative approval, termination is not. It was moved by Mr. Rath, and seconded by Mr. Comerford that approval of the Legislature should be required for termination of the Manager by the County Executive. In a preliminary vote, it appeared that the motion would carry by a 7-2 vote, with Messrs. Kelly and Magavern in the negative. After further discussion, however, it was moved by Mr. Hamilton and seconded by Prof. Greiner to amend the motion to provide that:

The County Executive may initiate the removal of the County Manager with or without cause by the following procedure:

The executive shall notify the county legislature of his intent to remove the county manager by submitting, in writing, his reasons for removal. Within 20 days of the filing of executive intent, the legislature, upon the written request of the manager, shall hold a legislative hearing and

take testimony. In the event there is no hearing, the executive's decision shall stand.

The motion to amend was carried by a 5-2 vote. As amended, the main motion was then carried by a unanimous vote.

The meeting was then adjourned.

There will be no meeting of the Committee on Administration and Legislative on Friday, February 24, 2006.

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