

**CITY OF MEMPHIS, SHELBY COUNTY, TENNESSEE**  
**MEMPHIS CHARTER COMMISSION MEETING**  
**June 19, 2008**

**CALL TO ORDER:** Chairman Myron Lowery called the meeting to order at 3:10 p.m. The following members of the Board, constituting a quorum, were present: Willie Brooks, George Brown Jr., Marsha Campbell, Sylvia Cox, Myron Lowery, Janis Fullilove and Sharon Webb via telephone.

Others in attendance: Mayor Willie Herenton; Keith McGee, City of Memphis Chief Administrative Officer, Elbert Jefferson Jr., City Attorney, Former Mayor Dick Hackett, Ricky E. Wilkins, The Law Offices of Ricky E. Wilkins, Zayid Saleem, City of Memphis Assistant City Attorney, Bridgett Handy-Clay, City of Memphis, Open Record Coordinator and Professor Stephen H. Wirls, Rhodes College among others.

**MINUTES:** Chairman Lowery noted that copies of the minutes from the Board's meeting of May 29, 2008 had been circulated prior to the meeting and asked if there were any changes or corrections. With no changes, the minutes were approved as presented.

**OPEN DISCUSSION:** Via telephone, Steve Lobertini with MTAS explained that the HRA's text work was sent to 2 of the attorneys involved in the Charter clean-up process. Chairman Lowery stated that the attorneys are expected to complete the task by July 30<sup>th</sup>, he noted via e-mail the Commissioners should expect a copy of the letter he received from Robert Spence.

Chairman Lowery called on Attorney Ricky Wilkins for his comments on the Tennessee Attorney General opinion. Mr. Wilkins stated that the AG stands by their opinion provided to the Charter Commission and that non-substantive, amendments ("clean-up") work does not require approval of the public.

**DISCUSSION AND VOTE ON CONTRACTING AUTHORITY**

Chairman Lowery welcomed Mayor Herenton, former Mayor Hackett, Professor Stephen H. Wirls, and City Council Chairman Scott McCormick to the meeting and noted the guests were present to discuss mayoral contracting authority. Once the discussion ceased, the Commissioners would reaffirm or rescind their previous vote to place a referendum on the ballot stating that contracts at or above a certain dollar amount must be approved by City Council.

**Mayor Herenton:**

Explained the current structure of City Government, noted his feelings concerning the City's Charter and then stated the current system works. Mayor Herenton stated in the area of City's contracts, checks and balances are in place to assure fairness. As far as accountability, the Mayor stated before he signs a contract, the signature of the Finance Director, the CAO and the City Attorney has to be present. After much discussion, the Mayor presented the Commissioners with several contracts to review and called their

attention to the chart of contract procedure. In closing, the Mayor reminded the Commissioners that the Charter outlines a strong Mayor form of government and encouraged them to reconsider their previous vote.

**Former Mayor Dick Hackett:**

Stated the Mayor can't know all the details of contracts then recapped a portion of his tenure in office and stated the Mayor has to trust the civil servants and the directors. Mayor Hackett briefly discussed the formation of the City's Charter and concurred with Mayor Herenton stating the Charter has worked since 1966. Next, he discussed timing in which contracts may need to be signed. Mayor Hackett stated involving the City Council in approving contracts may delay the process. In closing, Mr. Hackett stated he felt the problems concerning the Charter may have arisen because of demographic change.

**Professor Wirls:**

Distributed to the Commissioners his remarks concerning contracting authority and then called their attention to the line items listed below.

1. Contracts and the city budget
2. The mayor's contracting authority
3. An attempt to resolve the confusion

Before discussing the line items, Professor Wirls reiterated that the Mayor has no authority to spend money in excess of what is appropriated in the budget. Wirls noted the Charter is ambiguous on budget issues, and stated if City Council gets involved in the process of approving contracts, there is a possibility problems may occur. In closing, Professor Wirls called the Commissioners attention to page 2 of his documents. (See attachment).

Next, a discussion followed concerning the bid process. Mayor Hackett added that a bidder who feels apprehensive about a particular bid process can request a hearing.

**Scott McCormick:**

Agreed, that checks and balances are in place concerning the day to day operation as it relates to signing budgetary contracts. Chairman McCormick noted his concerns are with those contracts outside the scope of the budget that affect the community. He then noted as a courtesy and not a requirement, Administrations will present some contracts to the council. In closing, he stated some City contracting authority should require council involvement.

In addition to Professor Wirls comments, City Attorney Elbert Jefferson called the Commissioners attention to HRA 1852 and explained its relevance to the Mayor. Chairman Lowery asked how the current HRA 1852 relate to the referendum they previously passed concerning mayoral contracting authority. Mr. Jefferson referred to item 2 of Wirls report and stated he felt there's no discrepancy with the HRA amendment 1852 added to the current Charter and the old Charter language concerning mayor

contractual authority. Mr. Jefferson noted the existing HRA 1852 supersedes the language with in the old Charter.

After much discussion, each Commissioner expressed their feeling concerning mayor's contracting authority. Chairman Lowery asked for a motion to reconsider the vote. Commissioner Brown made a motion to reconsider the vote. The vote was seconded by Commissioner Fullilove.

The Chairman called for the vote and the voting was as follows:

Myron Lowery	Nay
Willie Brooks	Aye
George Brown	Aye
Marsha Campbell	Aye
Sylvia Cox	Aye
Janis Fullilove	Aye
Sharon Webb	Aye

With (6) Ayes and (1) Nay the motion passed

Next Commissioner Brown made a motion to rescind their previous motion, to place a referendum on the ballot stating the City of Memphis Mayor is named sole contracting authority and those contracts at or above a certain amount must be approved by City Council. The vote was seconded by Commissioner Campbell.

The Chairman called for the vote and the voting was as follows:

Myron Lowery	Nay
Willie Brooks	Aye
George Brown	Aye
Marsha Campbell	Aye
Sylvia Cox	Aye
Janis Fullilove	Aye
Sharon Webb	Aye

With (6) Ayes and (1) Nay the motion passed.

Next, Chairman Lowery asked Attorney Wilkinson to submit those referendum items that will be presented to the election commission. Commissioner Webb asked for an opinion from Attorneys Wilkins, Wade and Jefferson concerning a guarantee of city funding for Memphis City Schools. Commissioners Cox suggested they discuss in the near future issues related to city contracts outside the scope of the budget.

**OTHER BUSINESS:**

Chairman Lowery suggested they complete the list of citizen recommendations and noted attorney Allan Wade recommended they present to City Council the clean-up work. Chairman Lowery requested Mr. Wilkins provides a written opinion from the Attorney General concerning whether the clean-up work is subject to City Council approval. Mr. Jefferson stated he is of the opinion that the Charter Commission work must be vetted by Council. In Closing, Mr. Wilkins agreed to discuss the matter with Mr. Wade by the next meeting.

**ADJOURNMENT:** There being no further business, Chairman Lowery thanked everyone for attending and stated that the next meeting is on July 10, 2008 at 3:00 p.m. The meeting was adjourned at 4:50 p.m.

Respectfully Submitted,

Bridgett Handy-Clay