

**CITY OF MEMPHIS, SHELBY COUNTY, TENNESSEE
MEMPHIS CHARTER COMMISSION MEETING**

February 7, 2007

(Corrected Minutes - Commissioner Lowery omitted as present.)

Present: Commissioners: Willie Brooks, George Brown, Jr., Marsha Campbell, Sylvia Cox, Janis Fullilove, Sharon Webb, Myron Lowery

City of Memphis/Law Division: Jenni Falkof/Assistant City Attorney

Absent: Berneta Miles, Administrative Assistant to Sara Hall, City Attorney

Guests: Tom Marshall, Chair/Memphis City Council; Thomas Long/City Court Clerk;
City Court Judges: Jayne R. Chandler, Earnestine H Dorse, Teresa Jones,

The meeting was called to order by Commissioner George Brown, Jr. with prayer by Commissioner Sharon Webb.

The minutes for the January 24, 2006 meeting were approved with one correction. The date reserved for the Board of Education should read April 24, 2007 and not March 24, 2007.

The meeting was opened with a overview by Commissioner Brown regarding the past meetings of the Charter Commission. The members of the Charter Commission have met with several individuals who have made presentations to help the Commissioners better understand their duties/responsibilities as Charter Commissioners; and, there is an ongoing study for a better understanding by meeting with those individuals who use the Memphis City Charter on a daily basis. This was followed by an introduction of Tom Marshall/Chair, Memphis City Council.

Mr. Marshall thanked the Commissioners for the invitation to meet with them and commended them for taking the time to educate themselves on the task that is before them. One of his concerns is that of authority. He stated that often times the City Council spends too much time debating who has authority verses what type of authority. The City Council has formed an ad hoc committee to study the delineation of roles and responsibilities. The Committee is headed by Professor Steve Wirls.

Commissioner Fullilove asked Mr. Marshall for a response as to how government can be more efficient or elected officials more accountable to the people who elected them. Mr. Marshall responded that the City Council has become a custodian of trust since there is to real staff to verify information that is given to them. That is that individuals sometimes will tell the truth and at other times not give you all the information. It then becomes the duty of the Council Members to sort out the information and make a responsible decision. This can and does cause problems because they (Council) do not always have the correct information. He believes there needs to be a very strong liaison between Council and administration.

Commissioner Fullilove opened a discussion on pension. Mr. Marshall is of the opinion that the Council has taken a lot of flack regarding the City's pension plan. He stated that the plan as it now exists was not written by the City Council but by some other administrative person. He believes that the current plan is too lenient and that the Council at the time the plan was written may not have been aware of all its nuances and how many it would affect.

Commissioner Brooks asked what are the most effective roles of City Council? Commissioner Brown interjected and reminded Mr. Marshall to remember who we are and our role. Also, he asked him to be mindful that some questions may not be within the role/responsibility of the Charter Commission. He asked the Commissioners to remain focused on what we are about.

Mr. Marshall responded to Mr. Brooks question by stating that he believes that there is a place for a part-time city council and a full-time administration. Again, Mr. Marshall stated that there are concerns regarding authority - who/where. He feels that there is a strong allegiance between the City Attorney and the Mayor because the position is appointed by the Mayor; and, that this relationship can cause problems in interpretation of documents. He believes that the powers of the Mayor and powers of the Council are interfering with common sense policies. Those powers need to be clearly definitive.

Commission Wade asked Mr. Marshall if he had a proposed change in the Memphis Charter. Mr. Marshall would like for the part-time legislators to have the power to approve contracts. He used an example of the pension plan. Commissioner Brown stated that the question was how do you think the Charter ought to be changed? Mr. Marshall responded by stating that the Memphis Charter should be clear that Council Members should have the right to approve contracts just as the County Commission does currently.

Commissioner Fullilove asked if Mr. Marshall would support a full-time council position in light of the current litigation of elected officials in Memphis. Mr. Marshall stated that both have merit and that because of the current litigation and standards being set regarding ethics, it is becoming harder for a businessman to be elected. This creates a limited pool of individuals. The City Council (Ethics Committee) is currently working on documents to eliminate this narrowness. He thinks this will close the door to a lot of potential candidates.

Commissioner Brooks addressed the issue of disconnect between the branches of government and that you would like for the Charter Commission to look at the "power to approve contracts." Commissioner Brooks asked Mr. Marshall if there were any other items in the Charter that they should look at. Mr. Marshall said that he would submit a list to the Commission.

Commissioner Campbell asked why Mr. Marshall wanted the Council as part-time officials to have the privilege of approving contracts. Having this privilege/authority allows the Council's vision to be fully executed as opposed to someone else interpreting what they/another entity may have wanted.

Commissioner Brown asked Mr. Marshall is opinion about the current Charter. Mr. Marshall stated that it was inadequate. Mr. Marshall said that it was vague and that he had trouble making a connection with the original Charter and the Pop Charter. He does not think that the Pop Charter clearly explains the roles and responsibilities of the Council verses the Mayor. Commissioner Brown asked Mr. Marshall if he thought the U.S. Constitution does it with regard to the Executive and Legislative branch of government? Mr. Marshall stated that thought the U.S. Constitution did a better job of it. Mr. Marshall believes that the writers of the Charter knew what they wanted but did not write it clearly.

Commissioner Brown asked why the present council, along with his present concerns, were not the concerns of the Council after it was adopted. By that Commissioner Brown stated that Council was made of businessmen, retirees, and a cross-section of the community; and, it has not had the problems as raised by the current Council. Mr. Marshall believes that the issues have become more complex over time and it calls for a modernization of the Charter to help them better understand it.

Commissioner Brown asked if Mr. Marshall wanted the Charter limited as to limit the Council's creativity. Mr. Marshall stated that Commissioner Brown was correct in that the Council would not want it to limit their creativity. There needs to be a proper balance.

Commissioner Brown commented of how the Charter Commission has been fiscal with its duties but that in the future, they will need funds. Mr. Marshall advised them to devise a budget and present it to them, preferably within the next 45 days. It will be presented to the budget committee and be specific with your needs.

Commissioner Brown asked Mr. Marshall when the Commission could expect his list of proposed changes to the Charter. Mr. Marshall stated that he wanted a matrix that states specifically how a rule within the charter functions. He said that he will provide it by the first of May.

Commissioner Brown welcomed Thomas Long, City Court Clerk. Mr. Long began the discussion by explaining his role/responsibilities in his position. Mr. Long that he would like to see changes regarding the payment of tickets. The city is losing revenue because there is a statue of limitation of one year to collect fees. This one year statute of limitation means that if a ticket is not paid within one year, the City cannot collect payment. He would like to see additional time to collect the money or if the ticket is not paid within 45 days, it would then become a docket item and the City would have other ways to collect that fee.

A question was posed as to whether or not there was any new technology to help this problem. Mr. Long stated that Federal Court, State Court, and the City Attorney have issued opinion regarding wireless communication, e.g. moving violations must be signed by individual receiving the ticket. There is questioned as to whether the signature on the PDA would be acceptable.

Commissioner Brooks asked if there was a section within the Charter that referenced collections. Mr. Long said that the section in question is Section 2-12-2.

Commissioner Fullilove asked Mr. Long if he was stating that his office need 2 years to collect the fees. Mr. Long stated that they simply needed more than one year. He went before the Tennessee Legislature last to seek relief but none was granted. Commissioner Fullilove asked if it was a problem of staffing. Mr. Long stated that he had the staff. The problem is with the process. Commissioner Brown asked Mr. Long to submit his proposals in writing.

Commissioner Brown introduced Judges Jones, Chandler and Dorse. (Interference in the tape - inaudible.) It was suggested to create a night court or a satellite court. The judges would like for the judges to have the authority to make sure that their court is secure/safe. They would also like to see the matter of having more judges as the numbers have increased along with annexation.

Commissioner Brown asked if the courts had a backlog. Judge Dorse stated that it is not necessarily a backlog of cases. The courts have placed the citizens in a position of forcing them to plead guilty so that they will not have to return to court again or what could be a “not meritorious” claim but the court could not hear all of the not guilty so by efficiency, the court must do something to dispose of those cases. She suggested the use of a Judicial Judge.

Commissioner Brown asked if this was a Charter Commission issue. Judge Dorse stated that she believed that it was in regards to the limitations that it places on the courts such as time restraints and annexation. There was a discussion if this would be a charter change or by ordinance.

Commissioner Fullilove gave an update on the guests for Feb 28. They are Mayor Herenton and the head of MLGW.

Commissioner Brown stated that he had asked the City Attorney’s office to research the proposed procedures for the public forums. It was suggested that the Charter Commission used the same procedure/format as City Council. The procedure was provided to the Commissioners. Commissioner asked that the citizens be advised that any suggestions made/given at the forums would not be for the election in Oct 2007 but for 2008. Commissioner Brown agreed that he would make it known at the beginning of the meeting. Commissioner Brooks asked that the citizens be reminded that they can also submit their requests in writing.

Commissioner Brown opened a discussion on the procedures for the forum:

- Number of people- 15 to 25
- Call in to a certain number, provide their name, and they will be put on the agenda to speak - Ability to add walk-ins to the list
- Sign-in sheet
- 1-1/2 hour meeting; 2 mins to speak
- No comments from Commissioners
- Point of order
- Respond to citizens regarding issues presented
- Citizens to place comments in writing

- Copy of guidelines/rules for speaking (Sylvia to provide)

Meeting adjourned.