

**CITY OF MEMPHIS, SHELBY COUNTY, TENNESSEE
MEMPHIS CHARTER COMMISSION MEETING
December 13, 2006**

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

Steve Wirls, Professor/Rhodes College

City of Memphis/Law Division: Jenni Falkof/Assistant City Attorney, Berneta Miles, Administrative Assistant to Sara Hall, City Attorney

Guest(s): Rick Whitehead, Municipal Technical Advisory Service

The meeting was called to order by Commissioner George Brown, Jr. with prayer by Commissioner Willie Brooks.

The minutes for the November 8, 2006 meeting were approved as read.

Chairman Brown opened with congratulations to Commissioner Webb on being elected to the Memphis City School Board.

At the meeting on November 8, 2006, it was decided that Sara L. Hall, City Attorney and Alan Wade, City Council Attorney would speak to the Charter Commission. For various reasons, they would not be available; so Commissioner Brown contacted the consultants with Municipal Technical Advisory Service (MTAS) to provide the Commissioners with a session on December 13, 2006. Commissioner Brown suggested Sara Hall, City Attorney and Alan Wade, City Council Attorney make a presentation at the January 3, 2006 meeting. This meeting would be the first in a series of meetings with various groups/constituents who can provide information to the Commissioners as they begin the process of reviewing the Memphis City Charter.

Introduction of Melissa A. Ashburn, MTAS Legal Consultant

Ms. Ashburn began the session with a discussion on term limits as requested by the Charter Commission. She advised that term limits for city governments are legal and constitutional in Tennessee. However, there have been some questions/concerns regarding term limits for county governments which involves a specific TN state statute. This statute does not affect the city of Memphis. The courts have said that there is no court opinion on city term limits. However, there is an Attorney General opinion that says they are legal. Within the state of TN, the Attorney General is the state's official source for legal opinions. Until the courts provide a different opinion/decision, the Attorney General's opinion is the rule to follow. Within those states that have home-rule charters, the courts have upheld term limits and it is MTAS' opinion that term limits are legal in the state of TN. She provided a list of cities that

have term limits.

Ms. Ashburn provided one caution in the use of term limits. When term limits are passed, it applies prospectively and not retroactively. That means that when the amendment is made to the charter, an official has two additional terms of office before the term limit becomes effective. She also noted that term limits are generally based on personal opinions about the current government. It is best that the Charter Commission move with caution in addressing the issue of term limits.

Commissioner Fullilove asked when the Commission had discussed term limits. Chairman Brown answered by stating term limits would probably be one of the topics brought to the Commission's attention as they began meeting with others. He asked MTAS to provide information to the Commission so that the Commissioners would have knowledge about how term limits work/affect a government body. Commissioner Brown also stated that he would ask for research on ethics for government entities.

Ms. Ashburn provided a reply to Commissioner Lowery's request for a legal opinion on potential vacancies on the Charter Commission. Ms. Ashburn's opinion is that if there is a vacancy on the Commission, you cannot go forward because our state constitution states that you must have a seven (7) member commission to put an amended charter on the ballot. There is no state statute or direction within our constitution to address a vacancy but you should do what is reasonable. Ms. Ashburn's opinion believes that the courts would say it is reasonable for the Commission to follow the City of Memphis Charter for filling the vacancy. The City of Memphis Charter says that vacancies are filled by the remaining members making an appointment until the next election at which time the voters would elect someone.

There was a continuing discussion of various scenarios regarding a possible vacancy within the Commission and other term limit issues. MTAS advises much discretion for governments contemplating term limits, especially in small cities where they are limited in the number of individuals who would choose to be a public servant.

Ms. Ashburn provided a handout for "housekeeping" the city charter. She listed several articles where the language should be modified/revised. These changes are based on amendments or court decisions that affect specific language within an article.

Commissioner Brown asked MTAS to provide a more detail report on term limits and ethical matters as they relate to government employees, elected officials, etc.

Introduction of Commissioner Sylvia Cox

Commissioner Cox provided a timetable of future meeting dates for the Charter Commission. The timetable was for six months with various dates for meeting. The Commissioners began a discussion as to which dates would be good.

The Commissioners agreed to the following meeting plan:

- Two months for public forum:
 - March and April 2007
 - 3 weekdays and 1 Saturday for a total of 4 days
- Regular meeting dates are Feb 7 and 28, 2007
- The month of January is set for the City Charter Commission to meet with stakeholders. The following was approved:
 - Invite the Chairman of City Council
 - Extend an invitation to other City Council members
 - Extend an invitation to President of MLGW
 - Invite the Mayor
 - Extend an invitation to judicial entities and clerks

Commissioner Brown asked Jenni Falkof, Assistant City Attorney to coordinate the dates for the January and February meetings with the approved stakeholders.

The meeting was adjourned.