

**Memphis and Shelby County
Metropolitan Government Charter Commission**

**Minutes
3rd Meeting
December 3, 2009
4:00 p.m.**

Commission members present:

Julie Ellis, Chairperson
Lou Etta Burkins, Secretary/Treasurer
Damon Griffin
Mayor Richard Hodges
Billy Orgel
Chris Patterson
Carmen Sandoval
Rev. Ralph White
Rufus Washington
Richard Smith
Jim Strickland
J. W. Gibson

Commission members absent:

Linda Kerley
Andre Fowlkes, Vice Chairman
Dr. Randolph Meade Walker

Others present:

Christy Kinard, Assistant County Attorney
Kelly Rayne, Assistant to County Mayor
Jack Payne, Jr., Assistant City Attorney
Scott J. Sigman, Director, Memphis Chamber
Mary White, Executive Secretary to County Attorney

The third meeting of the Metropolitan Charter Commission was called to order at approximately 4:10 p.m. held in the Mayor's Large Conference Room, Suite 850, 160 North Main, Memphis, Tennessee 38103. It was determined that a quorum was present.

Chairperson Julie Ellis called the meeting to order. After roll call Chairperson Ellis asked each Commissioner present that after they receive the minutes of the foregoing meeting that they contact Kelly Rayne to confirm they will be attending the next scheduled meeting of the Commission so we can affirm a quorum will be present.

The next order of business to come before the Commission was the approval of the Minutes of the 2nd meeting of the Charter Commission held on November 17, 2009. After discussion an amendment was made and accepted without objection that the Minutes reflect that Commissioner Rufus Washington was present at the November 17, 2009 meeting and that the Rev. Ralph White

was absent. There being no other changes the Minutes were unanimously voted upon and approved by the Charter Commission

The next order of business to come before the Commission was future meeting dates and in an effort to get the dialogue started Chairperson Ellis suggested meeting dates of January 7 and 21, 2010 and February 4 and 18, 2010 at 4:00 p.m. Chairperson Ellis informed the Commission that they may have to escalate meeting dates to once a week in order to meet their deadline August 10, 2010. Discussion was had regarding the public having access to hearing the meetings of the commission over the internet/radio and what location places could facilitate this being accomplished. All commissioners felt it very important that the public have access to hearing the meetings. For purposes of the December 17th meeting it was decided to have the meeting take place in the Commission Conference Room on the 4th Floor of the Shelby County Administrative Building, 160 North Main. For purposes of the January meetings Ms. Kinard and Ms. Rayne were asked to look into whatever the City / County will have to do for all the Boards and Commissions in the future regarding meeting places and the access for the public being able to listen in on the meeting. Everyone was open to the meeting dates set for January and February. Also a quorum was established to be the majority or 8 members. Commissioner Strickland made a motion with no objection for the meeting dates set in January and February and seconded by Commissioner Washington. Motion approved.

Getting a timeline and a real commitment as to what the Commission has to achieve and when. was discussed. Ms. Kinard was asked to go over the timeline again: Filing of the proposed charter is August 10th and she recommended that when making decision about the time frame that they start with that date and work backwards. That as they work backwards from that date to keep in mind that prior to filing the proposed Charter they are required to submit the proposed charter to both legislative bodies for review. You will also have a time frame in which you will be doing your public education and possibly printing copies and distributing them and prior to this is the drafting phase and before that the subcommittees' meetings and commission meetings and all of these things need to be considered in terms of phases. All of this is an additional reminder of what Ms. Kinard told us the first meeting.

The meeting was then turned over to Commissioner Burkins to go over what she prepared for the Commission. Commissioner Burkins put together a draft proposal of how they are going to complete the tasks by August 10th. Broken down into different phases, from previous discussions, on things that the Commission would have to accomplish in those phases. First phase is the initiation phase/organizational phase (that's kind of like we are in now). The second phase, call the planning and development phase is what usually takes up the majority of time in any project which breaks down into different categories. Task forces or subcommittees are formed and report its findings back to the Commission and then we as a whole body would have to approve those findings. That then becomes part of the elements of the charter. The next phase called charter creation looking at elements we want in the charter i.e. drafting said charter. The last portion of planning and development would be the communication plan that being sharing the information with the public and any other organizations. Very high level project plan, needs to be put on paper. Commissioner Burkins suggested two things, 1) look at some of the tasks that Kelly and Christy came up with (these are tasks that can be added into the project plan and dates and times put around those) look at particular tasks I outlined and the ones outlined by Kelly and

Christy and then decide which one to keep as part of the project plan and the time associated with that. Secretary facilitate for the Commission where we are. To meet August deadline we need to know how we're going to do it. Track it on paper. Motion to have a Project Manager in conjunction with secretarial duties and have Commissioner Burkins take that role. Commissioner Gibson made said motion and Commissioner White seconded said motion. Motion approved.

Chairperson Ellis stated that the Commission will be spending a lot of time together and as far as she is concerned she's Julie to each of them and the public. Will be on a first name basis in meetings. The minutes will reflect Commissioner in front of their last name.

A presentation by Kelly Rayne was the next order of business to come before the Charter Commission regarding a brief overview of existing city and county structure. Two charts were given out one of the City and one of the County. Wanted Commissioners to have a base line understanding of how the two governments are currently structured. Underneath the City Mayor you have the Chief Executive Officer and they have 14 different divisions which contrast with the County, which has six divisions. The top right of the County chart will show the constitutional officers that was referenced last time but will have a special presentation on that from County Attorney Brian Kuhn at the next meeting. Judges come under state law they come under the County but you won't have a lot of control or change over judicial functions. The two charts are really just for informational purposes. School Boards do not come under the authority of either government while they are funded by county government primarily. The City approves the budget and the County does also but aside from that they are separate legal entities. These are just for guidance as we go forward.

Chairperson Ellis had question regarding consolidated functions currently. Are they reflected on these charts? Ms. Rayne indicated that they are not necessarily, for example, the Office of Planning and Development is a joint City/County agency that is a fully consolidated function. Health Department was at one point now the County oversees it. Engineering is mostly consolidated there are efforts to consolidate the Fire Department that are going very well. Can get report at a subsequent meeting about each specific area of consolidation that I think will be helpful. The Public Safety Commission was established last year jointly by the City Council and County Commission with the purpose of looking at consolidated law enforcement functions. They meet regularly, several reports they are working off of and they have a consultant to assist them and that's another model where they have representatives from both the Sheriff's Department and Police Department on them and both unions.

Discussion then took place regarding the school board. The school board was set up by charter which makes them their own kind of separate entity. They are different than all the other school districts in the State of Tennessee. We are going to have full presentation at the next meeting to address some of the questions about the schools. The two school systems will not be part of this process unless those two school boards wanted to be part of the process. The Commission has no authority over consolidating the two schools. School boards are separate entities and we have zero authority over them. Chairperson Ellis reminded the Commission that she had asked for a legal opinion as to our authority under the constitution of the State of Tennessee and the statutory metropolitan authorization so we know exactly what our boundaries are as a Charter

Commission as to what we can do and cannot do with respect to the two schools. Since Brian Kuhn could not be present at this meeting we are going to address that at the next meeting on the 17th. The concern we have is that we need to know what is the extent of our authority with respect to the schools, have it in writing so that it goes into our minutes and there is absolutely no misunderstanding as to what the Commission can and cannot do, should or should not do. This is a huge issue for our greater community.

Discussion came up regarding the Public Safety Commission, Millington and the Fire Department regarding services to the citizens. There was concern that they are getting ahead of the game because this was being done without representation from a lot of people that are affected and that's the bad picture of a true consolidation effort. They have the authority generally just because the statute provides that you can enter into interlocal agreements with other municipalities to provide services. It's really the general authority that not specific to the law enforcement. It's not a permanent solution to things. Need to look at how services would be improved. We need to know what the Fire Department is doing. Public Safety Commission has not moved very far along as far as implementing anything but their discussions have been very good. That will be helpful to us so we don't reinvent the wheel.

Commissioner Gibson asked a question for clarification that we have a division of administration and finance under Division of Corrections and we have administration and finance under the Division of Health what's the difference there? Ms. Rayne stated that so much federal funding comes through those operations significant and it does require a higher level of actually someone on site there on staff who deals specifically with the finance issues but not sure how that decision came into being but over the years it developed that they required their own administration and finance departments to advise them on specific issues. How many people work through the city and the county that the kind of information we definitely need to know so that we are dealing with other than just a chart. Why do they require their own, how is it specialized and a lot of this information is contained in the respective city and county budget books and we piece mill that together so we have started that process to put all that information that we think you will be interested in into one big master document but we do not have it to date. The division of corrections is under the jurisdiction of the Mayor and the Sheriff has over site for the jail. We essentially operate the correction center for the State of Tennessee (think of it as a motel) under contract. If you get sentenced you go out there and the state pays for sentenced prisoners across the state and we have to pay for them until the judge gets through with them. This was started back in Mayor Morris' term of office.

Moving to Item 6 which is our individual Commissioners on our benchmark cities and Commissioner Patterson started with Nashville. Not knowing exactly what it was we were looking for as an overview I included similar chart for what we received from Shelby and Memphis for the Metro Government in Nashville. It's a 40 member legislative body with 35 district representatives and five at large representatives. There is an urban council charged with establishing a tax rate for the urban services district and the general services district. There are suburban towns that still exist in Davidson County much like ideas out there for Shelby County with suburban towns still existing and taxing and moving along in a similar fashion so to speak. Keep in mind the suburban towns and how they have been impacted because it is not just the City of Memphis that has to pass this charter if it is to become effective but the outlying citizens

as well. There are some unique issues that come about when you have at large legislative council like 40 members with five at large and of those five the top three of the five vote getters make up the urban council and I understand there is a lot of disagreement about what is equitable taxation and representation on that legislative body. What services are considered urban as opposed to general. Bond payments from the city are tagged so to speak as urban services and only the taxes and a revenue generator from the urban services district go to the bond payments from what is the urban services district now formerly the City of Nashville and the same for the general services. I think the districts are done by the census. There are 35 single districts. Schools were included and there is a separate tax rate in the general services district. The number of employees for the Metro Government as compared to what we have now is significantly less. From the information I have now Memphis and Shelby County (including schools) combined in 2008 had almost 38,399 employees and Metro Davidson had 19,600 employees. Some of the suburban counties in Metro Davidson County are very concerned about tax in equality. They feel like they are paying for things they don't get benefit from. There is also a concern about services at the time of consolidation. Like if Millington is not providing a service at the time of consolidation (at least in Nashville) post consolidation they are not allowed to begin that service. An example, one of the counties attempted to start its own police force for additional peace keeping and they were told by the Metro Government attorneys that they couldn't do that because it was not in place at the time of consolidation. The legislative body is called the County Council.

Chairperson/Commissioner Ellis is next to discuss what information she has on Jacksonville. There are at least three charter revision commissions currently ongoing now in the United States and they are looking at the same issues we are of consolidated government on how to improve their own consolidated government. They have a good consolidated government and they are trying to improve their government even more. Duval County and Jacksonville consolidated in 1968. Their Charter was readopted in 1992 which reflects all revisions to date were permitted by home rule through Council Ordinance. There are five cities that were not consolidated. They were consolidated by land area but not by functional authority. All of their rights and obligations as a city and a municipal government remain. They became a service district after consolidation and they are looked upon as an urban service district. The Mayor appoints the nine departments, 37 divisions and administrators of Central Government Services. City Council approves all of his or her appointments. They have 19 council members, five are at-large. They have Circuit and County Judges. The services are run through the general services district and 5 urban service districts. These are mandatory services and they can add, be added to both by the city or either of the urban services district. They provide airport, agricultural, child care, courts, electricity, fire protection, health, hospitals, etc. Urban services provide water supply, sanitary sewers, street lighting, street cleaning and garbage and refuse collection. They have constitutional officers much like ours, the appraiser, sheriff, supervisor of elections, tax collector, clerk of courts, state attorney, circuit and county judges. Jacksonville was a mess when they consolidated. The Code of ethics was included and somehow in the eighties the city council dropped it and there is a huge description now in their revisions that it needs to go back in the Charter but they are (every elected official) required by ordinance to go through ethics training. The City of Jacksonville has over 800,000 residents. There are 14 geographic districts. Residency is required for an election and the Mayor also has to be a resident for over a year to run in Duval County. Term limits are throughout Jacksonville; it functions in their boards

whether you are paid or not there are term limits everywhere. Two consecutive four years terms and that was overwhelmingly approved by the public. A huge issue they are dealing with is the police and fire pensions. They are considering a pension reform because their pensions are about to be unfunded and causing great concern for the financial wellbeing of the city. Their schools are included, they have seven board members. Their Charter Revision Commission is included in their Charter and every 10 years following when the census comes out; they are actually in the process now with tabling their recommendations. Did not get into the costs which is something she is willing to do.

Next was Commissioner Orgel's presentation on Louisville. Louisville was one of the most recent large metropolitan areas to consolidate and did so in November of 2000 but it did not take effect until January of 2003. It was done in a single vote with 54% of the electorate vote. The legislative council/city council has 26 members based on population which actually changes based on the U. S. Census which is done every 10 years so they modify it that way. The Mayor is in charge of all administrative functions and appoints people as such. All services were consolidated just like Nashville and Jacksonville as well there is an urban services district which was the former boundaries of Louisville. An example is that there is a garbage pickup in the City of Louisville but in the county it is contracted out so they do pay a different tax rate. The population is 700,000. The commonwealth of Kentucky has occupational tax so the city consolidated government doesn't set that, it is set by the State. A lot of their services are paid for out of the occupational tax. The sheriff collects all the taxes. In 2003 were the first elections and everybody was elected; half were elected for two year terms and then half were elected for four year terms and then they staggered so that only half the council comes up for vote every two years so its not a fresh council of new people so you have the experience going forward. There is an Ethics Commission that reviews things and reviews the public officials. The sheriff and police department were merged that includes the MS (?) but you still have some suburban cities that have their own fire service. I didn't get into civil service but the pension was not problematic as it was in Jacksonville because the pension was done through the state beforehand. The schools are not a problem because they have always been separate and are funded through the property taxes. Economic development was primarily the reason for the merger. Lost Grizzlies to Memphis because County Judge and Mayor could not agree. Occupational tax was a major source of revenue. Its two tenths of one percent

Commissioner Burkins discussed Indianapolis next. They were consolidated on January 1, 1970, As far as the structure they have an executive branch, legislative branch and a judicial branch of government. The Executive Branch consists of a Mayor plus 5 departments and the Legislative Branch consists of a 29 member city/county council. The Judicial Branch consists of a Circuit Court, Superior Court, Municipal Court and a Small Claims Court. In terms of a list of services provided the way they lay it out was Fire Special Service District, Police Special Service District and Solid Waste Collection Special Service District and then there is some mumbo jumbo I call it under that particular district but the fourth and fifth were Sanitary District and the Waste Disposal District. In addition to the services and agencies they have six municipal corporations that operate independently if Unigov and that's their Capital Improvement Board, Health and Hospital Corporation, Indianapolis Airport Authority, the Indianapolis-Marion County Library, Indianapolis Public transportation Corporation and the Indianapolis-Marion County Building Authority. In terms of population from the 2000 census data, it was 860,454. Information was

very hard to get. Gathered as much information as possible. In terms of the districts, there is a 29 member City-County Council. Each member is elected for a four year term. Twenty-five members are elected by the voters in their districts and four at-large members are elected by the voters of the entire county. In terms of Public Safety the police and sheriff departments were consolidated on January 1, 2007. They were not a part of the original consolidation. The Fire Departments continue their operations with little change. The school districts remain independent as before. Our speaker is from that area so he can give us lots more details.

Chairperson Ellis introduces Scott J. Sigman, Director of Research and Marketing of the Greater Memphis Chamber and he is from Indianapolis and he comes willing to talk to us about consolidation and one of the things we need as a Commission is as much research on the impact of consolidation on economic development which is certainly critical to Memphis and Shelby County.

Scott Sigman of Greater Memphis Chamber has been in the Memphis area for five months now learning about Memphis with a background in Indianapolis in economic development. A Power Point presentation was then given by Mr. Sigman. Will go through a series of evaluations on county, city consolidation generally. There are 3,069 counties in the United States and 39 city county governments merged. Between 1921 and 1996 out of 132 consolidation attempts only 22 were successful which is a success rate of 16%. In Tennessee between 1958 and 2008 all by itself there were 18 consolidation votes over the last 50 years and only three successes, again 16%. Examples were given on successes and failed consolidation votes. Pittsburgh's consolidation was actually voted on and succeeded in 1928 and in 1929 it was approved but was struck down because of a printing error on the ballot and so it technically failed so Pittsburgh is taking another run at it here today as is Detroit. A charter is either adopted or rejected through referendum. Rejection leads to a 3 year moratorium on the issue which hasn't always been the case. Economic competitiveness is a part of commonly consolidation efforts when there is decision making in the region that's unified this work done by University of Pittsburgh Professor David Miller. The impetus behind most consolidation attempts is more expedient and responsive economic development. (Discussions between Commissioners and Mr. Sigman took place.) Talked about Memphis-Shelby County Pilot from request for proposal to authorizing letter from both City and County Mayors to confirm IDB approval. Procedures in our PILOT process are done by ordinance not by charter. Reason for concern is fewer serving more, poorer customer service.

In light of the hour, Chairperson Ellis asked the Commission if they would like to move the presentation of the Annexation Reserve Areas to the next meeting. All Commissioners present agreed to move the presentation to the next agenda on December 17th.

Discussion regarding task force committees was next on the agenda. Chairperson Ellis wanted to get two or three committees started to look at some functions. Transportation, utilities, Airport Authority, Port Commission, MATA, MLG&W, I would ask that Commissioner Smith take on this effort and think about constituting a task force to begin to look at these particular areas. Commissioner Smith agreed to take on the task. Chairperson Ellis will work on transportation with Commissioner Smith.

Another area is Health and Human Services are the Med, Environmental Health, and Medical Examiner and having a Public Health Administrator on our Commission, I would ask Commissioner Sandoval to take this task and think about operating for a charter, how does Nashville do it, how do benchmarks do it, are there issues that we can view obviously children in this community are extremely important.

The next Task Force would be Economic Development Community, Planning and Development and Commissioner Orgel was asked to take on this task and think about this with volunteers from the Commission. Commissioner Strickland was asked to work on this Task Force with Commissioner Orgel.

Commissioner Washington was asked to take the Task Force dealing with Public Safety regarding Fire, Homeland Security, the relationships with various cities and I think Commissioner Hodges would like to work with you on this.

The fifth Task Force to get started on is the Judicial/Legal functions. Commissioner Patterson was asked and agreed to take on this task. Commissioner Griffin was asked to work with Commissioner Patterson on this.

Concerning health and human services issues Commissioner White was asked to assist Commissioner Sandoval in this area. The Commissioners that are not here will be tagged to participate. Setting up meeting needs to follow the Open Meetings Law. Kelly Rayne was asked to contact each Commissioner to set up a schedule. For reporting back at the next meeting, just think about what you have and who you would want to talk to, what we need in the way of information, and guidance. Look at what are the services we have now and provide and are there redundant fees, duplications, should they be streamlined, is there a way in which we do it in an actual constitution for our county. These are things we have to look at.

Discussion between Commissioners took place regarding divisions such as the City Charter requires only five divisions the other eight have been created over the years. Need to look into these divisions and see if we can do it better than it is being done now. What services government should be providing.

When meeting you have to meet in public, you have to have a 48 hour notification to the public of where you are going to meet, you have to have counsel present and need to keep minutes. It was recommended that no two task forces/committees meet at the same time. Commissioners were asked to coordinate meetings, etc. through Kelly Rayne. Unless you are in a task force meeting that has had public notification you cannot communicate between each other regarding ideas but we can post it on our website. The sharing of information can be posted on the website.

Chairperson Ellis encouraged the public to come and ask questions. Jack Payne, Jr., counsel from the City of Memphis who works for Herman Morris, City Attorney, was introduced and he will be working with Christy Kinard, Assistant County Attorney.

Commissioner Washington asked if recruiting people from the outside of the body to serve on a Task Force Committee is acceptable. You can use whatever resources you can get whether it's from the governments or from the public. When it comes down to voting they would not be able to participate in those types of things but for information purposes you can use them.

Option of weekly meeting times was discussed. Will meet on the 17th. If this body agrees that we should meet every week starting in February that is going to be the will of this group. We are in the learning phase and we got to make sure we use all due diligence.

Motion to adjourn was made by Commissioner Chris Patterson and seconded by Commissioner Robert Smith. Motion received a unanimous vote in favor of adjournment. Chairperson Ellis declared the meeting adjourned.