

Recommendations of the

CHARTER REVIEW COMMITTEE

Final Report

December 18, 1995

CHARTER REVIEW COMMITTEE

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CHARTER REVIEW COMMITTEE
SUMMARY OF RECOMMENDATIONS
PART I

Mayor:

The Mayor should remain a regular member of Council.

The duties and powers of the Mayor currently listed in the Charter should continue with the following additional duties and powers to be formally stated in the Charter:

* The Mayor shall deliver annually a report on the state of the City with information and recommendations as shall in the Mayor's judgment be deemed necessary and expedient for the good of the City.

* The Mayor or the Mayor's designee shall represent the City in its relations with other municipalities, the state, the United States, and regional and interstate bodies.

* The Mayor shall appoint the Chairs of the Committees of City Council.

Council:

The operations of Council should be modified to include the following provision:

* The Administration shall be required to honor requests for action from Council only upon majority affirmative vote of Council.

Methods of Election:

* Mayor - The Mayor should be directly elected by a majority popular vote.

* Council - The present at-large system of election should continue.

Term Lengths:

* The length of terms should be changed from two to four years.

* Regardless of the method of selecting the Mayor, the term of office for both Mayor and Council should be four years.

* The four-year terms should run concurrently and should not be staggered.

Term Limits:

* Term limits should be eliminated.

* The issue of eliminating term limits should be presented to the voters for consideration at the March 1996 primary election.

* In the interim, current provisions dealing with term limits should be changed to correspond with the recommendation for extending the length of terms to four years. (Limit of two consecutive four-year terms with one intervening four-year term before re-establishing eligibility.)

Compensation:

The current method of establishing Council compensation should be changed to the following:

* The current Council shall by ordinance set the compensation for the next elected Council.

* The issue of changing the method of compensation should be presented to the voters for consideration at the March 1996 primary election.

Housekeeping Items:

* Certain obsolete provisions of the Charter should be removed. (See Appendix to Part I for specific items.)

* The Charter should contain gender neutral language.

CHARTER REVIEW COMMITTEE
SUMMARY OF RECOMMENDATIONS
PART II

Civil Service:

The Civil Service provisions in the Charter should be amended to include the following:

* Appointments and promotions in the classified service shall be made according to merit and fitness to be ascertained, as far as practicable, by competitive examinations whose form, content and administration shall be determined by the Civil Service Commission. Examinations may include, but shall not be limited to, responses orally or in writing, physical demonstrations of skill, evaluation of training and experience, response to videotapes, or any other means so long as they are valid and designed to test fairly the capacity of the persons examined to discharge the duties of the position sought.

Boards and Commissions:

* The Board of Park Commissioners, the Board of Health, and the Public Recreation Commission should remain independent as presently constituted in the Charter.

* The Planning Commission should play a greater role in long range planning and review of capital improvements matters. To that end, the Charter should include the following:

* The City Manager should remain a member of the Planning Commission.

* The Planning Department should be responsible to the Planning Commission.

* The Charter should require the development of a comprehensive master plan that must be updated at least every 20 years and reviewed at least every 10 years. It should also require that zoning decisions conform to the plan with due provision for necessary exceptions.

* There should be a requirement that any capital improvements expenditure that is related to or impacts on the responsibilities of the Planning Commission as outlined in Article VII of the Charter should be reviewed by the Planning Commission with appropriate recommendations to Council before Councilmanic action.

* The Charter should provide that any action of Council taken without referral to the Planning Commission should have no lawful effect where the Charter or ordinances require that a matter be referred to the Planning Commission for recommendations before Councilmanic action.

Miscellaneous:

* The Director of Public Utilities should be eliminated as a Charter mandated position. (Article IV, Section 7)

* The Charter mandate for the appointment of a Superintendent of Water Works by the City Manager should be eliminated. (Article IV, Section 9)

* The requirement for notice of special meetings should be changed from 12 hours to 24 hours notice in a newspaper of general circulation in the city and other media as determined by Council. (Article II, Section 5)

* The requirement of publication of ordinances should be changed to permit the use of other resources for information dissemination generally available to the public. Article II, Section 6)

CHARTER REVIEW COMMITTEE

FINAL REPORT

Introduction:

The Charter Review Committee was established in July 1994 by the chairs of the Hamilton County Democratic and Republican Parties and of the Charter Committee pursuant to a resolution of City Council. The Committee was charged with the task of reviewing the City Charter and of making such recommendations as might be deemed necessary to improve the conduct of government in Cincinnati. The Committee was asked to take a comprehensive and long-term perspective and a careful and deliberative approach in carrying out its mission. The Committee has made every effort to remain faithful to these directives and purposes.

The recommendations in the following report are presented in two parts. Part I covers issues related to the Mayor and Council. Part II covers issues related to Civil Service, Boards and Commissions, and miscellaneous matters. Part I was originally presented to the Law Committee and distributed to all members of Council on May 9, 1995. The Committee strongly believes that the recommendations contained therein remain valid and appropriate for Council consideration and action. Since it was the original intention of the Committee to submit a single report, Part I is being resubmitted with Part II, which is presented here for the first time. The two parts together represent the culmination of a comprehensive review of the City Charter to make it a more effective instrument of governance for the City of Cincinnati into the twenty-first century.

History of the Work of the Committee:

Since its inception, the Committee has met 31 times. In the course of its work, the Committee has consulted individuals and sources with a broad spectrum of expertise and opinion about local government generally and Cincinnati government in particular.

The Committee began in July 1994 by consulting with individuals who served on the 1980 Charter Review Commission. The Committee also sought input from former City Managers and the current City Manager as well as from current members of City Council. Additionally, the Committee consulted a substantial body of comparative data and expert opinion in the field of local government, including survey information about governmental arrangements in cities similar to Cincinnati, provided by Dr. Jane Anderson, who has served as consultant to the Committee.

In March 1995, the Committee solicited input from interested citizens through a series of four public meetings. In addition to the opportunity to offer public testimony, citizens attending the meetings were also invited to fill out a survey questionnaire. The perspectives which emerged from the

public meetings covered a wide range of opinion about the need for change and the type of change to consider. At one end was advice that cautioned against change. Views were expressed that whatever is not working in city government is a result of past tinkering with what had been an effective, complete system of local government with interdependent parts. At the other end was the opinion that the city needs a complete change in government, that whatever is not working in city government is a result of a broken system that cannot work well in today's environment. An important and recurring theme of public opinion from these meetings was the view that campaign finance reform, and not any particular structural reform, is the single most important local government issue that needs to be addressed and that the impact of any Charter reform will be limited unless current campaign financing realities are changed.

The Committee began by identifying certain "housekeeping" items - eliminating from the Charter language and references that are obsolete or no longer applicable. Many of these items were identified as far back as the 1980 Charter Review Commission. The Committee therefore determined that action on these issues would be most appropriate at this time. After consultation with the City Solicitor and her staff about certain continuing legal questions surrounding a few of these items, the Committee determined to move forward with a recommendation to take care of the remaining items through the Charter amendment process.

During the course of Committee deliberations, certain substantive issue areas became the focus of greater public attention and concern. At that point, the Committee determined to divide up its work into two parts, each dealing with related issues. The first set of issues for Committee deliberation and decision included the powers of the Mayor and Council, the method of electing the Mayor and Council, terms of office, term limits, and compensation. Reserved for later discussion and decision were the provisions for Civil Service and those dealing with Boards and Commissions, as well as any other outstanding matters in the Charter requiring review.

The Committee submitted its first set of recommendations to Council in May 1995 and thereafter turned its attention to the remaining issues. In that effort, the Committee reviewed all previous written and oral testimony touching on these areas and sought additional information from interested and knowledgeable parties.

The Committee heard from the City Manager, the Personnel Director for the City, two members of the Civil Service Commission, a Deputy City Solicitor, several representatives speaking on behalf of unions affected by these areas of the Charter, and the City Planning Director. In addition, the Committee provided opportunity for public input by holding an additional public meeting to allow interested individuals the opportunity to discuss these matters with the Committee.

The Committee was presented with information on the history and current operations of civil service in Cincinnati; a Civil Service Comparison Study involving twelve cities in Ohio and

around the country; relevant charter provisions in five major cities in Ohio; relevant civil service provisions in the Ohio Revised Code; and other materials appropriate to reaching decisions on the issues before the Committee. The Committee reviewed the following reports presenting relevant recommendations: the Internal Review Task Force Report of October 1994; the Police Review Panel Recommendations of August 1995; and the statements from the independent boards and commissions regarding their continuing independence.

As the Committee was deliberating over recommendations, the Committee was made aware of the passage of Ohio S.B. 99, which went into effect on October 25, 1995, and which makes major changes in state civil service law with corresponding impact on Cincinnati's civil service system because of existing Charter requirements. The Committee reviewed assessments of the impact of this law from the state's Legislative Service Commission and from the City Solicitor's office. These developments were factored into the Committee's recommendations.

It should also be noted that the work of the Committee for Part II was conducted with an official membership of 15, due to the resignation of Mr. Thomas Cody.

Summary and Conclusion:

These recommendations for improving city government come out of months of investigation, research, discussion and deliberation over difficult and often politically divisive issues. The Committee urges Council to give them careful consideration and deliberation and to take action on them to the fullest possible extent. The Committee also wishes to encourage Council to continue the important work it has begun in the area of campaign finance reform. To restate the conclusion of the report on the first set of recommendations, it remains the opinion of many Committee members and much of the public who took the time to offer us their thinking on the matter that without further reform in the area of campaign finance, structural and procedural change will make little difference.

Guidelines for Deliberation and Decision:

The Committee agreed that any formal recommendation to Council regarding Charter revision would require the support of a majority of the Committee's membership - 9 of the 16 members. All formal recommendations presented in this report reflect the support of at least 9 members of the Committee. The Committee also feels, however, that it is important to indicate to Council the sentiments of strong minority opinion where voiced on certain issues and the reasoning of Committee members on all sides of those issues where no consensus could be reached. These, too, are presented in this report for Council consideration. (Refers only to Part I.)

In deliberating and deciding on the issues, the Committee viewed the various proposals in relation to the way in which they would address the following concerns:

Representation of the diversity of the city.

Responsiveness to citizen concerns.

Accountability in the areas of both policy development and administration.

Leadership in addressing and solving city problems.

Clarification of responsibilities and cooperation between and among those charged with policy formulation and governance for the city.

Balancing politics and governance.

Continuity and stability of direction in government.

Simplicity for better citizen understanding.

Cost factors.

Capacity of the city government to address pressing social and economic concerns so as to enhance the quality of life and enable the city to maintain competitiveness in a regional, national and global context.

Preservation of honesty and integrity in city government.

CHARTER REVIEW COMMITTEE

RECOMMENDATIONS

PART I

Introduction:

The Charter Review Committee offers the following set of recommendations to improve the system of local government in Cincinnati through facilitating the job of City Manager as chief operating officer for the City, enhancing the effectiveness of Council as a policy making body, and strengthening the role of Mayor as leader of the community.

Duties and Powers of the Mayor:

The Committee achieved consensus on the general concept that the duties and powers of the Mayor need to be expanded in order to provide the possibility for more effective Mayoral leadership. However, there is some difference of opinion over the type of leadership that is needed - legislative or executive. Additionally, it should be noted that there is a minority of the Committee membership who would prefer that there be no change in duties and powers of the Mayor as currently stated in the Charter.

In considering specific recommendations for change, the Committee looked at a variety of options found in other council-manager cities as well as options found in mayor-council cities. The Committee, therefore, considered both legislative and executive powers.

The following decisions were reached with respect to the respective powers outlined below:

** Mayoral Membership on Council and Voting Authority:*

The Mayor should remain a regular member of Council with no special voting authority. (13 yes-2 no) The Mayor's position should not be outside of Council, nor should it be one in Council of non-voting presiding officer or of voting only to break a tie. The Mayor should not have any veto power, complete or limited. The position of Mayor as separate from Council and the presence of special voting authority, including a veto, exist even in some council-manager cities as a way of distinguishing and enhancing the Mayoral position in relation to Council. The Committee, however, chose to view these options as not appropriate Mayoral power for Cincinnati.

** Mayoral Presentation of Annual Report on the State of the City:* The Charter should include the formal requirement that the Mayor present an annual report on the state of the city with information and recommendations as shall in the Mayor's judgment be deemed necessary and expedient for the good of the city. (14 yes-1 no) Consistent with current practice, the incorporation of this activity into the Charter as a formal requirement reinforces the Mayoral leadership roles of spokesperson and advocate for the city.

* *Mayor as City Representative to Other Governmental Bodies:* The Mayor or the Mayor's designee should represent the city in its relations with other municipalities, the state, the United States, and regional and intergovernmental bodies. (14 yes-0 no) This provision additionally serves to reinforce Mayoral leadership in speaking and advocating for the city in a broader context.

* *Mayoral Power to Appoint Council Committee Chairs:* The Mayor should have the power to appoint the Chairs of Committees of Council. (10 yes-4 no) As with many cities facing increasing diversity of perspectives in dealing with difficult and complex policy issues, providing more effective and accountable leadership in Council has become a major governance issue. Consistent with the practice of mayors in many large council-manager cities, the power to appoint Council Committee Chairs serves to provide an effective tool for enhancing needed Mayoral leadership within Council. Some Committee members, however, expressed the opinion that this would be an inappropriate exercise of Mayoral power over Council, diminishing the power of Council and depriving Council of a needed opportunity and responsibility to organize themselves and to be held accountable for it. A few questioned the power of committees over the work of Council and so the relevance of controlling chairs or membership.

* *Mayoral Power to Appoint Council Committee Members:* The Mayor should not have the power to appoint the Members of Committees of Council. (3 yes-11 no) There was strong consensus by the Committee against granting the Mayor power over membership on Council committees.

* *Manager, Mayor, Council and Reporting.* Having considered the desirability of utilizing the Mayor's office as a conduit for communications between the City Manager and Council for facilitating the handling of routine city business, the Committee decided that such a procedure needs to evolve in practice and not be mandated through a Charter amendment. (12 yes-0 no) A formal Charter requirement could undermine an essential flexibility necessary to good communications within city government.

* *Mayoral Power to Hire and Fire the Manager:* There was strong consensus against exclusive Mayoral power in this area. (2 yes-13 no) There was, however, fairly strong support on the Committee for granting Mayoral authority to hire and fire the Manager with the advice and consent of Council. (8 yes-7 no) Those supportive of this power stressed the need for enhanced leadership and accountability. Those opposed stressed the degree to which this approaches the creation of an executive mayor and the likelihood of increasing Manager turnover. The Committee decided to make no recommendation in this area.

* *Mayoral Responsibility for Budget Preparation and Implementation:* A majority of the Committee vote opposed making this recommendation. (7 yes-8 no) However, opinion in this issue was too evenly divided for the Committee to be able to make a recommendation in this area. Here again the division revolved around the issue of the appropriateness of this responsibility for the Mayoral position.

Council:

The Committee considered only two areas of possible change in Council operations to improve local governance. The Committee achieved consensus in these areas as follows:

* *Council Requests for Action to the Administration:*
The Administration should be required to honor requests from Council for studies and reports only upon majority affirmative vote of Council. (10 yes-5 no) The current practice which enables one member of Council to initiate administrative action encourages inappropriate micro-managing of city government by individual members of Council. Too much time and effort gets expended on matters that never go anywhere because there is no support beyond that of the individual who initiated the matter. The Committee considered the possibility of recommending the requirement of more than one member of Council but less than a majority. The Committee decided in favor of a majority vote requirement to encourage cooperation among members of Council and to facilitate the role of Council as a policy-making body.

* *Size of Council Committees:* While the Committee decided to make no formal recommendation to Council for a change in the Charter in this regard, the Committee voted to recommend that Council consider incorporating into its rules of organization and procedure the requirement that membership on committees of Council be limited to a minority number of Council members. (14 yes-0 no) The current system seems to create duplicative Council meetings and vitiate the committee system and purpose. Many organizations function more effectively under a system that limits committee size in this manner. (Note: There was also a discussion of considering the addition of citizens as advisory members of Council committees. In the absence of a more thoroughgoing exploration of how this might be accomplished most successfully and in recognition of ultimate Council responsibility for such a decision, the Committee decided not to present this as a recommendation but as a suggestion for Council consideration.)

Methods of Election:

Mayor:

The Committee wrestled with this very difficult issue and was able to achieve consensus with respect to the following considerations:

* *Top Vote Getter Method:* The Committee unanimously agreed that the present top vote getter method should be replaced. This method results in an "accidental Mayor" rather than a clear popular choice for the position of Mayor. It promotes competition and division among Council members and decreases the possibility of the exercise of effective leadership by the Mayor or anyone else, as each member of Council seems to be engaged in a constant campaign against every other member of Council for the position of Mayor.

* *Direct Election:* The Mayor should be elected directly by a process of election that assures a Mayor chosen by a majority popular vote. (13 yes-1 no)

Initially, the Committee was divided between support for direct election and for council selection as preferred alternatives to the current method. In recognition of the importance of finding an alternative to the present system and after considerable deliberation over specific aspects of a direct election process, the Committee agreed to recommend direct election with a majority vote requirement. This method appears to be most consistent with the desires of the electorate to choose their leaders. A directly elected Mayor can provide a needed focal point for leadership by giving the Mayor a popular mandate by which to establish authority over Council and within the broader region for the articulation of a vision and policy direction. A plurality election would not provide the essential popular mandate as a basis for exercising leadership.

The Committee could not achieve consensus about any one of the several electoral process options by which to assure a majority Mayor. Committee support for a non-partisan process over a partisan one was substantial but not sufficient for an official recommendation. (8 yes-6 no) In the absence of the requisite support for a partisan primary option, the Committee focused on three remaining options: a single-election process with the Mayor chosen by majority preference vote (a variation on the single-transferable vote system); a possible two-stage election process incorporating an open field race in the general election and a subsequent run-off election if necessary to achieve a majority vote; a two-stage election process incorporating an open primary and a race between the two top candidates in the general election. The final vote resulted in 8 Committee members supporting the run-off-if-necessary option and 4 Committee members supporting the open primary option. The Committee offers these options to Council for consideration.

The Committee agreed that any option for direct election of the Mayor should be designed to assure that in any election cycle a candidate must choose between running for the position of Mayor or for one of the eight remaining Council positions.

* *Candidacy*: A candidate for the position of Mayor should be required to obtain double the number of signatures required on petitions for candidates for the other Council seats. (13 yes-0 no) The Committee viewed this recommendation as an appropriate way to emphasize the significance of the Mayoral position.

Council:

The Committee considered three basic methods of electing Council - the current at-large method, election by districts and proportional representation. Careful consideration was given to each alternative as was the issue of the appropriate number of Council members to elect.

* *At-Large Method*: The present at-large method of election should continue. (11 yes-4 no) An at-large system is clearly preferable to a district system because it encourages city-wide representation, a broader perspective and consensus building. It avoids localization of issues, costly periodic redistricting and the inevitable gerrymandering that goes with it. The current 9-X type at-large system has the advantage of greater simplicity over the proportional representation type of at-large system. While proportional representation has much to recommend it in terms of representativeness, there remain uncertainties about its potential to foster disunity and the costs that might be incurred by conversion to such a system.

* *District Method*: There is no support on the Committee for a district method.

* *Proportional Representation*: A minority of Committee members feel very strongly that it is the fairest method, guaranteeing majority rule and the best opportunity for all types of minority representation; also one that can be instituted at a reasonable cost.

* *Number of Council Members to be Elected*: In view of the present at-large method of electing Council and the possibility that the Mayor, while remaining a member of Council, might be directly elected in a separate race, the Committee considered the advisability in such a situation of increasing the number of Council members to be elected at-large in the field race to 10. This would create a 10-X system for electing Council and an 11-member Council (including the separately elected Mayor). This change might be seen as maintaining the system more in conformity with the Voting Rights Act. The Committee was evenly divided on the advisability of increasing Council size in the event of a separately elected Mayor. Accordingly, there is no recommendation from the Committee on this matter; however, it is an issue which Council should be aware was considered.

Term Lengths:

The Committee considered whether or not the length of terms should be extended and if so whether or not the terms should be staggered.

* *Four-Year Terms:* The Committee recommends that the length of terms should be changed from two to four years. Regardless of the method of electing the Mayor, the term of office for both Mayor and Council should be four years. (13-2) Whatever may be lost in the way of opportunity for more frequent accountability to the electorate is more than made up for by the opportunity for greater stability for decision making - time to focus on complicated issues of long range importance in the absence of a constant electioneering environment which prevails under the present two-year term requirement.

* *Staggered Terms:* The Committee unanimously opposes the staggering of terms. Attempting to provide a balance between stability and responsiveness, staggering means that elections will still happen every two years and so the almost constant electioneering atmosphere will continue even though it does not involve the entire Council at any given point in time. Concerns about the perception of disadvantageousness to minorities must also be considered here, even while available research does not confirm that perception. Staggered elections have been considered among those features of local elections systems treated as suspect under the Voting Rights Act.

Term Limits:

The Committee considered the following issues with respect to term limits:

* *Limits:* The Committee opposes the retention of term limits in the Charter. A substantial majority of the Committee (11) believe that the current term limit provision is an undemocratic denial of the right of voters to make choices about their representatives, preventing in many cases the election of the best and most experienced people.

* *Timing of Ballot Issue on Limits:* The Committee recommends that the issue of removing term limits be presented to the voters for consideration at the March 1996 primary election. Because this is such a controversial issue, it could be distracting and detract from other Charter reform issues put before the voters at an earlier time. Additionally, should the voters choose to directly elect the Mayor for four-year terms while retaining the Mayor as a member of Council, they may well wish to revisit the issue of term limits in a future election in view of the impact of term limits on eligibility to run for Mayor.

* *Correspondence with Four-Year Term Lengths:* Until such time as term limits might be removed, current provisions dealing with term limits need to be changed to correspond with any change

in term lengths. For four-year terms this should consist of a limit of two consecutive four-year terms with one intervening four-year term before re-establishing eligibility.

Compensation:

The Committee considered several methods of determining compensation and recommends the following with respect to compensation:

** Method of Determining Compensation:* The Committee recommends that the current Council should by ordinance set the compensation for the next elected Council. (10 yes-3 no) There is very little support for the current method of determining compensation (3 yes-12 no) or for setting a specific figure (1 yes-14 no). Determining compensation, including when or if compensation should be changed, is an appropriate responsibility of a sitting Council for which they should be held accountable, provided there is a safeguard to prevent them from setting their own compensation for the current term.

** Timing of Ballot Issue on Compensation:* The Committee recommends that the issue of the method of determining compensation be place on the ballot at the March 1996 primary election. (13 yes-2 no) This recommendation is made for the same reasons that the Committee believes postponement of the term limits issue to March 1996 is advisable.

Housekeeping Items:

** Obsolete Provisions:* Certain obsolete provisions of the Charter should be removed. The time for "cleaning up" the Charter by clearing out obsolete provisions is long overdue. In consultation with the City Solicitor's office, the Committee has determined which provisions need to be removed or altered in this regard. The Committee is requesting the City Solicitor's office to draft specific Charter amendments to deal with these items. A report should be forthcoming in the near future.**

** Gender Neutral Language:* The wording of the Charter should be changed to reflect gender neutral language. The Committee unanimously agreed that as an important matter of principle the language of our basic document of governance should be gender neutral.

** See attached Appendix for specific items.

Appendix to Part I

CHARTER REVIEW COMMITTEE

"HOUSEKEEPING" RECOMMENDATIONS

Article VII, Sections 12 and 13 (References to Board of Trustees of Sinking Fund and Board of Rapid Transit Commissioners) -
**Repeal - obsolete.*

Article VIII, Sections 1 and 2 (Dealing with home rule for taxation and budgeting) -
** Modify language to correct obsolete state code references.*

Article VIII, Sections 3, 3a and 3b (Dealing with imposition and allocation of property tax revenues for the University of Cincinnati) -
**Retain the current language but incorporate sunset language that would eliminate these provisions, effective after 1998 when the bonds referred to are retired.*

Article X, Sections 1, 2, and 3 (References relevant to the adoption of the original Charter) -
**Repeal - obsolete.*

Article XI (Dealing with fluoridation of water) -
**Repeal - obsolete.*

Gender Neutral Language -
**Add a paragraph at an appropriate place in the Charter specifying that all references in the Charter to a person or persons shall be deemed to mean masculine or feminine.*

CHARTER REVIEW COMMITTEE

RECOMMENDATIONS

PART II

Introduction:

The Charter Review Committee offers the following set of recommendations with respect to improving the operations of civil service, the Charter-mandated boards and commissions, and miscellaneous matters concerning administration and technology and communications.

Civil Service:

After reviewing a wide-ranging array of suggested changes going from sweeping reform to very specific and detailed adjustments, the Committee has determined to recommend the following revision in the Charter respecting civil service:

**Testing for Appointments and Promotions in the Classified Service: Appointments and promotions in the classified service shall be made according to merit and fitness to be ascertained, as far as practicable, by competitive examinations whose form, content and administration shall be determined by the Civil Service Commission. Examinations may include, but shall not be limited to, responses orally or in writing, physical demonstrations of skill, evaluation of training and experience, response to videotapes, or any other means so long as they are valid and designed to test fairly the capacity of the persons examined to discharge the duties of the position sought.*

(unanimous)**

The Charter Review Committee determined to confine its recommendations to this specific area in view of its assessment of the current situation which appears on the whole to permit a reasonably satisfactory balance between the need for flexibility in management corresponding to particular local conditions and the need for the protection provided by a civil service system not subject to political pressures.

The information and opinions provided to the Committee did not seem to warrant moving to the kind of sweeping reform in the system afforded by adopting home rule - either in the form of enacting a Charter amendment to permit Council to decide the civil service system by ordinance or developing a complete civil service system within the Charter. Specific modifications to the Charter to eliminate the applicability of state law in specific areas or to alter particular existing Charter provisions seemed to be the more appropriate route to achieving reform where it is most needed.

Of the many specific changes suggested, the matter of testing seemed to be the one area where there was strong consensus that the current system of strong or exclusive emphasis on written examinations is not working well and needs to be changed in the interests of greater flexibility and fairness. It may well be that the change recommended by the Committee is already provided for in the comprehensive changes in Civil Service law mandated by S.B. 99, which went into effect October 25, 1995. Indeed, this new law appears to address a number of

concerns to change existing civil service requirements that were presented to the Committee; for example, it eliminates of the "Rule of One" and the "Rule of Three" for initial hires. There is sufficient uncertainty at this point about the full implications of this law to conclude that the prudent path would be to wait and see how the new law will be interpreted before recommending additional changes.

With regard to other specific suggested changes that do not appear to be covered by the new law, the Committee was not persuaded that the system is sufficiently "broke" to need fixing. In the matter of appointments and transfers, for example, the Committee concluded that under current arrangements there exist means by which to accomplish flexibility to respond to local needs. The cooperative relationship between the City Manager and the Civil Service Commission in utilizing the exceptional appointment process and in handling requests for transfers and assignments appears to be working reasonably well in this regard.

The Committee was not presented with evidence that the current system has caused actual problems in the operation and delivery of services. In the absence of a more detailed comparative analysis with other cities that assesses their civil service systems relative to the quality of operation and delivery of services, it is difficult to determine that Cincinnati might be better off by changing the current system. On the contrary, in some instances the Committee was presented with evidence that within the context of the present system Cincinnati has achieved the highest rating for service delivery (e.g., the Fire Division). The Committee feels that the City would be well advised to undertake a detailed qualitative assessment by outside evaluators in other service areas. The Committee understands that such an assessment is being considered for the Police Division and recommends that such an undertaking go forward. Rather than presenting a response to specific problems, the suggested Charter reform changes permitting more flexibility appear to represent a philosophy of management which is certainly legitimate, but one which the Committee was not persuaded is so urgently needed for Cincinnati as to justify risking undermining the protection provided by civil service.

Having heard testimony from numerous sources, the Committee is aware that progress in specific areas has been occurring through negotiations and cooperative efforts among the various parties - the City Manager, the Personnel Department, the Civil Service Commission, the unions. Perhaps the most important action to be taken at this point would be for Council to exercise leadership in encouraging the continuation of such cooperation.

Aside from the above-mentioned considerations, the Committee would also like to offer a final word of caution about the appropriateness of major changes in civil service at this point in time. Issues of changing form and procedures in city government are currently very much in the forefront of community debate. Until there is more clarity as to where all this might lead, it would be more prudent to avoid making major changes in civil service in view of the important connections between the civil service system and the form of government.

Boards and Commissions:

The Committee considered several important issues regarding the status and effectiveness of the various boards and commissions mentioned in the Charter. With respect to these issues, the Committee recommends the following:

** Board of Park Commissioners, Board of Health, Public Recreation Commission:* The Board of Park Commissioners, the Board of Health, and the Public Recreation Commission should remain independent. (unanimous)**

The Committee understands that the independence of these boards is not the norm in other cities and reflects particular historical circumstances in Cincinnati. All three existed prior to the creation of the City Charter. The Committee believes that, with minor qualifications, they have served the City very well within the framework of this independent status. Indeed, some of their effectiveness seems to be directly related to their independent status. This appears to be especially true for the Park Board with its endowment and ability to raise funds in addition to the City allocation. The Committee questions how changing the status of these boards would improve their effectiveness in assuring the delivery of quality services in their respective areas.

Outside of Charter change, the Committee feels that the City and the County would be well advised to seek ways to engage in closer collaboration in the areas of parks, health and recreation. The Committee also wishes to emphasize the importance of the role of the Recreation Commission in our urban setting.

** Planning Commission:*

The City Manager should remain a member of the Planning Commission. (unanimous)**

In view of the current arrangement in which the Planning Director and Department report to the City Manager, thereby providing ample opportunity for input by the City Manager to the work of the Commission, the current City Manager has recommended that the City Manager position on the Commission be replaced by an additional elector position. The Committee believes, however, that the presence of the City Manager on the Commission continues to provide a valuable function under the present reporting arrangement. It offers a source of information and prestige to the Commission that is not available in the absence of the City Manager on this body. The presence of the City Manager becomes essential should the responsibility for the Planning Department revert back to the Planning Commission, as the Committee recommends.

The Planning Department should be responsible to the Planning Commission. (1 no)

The Committee believes there is a strong need for the Planning Commission to assume a larger role in comprehensive long term planning, in keeping with the tradition that once put Cincinnati in the leadership of forward-looking, dynamic cities in the nation. The current arrangement in which the Planning Department is not directly responsible to the Planning Commission has worked against the opportunity for greater focus on long range planning.

The Charter should require the development of a comprehensive master plan that must be updated at least every 20 years and reviewed at least every 10 years. It should also require that zoning decisions conform to the master plan with due provision for necessary exceptions. (unanimous)**

In 1925, Cincinnati was the first city in the United States to have a comprehensive master plan. Cincinnati leads the way no longer. The last comprehensive master plan was developed in 1948. We are long overdue for the development of a master plan that will take us into the twenty-first century. The plan should be periodically reviewed to assure that it remains up to date. Zoning and development decisions made in the absence of reference to a master plan result too frequently in bad decisions with long term detrimental results.

There should be a requirement that any capital improvements expenditure that is related to or impacts on the responsibilities on the Planning Commission as outlined in Article VII of the Charter should be reviewed by the Planning Commission with appropriate recommendations to Council before Councilmanic action. (unanimous)**

The current involvement of the Planning Commission in capital improvements matters is superficial at best. The role of the Commission in approving capital improvements budgets has been diminishing. Meaningful involvement in capital improvements matters is an essential function of the Planning Commission.

The Charter should provide that any action of Council taken without referral to the Planning Commission should have no lawful effect where the Charter or ordinances require that a matter be referred to the Planning Commission for recommendations before Councilmanic action. (unanimous)**

The intent of this recommendation is to respond to a recent decision by the Court of Appeals for the First Appellate District (January 1995) that interpreted current Charter provisions to permit City Council to ignore Charter mandates to refer a matter to the Planning Commission if Council takes an action by a two-thirds majority vote. That is the vote necessary to overrule any decision the Planning Commission might have made on the matter. The Committee believes this decision to be contrary to the basic purpose of a planning commission which is to assure that Council will not make decisions without taking into account the opinions of a citizen-based commission which have been reached with the advice of professional planners. The inclusion of the recommended language in the Charter should restore the intended function of the Planning Commission in this regard.

Miscellaneous:

The following recommendations are based on a set of recommendations dealing with administrative organization, technology and communication, and finance and budget that were presented to the Charter Review Committee by City Manager John Shirey. The recommendations selected by the Charter Review Committee for submission to Council appear to be reasonable changes that respond to current realities and future needs. The rationale for the changes reflect the explanations presented by Mr. Shirey to the Committee.

** Administrative Matters:*

The Director of Public Utilities should be eliminated as a Charter mandated position. (unanimous)**

The Charter generally does not specify City officers. Such positions, departments and their functions are best decided through the Administrative Code. Additionally, many of the functions assigned to this position are not operated by the City and the administration of the major city-owned public utilities is specifically exempt from this position. The remaining functions can be dealt with through the Administrative Code.

The Charter mandate for the appointment of a Superintendent of Water Works by the City Manager should be eliminated. (unanimous)**

Again, there appears to be no compelling reason why this position should have special Charter status since there are no duties conferred by the Charter that cannot be dealt with through the Administrative Code.

** Technology and Communication:*

The requirement for notice of special meetings should be changed from 12 hours to 24 hours notice in a newspaper of general circulation in the city and other media as determined by Council. (unanimous)**

The requirement of 24 hours notice in the media conforms to state law requirements for special meetings other than emergency meetings and reflects a more reasonable time frame to assure publication of the complete notice. Notice of a special meeting should be provided in more than a general circulation newspaper to provide for speedier and more direct communication to a larger segment of the public.

The requirement of publication of ordinances should be changed to permit the use of other resources of information dissemination generally available to the public. (unanimous)**

While newspapers are at times the best means to convey certain information, they are not always the best and most cost effective. Other resources for information dissemination should also be an option.

**Refers to those present and voting.