

# County Council of Cuyahoga County, Ohio

## Resolution No. R2013-0138

Sponsored by: **Council President Connally on behalf of Charter Review Commission**

**A Resolution** providing for the submission to the electors of the County of Cuyahoga an amendment adding Article XIV, Section 14.01 of the Charter of Cuyahoga County establishing the Agency of Inspector General in the Charter; and declaring the necessity that this Resolution become immediately effective.

WHEREAS, Article XII, Section 12.09 of the Charter of Cuyahoga County provides that "The Charter Review Commission may propose to the Council such amendments to this Charter as it shall deem appropriate" and "Council shall vote within sixty days after the proposals are received on whether or not to submit the proposals to the electors at the next general election held more than sixty days after its vote on the proposed amendments"; and

WHEREAS, Article XII, Section 12.10 of the Charter of Cuyahoga County provides that "Proposed amendments to this Charter shall be submitted to the electors of the County in the manner provided for by the Ohio Constitution"; and

WHEREAS, Article X, Section 4 of the Ohio Constitution provides that the "legislative authority" "of any county may by a two-thirds vote of its members" submit by resolution charter amendments to the electors of the county "to be voted upon at the first general election occurring not sooner than sixty days after their submission"; and

WHEREAS, this Council believes it is in the best interest of the citizens of the County of Cuyahoga to amend the County Charter to insure the continuation of the Inspector General's Office by establishing the Agency of the Inspector General in the Charter.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:**

**SECTION 1.** Pursuant to Article X, Section 4 of the Ohio Constitution and Article XII, Sections 12.09 and 12.10 of the Charter of the County of Cuyahoga, this Council hereby authorizes and directs that there shall be submitted to a vote of qualified electors of the County of Cuyahoga, at the general election to be held on Tuesday, the 5<sup>th</sup> day of November, 2013, the question of adding Article XIV, Section 14.01 of the Charter of the County of Cuyahoga, the respective text to be as set forth herein, with boldfaced text being added and crossed out text being deleted as follows:

**SECTION 14.01 AGENCY OF INSPECTOR GENERAL.**

The County's Agency of Inspector General shall serve as the County's chief ethics officer and shall have all powers and duties to investigate fraud, corruption, waste, abuse, misfeasance, malfeasance, and nonfeasance, including the power and duties to investigate all county contracts, without interruption from any other public official or employee. The Inspector General shall have the independent power to issue subpoenas and to conduct sworn examinations and depositions as necessary for the Agency to conduct its functions. The Inspector General shall appoint a Deputy Inspector General who shall serve at the pleasure of the Inspector General.

**(1) Initial Term, Appointment, Term, and Removal of the Inspector General.**

(a) The initial term of the incumbent Inspector General shall continue until June 30, 2016, and the incumbent Inspector General shall have the right to continue to serve as the County's first Inspector General without any further action needed until June 30, 2016. Effective July 1, 2016, the Inspector General shall be appointed by the County Executive, subject to confirmation by County Council. The term of the Inspector General shall be five years commencing on July 1, 2016, with subsequent terms commencing every five years on the first day of July.

(b) In the case of a vacancy in the position of Inspector General, the Executive shall appoint a successor Inspector General, subject to confirmation of Council, to fill the remaining term of the Inspector General. Notwithstanding any other provision in the Charter to the contrary, the Deputy Inspector General shall serve as the Acting Inspector General during any vacancy, and the Executive may not appoint an interim Inspector General.

(c) The Inspector General may be removed from office for inefficiency, neglect of duty, or malfeasance in office after notice and public hearing before the Council, provided that at least two-thirds of the Council and the County Executive concur. Either the County Executive or the Council may initiate the process to remove the Inspector General.

**(2) Contracting with other Entities.** The County shall have the right to contract on behalf of the Agency of Inspector General to have the Agency of Inspector General provide similar services to any other governmental funded entities, county hospitals, agencies, authorities, municipalities, districts, or political subdivisions.

**(3) Confidential Investigatory Files.** Without regard to how such documents are received by the Agency, all documents prepared or received by the Agency of the Inspector General, including, but not limited to, all complaints,

tips, hotline messages, and any other filings and submittals received by the Agency shall be considered part of the Inspector General confidential investigatory files. Such records shall be exempt from disclosure until the matter is concluded and the investigation is closed by the Inspector General and any other investigatory agencies with jurisdiction over the matter. In the event such records are publicly disclosed, the Inspector General shall take measures to protect the privacy of complainants and witnesses to the extent permitted by law.

**(4) Agency of Inspector General's Budget, Facilities, Furniture, Equipment, and Software.**

(a) The County Council shall appropriate funds for the Agency of Inspector General sufficient for the Agency to exercise its powers and duties as established herein. The budget of the Agency of Inspector General shall be based on a fixed formula established by county ordinance in order to ensure that the Agency can function without political interference. If the County Council fails to appropriate the necessary funds for the Agency to carry out its functions as provided herein, the Agency shall have the right to institute legal action in court to compel the County to appropriate the necessary funds for its operations.

(b) The County shall provide the Agency of Inspector General with appropriately located office space and sufficient physical facilities, including office furniture, equipment, and software commensurate with other County departments of similar size and needs.

**(5) Limitations on the Agency of Inspector General.**

(a) The Inspector General shall not interfere with any ongoing criminal, administrative, civil, or such other investigation or prosecution in the performance of his/her duties.

(b) The Inspector General shall manage the Agency and conduct all investigations in a manner that protects the constitutional and civil rights of any person who is the subject of an investigation as well as the constitutional and civil rights of any potential witnesses.

**SECTION 2.** Pursuant to Article X, Section 4 of the Ohio Constitution, and Article XII, Sections 12.09 and 12.10 of the Charter of the County of Cuyahoga, this Council hereby directs that the proposed amendment creating Article XIV, Section 14.01 shall be submitted to the Board of Elections of Cuyahoga County, and the question to be submitted on the ballot shall be as follows:

**PROPOSED AMENDMENT TO COUNTY CHARTER**

**Shall Article XIV, Section 14.01 Agency of Inspector General of the Charter of the County of Cuyahoga be added to establish the Agency of Inspector**

**General in the Charter and provide for its funding, structure, operations, and authority?**

**SECTION 3.** If the foregoing proposal receives the affirmative vote of a majority of the electors voting thereon, the existing provisions of Article XIV, Section 14.01 which are inconsistent herewith, shall be and the same are hereby repealed effective as of the date on which such amendment becomes effective.

**SECTION 4.** The Clerk of this Council is directed to certify a copy of this Resolution to the Board of Elections no earlier than one hundred twenty (120) days and not later than sixty (60) days before the November 5, 2013 election. The Clerk is further directed to take all other actions required by law relative to the submission of said amendment for said election, including, if required by law, mailing or otherwise distributing a copy of said proposed amendment to each of the electors of the County as far as may be reasonably possible prior to thirty (30) days before said election.

**SECTION 5.** It is necessary that this Resolution become immediately effective to enable the Clerk of Council to perform her duties in time for the amendment to be properly placed on the November 5, 2013 election. Provided that this Resolution receives the affirmative vote of eight (8) members of Council, it shall become immediately effective.

**SECTION 6.** It is found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of the Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Schron, seconded by Mr. Miller, the foregoing Resolution was not adopted.

Yeas: Greenspan

Nays: Germana, Schron, Conwell, Jones, Rogers, Simon, Miller, Brady and Connally

  
County Council President

8-13-13  
Date

  
Clerk of Council

8/13/2013  
Date

First Reading/Referred to Committee: July 9, 2013  
Committee(s) Assigned: Committee of the Whole

Committee Report/Second Reading: July 23, 2013

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