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**BI-PARTISAN PREPARATORY COMMISSION TO  
ASSEMBLE INFORMATION ON  
CONSTITUTIONAL QUESTIONS IN  
PREPARATION FOR A VOTE BY THE QUALIFIED  
ELECTORS ON THE HOLDING OF A  
CONSTITUTIONAL CONVENTION IN  
ACCORDANCE WITH ARTICLE XIV SECTION 2  
OF THE RHODE ISLAND CONSTITUTION**

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August 7, 2014 – Meeting Notes

**I. Call Meeting to Order:**

The meeting was called to order by Co-Chairman Keable. A quorum of members was noted as present. Co-Chairman Keable then stated that the Commission's goal of scheduling commission meetings in various towns would not be possible due to the time constraints involved in producing a final report to the Secretary of State by August 24, 2014 for inclusion in the voter handbook.

**II. Public Testimony:** The commission heard from the following:

(1) Mayor Alan Fung – Mayor Fung testified in favor of a Constitutional Convention and offered six (6) issues that he recommended should be included in the Commission's report as topics to be considered at a Constitutional Convention.

Those topics included: (1) restoring the jurisdiction of the Ethics Commission over legislators, (2) establishing term limits for members of the General Assembly, (3) creating a line-item veto for the governor for specific budgetary matters, (4) creating a voter initiative process, (5) ensuring that Rhode Island Magistrates are subject to the same selection process as Judges via the Judicial Nominating Commission, and (6) that

the Judicial Nominating Commission be amended to allow for more public members and a ban on lobbyists.

(2) Samuel Zurier, Esq., - Mr. Zurier testified that the commission should recommend for inclusion as a topic for a Constitutional Convention that the Rhode Island Constitution be amended to include the right to an education as a fundamental right. Mr. Zurier pointed to a recent decision of the Rhode Island Supreme Court that held that there exists no judicially recognized right to an education.

He suggested that Rhode Island trails behind Massachusetts in quality of public education because Massachusetts passed an Education Reform Act in 1993, while Rhode Island Courts have reversed legislative reform efforts in the area of education. In response to a question from Rep. Giarrusso, Mr. Zurier offered his view that passing educational reform in Rhode Island remains a matter of political will.

(3) H. Phillip West – Mr. West testified initially as to a suggested method of how the election of delegates should be conducted. Specifically, he suggested that “instant run-off voting” was appropriate and that there would be voting machines available soon that would allow for this method of voting.

Mr. West further testified as to three issues that the commission should recommend for inclusion as topics for a Constitutional Convention. Those topics include: (1) restoring the jurisdiction of the Ethics Commission over legislators, (2) ensuring that Rhode Island Magistrates are subject to the same selection process as Judges via the Judicial Nominating Commission, and (3) creating an Independent Redistricting Commission.

In response to a question by Rep. Ruggiero, Mr. West acknowledged that once elected, delegates to a Constitutional Convention set their own agenda with little accountability to the public. Mr. West suggested, however, the ultimate decisions of a Convention would be determined by the electorate. He referred to a Constitutional Convention as a “safety valve” and encouraged the commission to use it.

(4) Beverly Clay, Advisory Committee member of RhodeIslandConCon.info – Ms. Clay testified consistent with her written testimony. That testimony focused mostly on her view of the various failures of the commission regarding the previous hearing on July 31, 2014. Those areas included what she viewed as insufficient public notice and an unnecessary goal to include the final report of the commission in the voter handbook.

(5) Steven Brown, RI ACLU – Mr. Brown testified that the Commission should invite testimony on the issue of whether there should be a Constitutional Convention and encouraged testimony in this regard at upcoming hearings.

He testified that the ACLU is opposed to a Constitutional Convention. He then provided a list of potential constitutional amendments that could come out of a Constitutional Convention, none of which the ACLU supports. That list, which was drawn from recent voter referenda items across the country in recent years, included constitutional amendments limiting the rights of the immigrant population, the right of gay and lesbian couples to marry, the rights of labor, the right to affordable health care, the rights of racial minorities and the reproductive rights of women.

Mr. Brown noted that Rhode Island was one of 12 or 13 states with similar legislation regarding the holding of a Constitutional Convention. He further noted that the 1986 Constitutional Convention in Rhode Island was the last one of its kind anywhere

in the United States. He noted as well, that the 1986 Convention produced four proposed amendments that sought to negatively impact the rights of racial minorities and the reproductive rights of women.

In response to a question from Senator Hodgson, Mr. Brown suggested that there was indeed ongoing harm from the 1986 Convention, citing to the passage an amendment that limited the rights of convicted felons to vote, which took over 20 years to reverse.

In response to a question from Representative Ruggiero, Mr. Brown testified that he was not aware of any analysis of the financial cost of a Constitutional Convention, but suggested that testimony on the issue of cost would be helpful to the voters.

In an answer to a question from Rep. Giarrusso, Mr. Brown testified that the ACLU did not believe that there was a need for any Constitutional amendments. Instead, Mr. Brown suggested that the legislature could utilize other means to effect change regarding Constitutional issues.

(6) Timothy Murphy, Common Cause – Mr. Murphy testified consistent with his written testimony the he provided to the commission. After he was asked to focus his testimony on the issue of a Constitutional Convention, Mr. Murphy testified to eight (8) issues that that the commission should recommend for inclusion as topics for a Constitutional Convention. Those issues include: (1) limiting legislative immunity, (2) restoring the jurisdiction of the Ethics Commission over legislators, (3) creating a line-item veto for the governor for specific budgetary matters, (4) clarifying the right to a jury trial regarding Ethics Commission matters, (5) create a ban on moral obligation bonds, (6) create a voter initiative, (7) ensure women's rights (equal pay, abortion rights), and (8) ensure equal access to voting.

(7) Mike Stenhouse, Rhode Island Center for Freedom and Prosperity - Mr. Stenhouse testified in favor a Constitutional Convention. He suggested that the Commission should not see the need for a Convention as a failure of the General Assembly but rather a compliment to the legislative process. He described a Constitutional Convention as a direct voice for voters and noted that any concerns regarding the accountability of delegates would be addressed by the electorate in the end. He referred to the process as an example of democracy in action.

Mr. Stenhouse testified that the Commission should recommend the following regarding the conduct of a Constitutional Convention: (1) that party affiliation play no role in the election of delegates, (2) that there be a bar on elected officials serving as delegates, and (3) that all matters involving a Constitutional Convention be transparent (open to public viewing).

Mr. Stenhouse testified finally that the one-time cost of a Constitutional Convention would be dwarfed by the savings that could be brought on by legislation (line-item veto) that could come out of a convention.

(8) Margaret Kane, Operation Clean Government – Ms. Kane testified in favor of a Constitutional Convention. Specifically, she suggested five issues (5) issues that that the commission should recommend for inclusion as topics for a Constitutional Convention. Those issues include: (1) restoring the jurisdiction of the Ethics Commission over legislators, (2) creating an Independent redistricting commission, (3) establishing term limits for members of the General Assembly, (4) creating a voter initiative process, and (5) ensuring that Rhode Island Magistrates are subject to the same selection process as Judges via the Judicial Nominating Commission.

Ms. Kane further testified that the commission should suggest that a Constitutional Convention should address the fact that Rhode Island does not have a self-enforcing Constitution as well as the consolidation of shared services. Ms. Kane concluded her testimony with a suggestion that any dangers of a Constitutional Convention should be considered as dangers of a democracy. She testified that the electorate had the ability to act as a safeguard.

(9) Randall Rose, Direct Action for Rights and Equality – Mr. Rose testified that the Commission should recommend the following regarding the conduct of a Constitutional Convention: (1) that there should be a non-partisan election of delegates, (2) that instant run-off voting be utilized in the selection of delegates, (3) that there be a bar on elected officials serving as delegates, and (4) that all matters involving a Constitutional Convention be transparent (open to public viewing).

Mr. Rose further testified that the delegates to the Constitutional Convention should be allowed to control their own budget as was the case in 1986.

### **III. Next meeting.**

Co-chair Keable noted that the commission was looking at August 19 and August 21 as tentative dates for the next hearing.

### **V. Adjournment**

Co-chairman Keable made a motion for adjournment, which was seconded and passed unanimously.