

## **Charter Review Commission**

### **Minutes**

#### **C. Vernon Gray Room**

**February 18, 2020**

Charter Review Commission Members Present: Judith Center, Ayesha Holmes, James Howard, Tahira Mussarat Hussain, Elgin Klugh, Stu Kohn, Margaret Ann Nolan, Dawn Popp, Paul Skalny, Yolanda Sonnier, Chairperson, and James Walsh

Charter Review Commission Members on Teleconference: Carolan Stansky

Staff Present: Lynne Rosen, Legislative Analyst and Gary Kuc, County Solicitor

Ms. Sonnier opened the meeting at 8:30 a.m.

Ms. Sonnier reviewed the following forms of notice of the March 3, 2020:

- The slide has been posted on: 1) the photo gallery on the Council website 2) GTv; and 3) the front monitor in the lobby of this building.
- A pdf version is posted on the bulletin board in the lobby.
- An ad will run on Thursday, February 27, 2020 in the three local newspapers: Columbia Flier, Howard County Times, and the Laurel Leader.
- Council staff is waiting on the proof from the Baltimore Sun for the Howard Edition of the Sunday paper to run on Sunday, February 23, 2020.

The members discussed if topics of discussion should be posted on the notice for the public hearing. The members discussed that the purpose of the public hearing is to receive feedback on the preliminary report of the Commission.

Ms. Sonnier discussed that after the meeting next week, work will be done to have a preliminary report posted on the Commission web site before the public hearing on March 3, 2020.

Mr. Skalny made a motion to approve the Minutes of the February 11, 2020 meeting. Mr. Walsh seconded the motion. The minutes were approved as written by all members present with Ms. Stansky abstaining via teleconference.

The members discussed the following recommendations of Ms. Feldmark:

1. Create a separate article for the Office of Law to clarify its independence from either the executive or legislative branch. Currently, the Office of Law's inclusion within Article IV suggests that it is subject to the supervision and control of the Executive. The Office of Law serves both the executive and legislative branches, but

should not be subject to the supervision and control of either branch. In its own article, the Office of Law's independence from either branch could be explicitly addressed.

2. Give the County Solicitor full authority in appointing his or her staff. Currently, under Section 405(c), the County Solicitor's authority to appoint assistants is subject to the approval of the County Executive. As long as a hire falls within the Office's budget authority, that hiring decision should be at the Solicitor's discretion.

3. Require the County Executive's proposed budget to include the Office of Law's budget as submitted by the County Solicitor. Currently, the Office of Law's budget is handled like that of an executive department. The County Solicitor submits a budget request to the County Executive, and then the Executive decides how much to fund in the proposed budget. It would give the Office of Law greater independence from the Executive if the Solicitor's budget submission were included in its entirety, similar to the Council's budget submission as described in Section 602(a).

Ms. Nolan made a motion to recommend moving the County Solicitor's Office to a separate article of the Charter and to allow the County Solicitor sole authority to hire or fire staff.

The members discussed the motion made by Ms. Nolan.

Mr. Walsh asked if Ms. Nolan was proposing any changes to Section 405(f) of the Charter.

Ms. Nolan responded that she was not.

Mr. Kuc discussed a suggestion of how to accomplish the intent of the recommendation by removing Section 405 from Article III. The Executive Branch and giving it a new roman numeral, therefore making it a new article in the Charter. Section 405(c) relating to assistants to the County Solicitor would need to be changed to accomplish the intent of the recommendation. Mr. Kuc discussed including the Office of the County Solicitor in Section 602(a) to require that the County budget also include the budget as submitted by the Office of the County Solicitor.

Mr. Howard seconded the motion made by Ms. Nolan.

The members voted on the motion made by Ms. Nolan. The motion passed 11 to 0.

Ms. Nolan made a second motion to amend Section 602(a) to add the Office of Law to the final sentence of Section 602(a).

The members discussed Ms. Nolan's second motion.

Mr. Walsh made a motion to amend Ms. Nolan's second motion to delete the reference to the Board of Appeals in Section 602(a) and substitute the Office of Law.

The members discussed Mr. Walsh's motion to amend Ms. Nolan's motion. Mr. Walsh's motion did not receive a second.

The members voted on Ms. Nolan's second motion. The motion passed 11 to 0.

The members discussed if there should be provisions for removal based on mental/health disability (Item 25), and if these provisions should apply to the County Executive and the Councilmembers.

Mr. Howard reviewed the language in Section 302(h) relating to the inability of a County Executive to perform the duties of the office, and the process to declare the office to be vacant.

The members discussed that a Councilmember can be removed if the member is convicted of any crime involving moral turpitude under Section 202(b)3 of the Charter.

Mr. Howard made a motion to remove "any crime involving moral turpitude" from Section 202(b)3 and substitute "a felony".

The members discussed the meaning of what shocks the conscience and how the meaning can change over time.

Mr. Howard withdrew the motion and will consider making a new motion at the next Commission meeting.

The members discussed if the Councilmembers should continue to serve as the Zoning Board.

Mr. Walsh discussed Sections 16.200 and 16.201 of the Code relating to the zoning authority of the Council.

Mr. Walsh made a motion to recommend the establishment of a separate zoning board with each Councilmember appointing a member of the board. Each board member would serve a three-year term of office with staggered terms of office. No more than a simple majority of the members may be of the same political party. The minimal compensation of the members will be as specified in the Charter, subject to increase by the Council.

Ms. Nolan seconded the motion.

The members discussed the motion made by Mr. Walsh.

Mr. Kohn discussed an amendment to the motion to require that the County Council hold a public hearing for a nominee to the Zoning Board.

Mr. Howard discussed that a public hearing is already required for a resolution to appoint someone to a board or commission.

Mr. Kuc reviewed Section 209(c) that requires a public hearing on all resolutions for the confirmation of executive and Council appointments to all boards and commissions.

Mr. Howard offered an amendment to the motion to strike “No more than a simple majority of the members may be of the same political party.”.

Ms. Nolan seconded the Howard amendment.

The Howard amendment passed as follows: For: 8, Against: 2, and Abstention: 1.

The members discussed the Walsh motion as amended.

The Walsh motion as amended passed as follows: For: 9 and Against: 2.

Mr. Kuc discussed the Express Powers Act and Court of Appeals decisions relating to the creation of zoning ordinances by a County Council. The Council is the Zoning Board because of its zoning powers. Mr. Kuc will further review the issue of whether the Council can delegate zoning power to a body other than the County Council. There may be a potential issue with this proposal.

Ms. Sonnier discussed that this issue will be on the agenda for next meeting.

The members discussed the issue of whistleblower protections.

Gary reviewed a Memorandum he drafted to the Charter Review Commission dated February 11, 2020 in response to the question which whistleblower protection laws apply to County employees, including relevant federal, State, and County laws.

Ms. Sonnier discussed the bill relating to whistleblower protections pending before the County Council. The Commission had indicated it would discuss any recommendations for changes to the Charter relating to whistleblower protections and the response of Mr. Glendenning to the Commission whistleblower questions.

The members did not offer any motions relating to whistleblower protections.

The members discussed if the authority of the County Auditor should be amended and reviewed the Suggested Additions and Deletions to Strengthen the Audit Function submitted by Mr. Glendenning.

The members discussed the history of the internal auditor hired by the County Executive.

The members did not offer any motions relating to the authority of the County Auditor.

The members discussed the Commission Report language submitted by Mr. Howard and the Advisory Notes submitted by Mr. Leong.

Ms. Sonnier reviewed the preliminary recommendations of the Commission that have been agreed to, including the recommendations today and at the meeting last week.

Ms. Popp discussed that there are other housekeeping issues that she could write up for the meeting next week.

Ms. Sonnier discussed that budget issues from the list of major issues that were submitted by Commission members and fiscal impact statements will be on the agenda for the meeting next week.

The members further discussed writing up the housekeeping issues, including the term “councilmanic”, and notice requirements.

Ms. Sonnier discussed that she is working on a draft report with Mr. Howard that will include whatever is voted on next week. The Commission must finalize the report prior to March 16, 2020 because the Commission is expected to be before the Council at the Monthly Meeting on March 16, 2020. Ms. Sonnier asked who else will be joining her at the Monthly Meeting. Ms. Sonnier discussed future Commission meeting dates.

Ms. Nolan discussed it is possible that enough questions could be asked by the Council at the Monthly Meeting that the Commission would need to meet again.

Ms. Sonnier discussed that there could be more meetings after the Council Monthly Meeting.

Ms. Sonnier adjourned the meeting at 10:27 a.m.