

## Minutes

May 23, 2019

Ms. Sonnier opened the meeting at 8:32 a.m.

Charter Review Commission Members Present: Ron Brade, Judith Center, Ayesha Holmes, James Howard, Deeba Jafri, Stu Kohn, Fred Leong, Margaret Ann Nolan, Paul Skalny, Yolanda Sonnier, Chairperson, Carolan Stansky, and James Walsh

Charter Review Commission Members Calling in via Teleconference: Elgin Klugh

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

The Commission members approved unanimously the minutes of the May 8, 2019 meeting, with the correction of the spelling of Mr. Brade's name.

Ms. Sonnier made the following announcements. She explained that it is not possible to request changes to the County Council website to allow electronic testimony signups for public hearings of the Charter Review Commission. There will be signup sheets available for members of the public to use when they arrive at the public hearing. The Charter Review Commission will be put under the Quick Links on the County Council website to give it more prominence on the website. There is a notice on the Commission website that written testimony may be submitted 48 hours in advance of a public hearing to the Commission email address, and persons needing accommodations to fully participate in the meeting may contact the County Council office. The County Council will be tweeting about the Commission meetings and public hearings. At the June 6, 2019 meeting, there will be a demo on the SharePoint site that will serve as a hub for members to exchange documents. It will be an electronic binder. Jeff Bronow, Chief, Research Division will present on how the population in each councilmanic district has changed since 2010 and projections for future population changes at the July 11, 2019 meeting.

Mr. Kohn requested that staff look into posting notice of Commission meetings and public hearings on the Howard County government website.

Ms. Sonnier discussed that the Commission members agreed to review each section of the Charter. If anyone has a suggested change to a section, the Commission members will discuss the change.

The members discussed Article II, Section 202(b)3. Forfeiture of Office.

Ms. Stansky discussed the need for clear language to address a situation similar to what occurred in Baltimore City when an office holder was receiving a pay check but was away from the office for an extended time. If there is no paycheck, there is an incentive to resign.

Ms. Sonnier commented the Mayor was sick, and there was no finding that the Mayor had committed a crime of moral turpitude.

Mr. Skalny discussed the 24/7 demands of an elected position. An elected official generally does not call in sick.

Mr. Howard commented that elected officials have staff and discussed the impact of the Americans with Disabilities Act.

Mr. Leong discussed that an official continues to be compensated while in office, and that there is due process.

Mr. Walsh commented that the County Executive is full time, and the County Council is part time.

The members did not suggest any changes to this section.

The members discussed Article II, Section 202(c) relating to the term of office of members of the Council.

The members discussed the difference between “shall” and “may”.

Mr. Kuc explained that the words are defined terms in the Charter, and that generally the term “shall” is mandatory and the term “may” is permissive.

Ms. Holmes discussed if three weeks is enough time to transition to a new administration. Should the time between the first Monday in December following their election to enter upon the duties of their office be moved forward to give the members more time to transition?

The members discussed the transition time for the County Executive.

Ms. Nolan discussed that the time is extremely short. Somehow the transition gets done.

Ms. Jafri discussed that the transition seems seamless to most of the county.

Ms. Nolan discussed that most people running for office at the county level usually know what is going on, and that may be why the transition seems seamless.

Mr. Howard commented that the county executives generally have had a lot of experience prior to office.

Ms. Sonnier explained that Article II, Section 202(c) relates to the term of office of members of the County Council.

The members discussed the staggering of terms of the Councilmembers.

Mr. Howard commented that the current County Council consists of all new members. If the size of the Council were to be expanded, there is an argument for staggering terms.

Mr. Skalny discussed that the government does not stop providing services during a transition. The government continues to function. There will be new policies that will get effected over a period of time.

Ms. Stansky discussed if there should be more broad-based training of the candidates after the primary.

Ms. Nolan commented that the training of candidates is not a charter issue. Ms. Stansky agreed.

Mr. Walsh commented that the current composition of all new members of the County Council is a historical anomaly.

Ms. Nolan commented that this happened twelve years ago.

Mr. Walsh discussed that now members are subject to term limits, and that this occurrence is not going to happen that often. Does this occurrence justify changing the charter?

Mr. Howard discussed that if you consider expanding the County Council, staggering the terms of office could be a good time to make that change. He discussed the issue of continuity of office.

Mr. Walsh discussed that staggering the terms of office politically creates two classes of Councilmembers.

Ms. Jafri commented that the staggering of offices would make sense if have at large seats. She does not see it working if half the county has elections and half do not.

Mr. Skalny commented on the advantageous impact of a presidential election year because of higher voter turnout.

Mr. Walsh discussed that if people are driven to polls by a certain councilmember race in one district, more turn out could have an impact on the County Executive race.

The members discussed different numbers of Councilmembers and staggering of terms, including the Councilmembers and the County Executive. The members discussed the election of the Chairperson of the County Council.

Ms. Center discussed the historical model of the U.S. House of Representatives. All of the members are up for election every two years. These are shorter terms of office with no staggering of terms of office as compared to the U.S. Senate. The members of the Senate serve staggered six-year terms. There is a tradeoff between continuity and responsiveness to the public will.

Ms. Sonnier referred to the presentation by Mr. Bronow on July 11, 2019. The members will resume discussion of the number of council members and the staggering of terms after the presentation.

Mr. Leong asked for clarification of the three-week period in Article II, section 202(c).

Mr. Howard responded that this is the period of time between the date of the election and the first Monday in December.

Mr. Kohn requested that the current Councilmembers be asked to discuss with the Commission members their experience during the transition.

Ms. Jafri agreed with Mr. Kohn's request.

Ms. Sonnier suggested that at the same time the Councilmembers discuss their recommendations for any changes to the Charter they could also be asked about their experience during the transition.

The members discussed Article II, section 202(d) relating to the compensation of Councilmembers and allowances for the performance of their public duties.

Mr. Gwynn discussed whether it is necessary to correct the obsolete cross reference to Article 25A in the section and options for the Commission. The Commission could remove the references, update the references, or add a new clause to the Charter as follows: "Except as otherwise provided, when the Charter refers to a portion of State law or any other law, the reference applies to any amendment to that portion of the law."

Ms. Sonnier discussed the option of a new citation and reviewed the language suggested by Mr. Gwynn.

Mr. Gwynn advised that you could leave the old citation and include the suggested language or put in a new citation and include the suggested language.

Ms. Nolan discussed the beginning of the Charter as an appropriate place to put the new language. She also suggested updating the references.

Mr. Kuc suggested placing the new language in Article IX. General Provisions.

Ms. Nolan agreed with Mr. Kuc's suggestion.

Ms. Sonnier reviewed the following language suggested by Ms. Nolan: "Except as otherwise provided, when the Charter refers to a portion of State law or any other law, the reference applies to that portion of the law, as amended."

Mr. Leong discussed if changes to the references in State law are not made, the law is still applicable. If changes are made, it could be easier for people to understand how compensation has changed for Councilmembers. The proposed changes institute best practices.

Mr. Kuc explained that whether the reference to State law is corrected, State law controls the compensation issue.

The members discussed whether to make the suggested changes.

Mr. Leong commented if the compensation language is clarified it helps people to better understand how to read the Charter.

Ms. Jafri and Mr. Walsh discussed referencing the applicable law and citing the section.

Ms. Sonnier referred to the Local Government Article, Section 10.302 of the Maryland Annotated Code as the correct reference.

Ms. Sonnier requested confirmation of the members' agreement to recommend inserting the new citation.

Mr. Kohn asked about the origin of the compensation amount of not less than \$7,800.00 each year for compensation and allowances.

Ms. Sonnier discussed the role of the Compensation Review Commission.

Ms. Jafri discussed the possibility of updating the amount of the compensation.

Ms. Stansky reviewed the recommendations of the 2017 Compensation Review Commission and its role in making future recommendations. She asked if the current amount should remain in the Charter.

Mr. Howard commented that the current amount could remain, or a new floor could be established.

Mr. Kohn discussed eliminating the \$7,800.00 and replacing with another number that includes compensation and allowance.

Mr. Howard explained that this number is the minimum that could ever be paid.

Mr. Kuc explained that this provision of the Charter provides a floor below which the number cannot drop. Section 5.200 of the County Code provides for how Councilmembers are paid. This number provides a floor. It is up to the commission if it wants to recommend a change.

Mr. Brade discussed leaving out a number.

The members discussed eliminating specific language or changing the current amount.

Mr. Gwynn referred to State law.

Ms. Center commented on leaving the amount to the Compensation Review Commission.

Ms. Jafri discussed that the 2017 Compensation Review Commission spent a lot of time discussing part time versus full time county councils and looking at other counties in the State and the nation. The Commission recommended that the County Council remain part time and that the salary amount be raised to \$80,000.00. It was an election year, and every recommendation was rejected.

Ms. Stansky explained that the current salary amount is \$66,174 per year. The salary in December 2019 and for each subsequent year of the term will be equal to the amount of the base salary in the previous year increased by the same percentage as the increase in the consumer price index for all urban consumers, or if the government stops publishing the consumer price index, the base salary would be increased by 2.5 percent over the base of the preceding year.

The members discussed changing the current amount in the Charter and agreed to leave the current amount.

Ms. Sonnier commented that the State has mandated that there be a figure that compensation cannot go below a certain floor.

Mr. Kohn discussed updating the number because of the need to pay attention to detail.

The members agreed to keep the current number. Mr. Kohn commented that he opposed keeping the \$7,800.00.

The members discussed Article II, Section 202(d) relating to vacancies occurring in the office of a Councilmember.

Ms. Stansky commented that this section gives a lot of power to the Democratic and Republican parties, the two major parties.

Mr. Howard discussed the need for special elections.

Ms. Jafri commented on what happens if there is an independent candidate.

Mr. Howard commented there is a provision that addresses if a member is not a member of a political party.

Ms. Stansky reviewed the first sentence of the section.

In response to a question if there has been a special election to fill a vacancy, Mr. Kuc responded “no”.

Ms. Stansky commented on the practicality of how soon a special election can be held.

Mr. Howard commented on the challenges of having a perfect system and a good timeframe for a special election.

Mr. Leong commented that it does not make any sense to have a special election if there is already a process for filling a vacancy. It would be a waste of public resources to have a special election.

Mr. Skalny commented on the possibility of five months between a primary election and the general election without an individual to fill a vacant County Council seat.

Mr. Walsh commented that with a special election, you do not have the luxury of a primary to narrow the selection. You could have someone elected to the County Council for five months.

Mr. Howard commented it is not unheard of to have someone fill a seat for five months and cited the example of Walter Mondale. Someone running for special election knows they are limited in what they can do.

Ms. Nolan commented on the expense and effort to have a special election. The current system is consistent with what everyone expects.

Ms. Stansky suggested the Commission ask the Howard County Board of Elections about the cost of a special election.

The members discussed the need to better understand how a special election would work and the role of political parties in the process.

Mr. Leong commented that even if the Charter Review Commission makes a recommendation, the County Council may not agree with the recommendation.

The members discussed additional information to request from the Board of Elections.

Ms. Sonnier reviewed the following information to request from the Board of Elections, including the cost of a special election, voter turnout in prior special elections, the number and location of polling places in Howard County, and any other information that can be provided regarding special elections. In addition, the Commission members asked if it is possible to hold a special election on a Saturday and to limit the number of polling places.

The members agreed to table discussion of this section of the Charter until the Commission receives information from the Board of Elections.

The members discussed the age qualification for a candidate.

Mr. Leong asked if State law requires someone to be at least 18 years of age to hold office.

Mr. Gwynn responded that the Office of Law will provide an answer.

Ms. Stansky commented on the pending United States Supreme Court decision regarding redistricting that could have an impact on the Commission decision making process.

The members agreed to table discussion on Article II, Section 202(f) relating to redistricting to a later date after the presentation on July 11, 2019.

Ms. Stansky asked why Article II, Section 202(g) relating to planning and zoning is in this section rather than the section relating to the legislative powers of the Council.

Mr. Walsh reviewed that prior to the amendment of Section 202(g), there was no requirement that zoning be by ordinance. The Council had used resolutions to zone, which were not subject to referendum. This change was made so that zoning changes could be taken to referendum.

Ms. Stansky questioned the placement of this section in the Charter. Does it belong in the legislative powers section?

The members discussed the placement of the section.

Mr. Kuc advised that the Commission could recommend renumbering of the section.

Mr. Kuc explained that the section is the result of an initiative.

Mr. Walsh discussed the contentious history of the section, and that any changes to the section would be viewed skeptically.

Mr. Howard commented that if the Commission approaches this as an extensive rewrite of the Charter, it could recommend renumbering.

Ms. Stansky commented that the Commission could include a list of items in need of update for the Council to consider.

Ms. Jafri commented that the Council could decide to make these changes in the future.

Ms. Stansky commented on the need of the Commission to be mindful of its charge and the time it has. Perhaps one of the recommendations could be for a Commission to do an extensive rewrite of the Charter. This Commission does not have the time to do a rewrite or could recommend that this Commission be extended to do an extensive rewrite. The charge of the Commission is to make the Charter an effective document. It must be readable to an average citizen.

Ms. Nolan discussed renumbering the section to be Section 218. This is an organizational recommendation. It is not a rewrite.

Mr. Howard discussed two categories of recommendations. One category would be outdated items and another category would be serious considerations that are problems that need to be addressed.

Mr. Leong discussed three categories of recommendations that would include grammar and style, housekeeping, and structural changes.

The members discussed Article II, Section 203 relating to officers of the Council.

Mr. Howard commented that the section was fine as is.

Ms. Stansky commented that in other counties the Chairperson is elected. She would like to discuss this when the Commission discusses the number of councilmanic districts.

Mr. Howard commented that historically the Council Chair has rotated.

Mr. Kohn asked about the meaning of the “journal”.

Mr. Howard responded the journal is a record of what the council does.

Ms. Sonnier requested Mr. Gwynn to determine if State law defines “journal”.

Ms. Stansky discussed if there anything in the County Council Rules of Procedure that should be moved to the Charter.

The members discussed Article II, Section 204 relating to action by the Council. The members discussed that if the Commission recommends a change in the number of councilmanic districts, the Commission can revisit this section.



The Members reviewed Article II, Section 205 relating to the enumerated powers of the Council that are not exclusive. The members did not discuss any changes to the section.

The members discussed Article II, Section 206 relating to limitations on the exercise of the Council's powers.

Ms. Stansky asked how this section relates to Article IX, Section 904. She also asked why there are both Sections 904 and 204.

Mr. Howard comments that Section 904 is a restatement of Section 204.

Mr. Kuc commented on the need to keep both sections.

The members discussed that no changes are needed to Article II, Section 207.

The members discussed Article II, Section 208 relating to sessions of the Council, quorum, and rules of procedure.

Mr. Kuc explained that the State Constitution requires the charter of charter counties to specify the number of days, not to exceed 45, that a county council may sit in each year for the purpose of enacting legislation.

Mr. Kohn asked what would happen if go beyond 45 days.

Mr. Kuc responded that the number of days cannot exceed 45. The Commission could recommend lowering the number of days.

Mr. Kohn discussed if there are no penalties for a violation or means to enforce, should the language be in the Charter.

Ms. Jafri commented that the language is in the Charter because the State Constitution requires it to be there.

Mr. Skalny commented that it is a nonstructural issue.

Mr. Leong commented that it is in the Charter for clarity, and people don't have to refer to the State Constitution.

Mr. Kuc commented that State law requires the language to be in the Charter.

Ms. Sonnier discussed which holidays are included in the term "holiday" in Article II, Section 208(b), and if the term needs to be defined.

Ms. Jafri commented that there is a list of official holidays.

Mr. Howard referred to the limits on the Zoning Board meeting on certain holidays.

Ms. Holmes suggested using the term "county recognized holiday".

The members discussed the language "county recognized holiday".

Ms. Sonnier commented that the Commission will continue its review of Article II, Section 208(b) at the June 6, 2019 meeting.

Mr. Gwynn commented that if use “county recognized holiday” there may be holidays in addition to those listed in the County Council Rules of Procedure.

Ms. Nolan commented on the lack of consistency with which holidays.

Mr. Kuc commented that if use the “county recognized holiday” language, does the Executive Branch get to decide when the County Council meets.

Ms. Stansky commented that “holiday” means the holidays listed in the Rules of Procedure.

Ms. Jafri discussed referencing the Rules of Procedure.

Mr. Kuc commented that Article II, Section 208(f) requires the Council to adopt rules of procedure.

Ms. Sonnier commented that the discussion concerning Article II, Section 208(b)(1) will continue at the next meeting.

The members chose the following dates for public hearings of the Commission: North Laurel Community Center on September 19 at 7 p.m. (alternative date of September 25, 2019) and the Gary J. Arthur Community Center at Glenwood on October 10, 2019 at 7 p.m. (alternative date of October 17, 2019).

The members discussed completing a final draft of the Commission report by March 1, 2020.

Ms. Sonnier requested that the members arrive at the public hearing on June 4, 2019 by 6:30 p.m. The Commission will also meet on June 6, 2019 at 8:30 a.m. Ms. Rosen will distribute any written testimony to the members submitted in advance of the hearing.

Ms. Stansky requested that links to the Maryland Association of Counties Government Structure Guide and the Maryland Association of Counties Code Home Rule vs. Commissioner vs. Charter Guide be posted on the Charter Review Commission website.

The members discussed how to best provide notice of hearings to the public, including social media, and how to distribute testimony submitted before the public hearing to the Commission members.

The meeting was adjourned at 10:30 a.m.