

Charter Review Commission

Minutes

C. Vernon Gray Room

November 6, 2019

Charter Review Commission Members Present: Richard Butler, Judith Center, James Howard, Tahira Mussarat Hussain, Deeba Jafri, Elgin Klugh, Stu Kohn, Fred Leong, Dawn Popp, Paul Skalny, Carolan Stansky, and James Walsh

Charter Review Commission Members on Teleconference: Ayesha Holmes

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

Mr. Walsh opened the meeting at 8:31 a.m.

Mr. Walsh introduced Wanda S. Hutchinson, Human Resources Administrator and Dean Hof, Purchasing Administrator.

The Commission members discussed if Ms. Hutchinson or Mr. Hof had any recommendations for changes to the Charter. Ms. Hutchinson and Mr. Hof did not have any recommendations for changes to the Charter.

Mr. Kohn requested examples of emergency purchases and what constitutes an emergency under Section 802(f).

Mr. Hof discussed that there are emergency purchases and expedited purchases. Purchases related to the floods in Ellicott City are examples of emergency purchases. He discussed examples of competitive bidding purchases and sole source purchases. The County Code has purchasing thresholds.

Mr. Leong discussed that the Charter delegates purchasing responsibilities to the people with that authority.

The Commission members discussed whether there is a remedy if a County Executive withholds funds that have been appropriated for a specific project, and if there are whistleblower protections for County employees.

The Commission members approved the minutes of the October 22, 2019 Commission meeting with the following revisions: On page 2, in the second sentence of the seventh paragraph, strike "five" and substitute "four". On page 5, strike the third paragraph and substitute "The Commission members discussed whether it is appropriate to include occupation as a precluded discriminatory practice in the context of employment and hiring provisions.".

The Commission members approved the minutes of the October 24, 2019 public hearing.

The members discussed the testimony presented at the October 24, 2019 public hearing.

The members discussed the timeframe for placing a question relating to increasing the number of councilmanic districts on the ballot and in which election year.

The members discussed the testimony at the public hearing relating to the Council serving as the Zoning Board.

The members discussed the impact of the change in the date of the primary election and the need to look at changing the current dates in the Charter relating to the timeframe for redistricting.

Ms. Stansky discussed that Prince George's County has a different timeframe for redistricting.

Ms. Popp discussed that it is for the County Council to decide which election year a recommendation of the Commission would be on the ballot. The Commission makes its recommendations, and the Council determines what it thinks and on which election year ballot.

Mr. Howard discussed the Commission submitting a report earlier than the May 1, 2020 deadline detailing what it would like to see on the 2020 ballot.

Ms. Stansky discussed that May 1, 2020 is a month the Council will be working on the budget. She discussed the extent to which the public has received notice of the work of the Commission, and that notice is not provided in newspapers.

Mr. Skalny discussed having a public hearing on the issue of increasing the number of councilmembers and publishing more notice of the hearing.

Mr. Kohn discussed that he heard testimony at the public hearing to increase the number of councilmembers to seven, but to keep the Council as part time.

Mr. Walsh discussed that these are two distinct issues.

Ms. Popp discussed that people at the hearing were concerned about the issue of representation.

Mr. Walsh discussed the issue of the Council serving as the Zoning Board.

The members discussed if a public hearing should be held on increasing the number of Councilmembers and the Councilmembers serving as the Zoning Board.

The members discussed that if the Councilmembers did not want to expand the Council, they more than likely would not approve that recommendation.

The members discussed the need to still make the recommendation, if the Commission believes it is the right decision to make.

Ms. Holmes discussed the requests for greater representation and smaller councilmanic districts. She discussed that there is a sense of the need for customer service and the lack of representation of the diversity of the County on the Council. Increasing the number of Councilmanic districts and increasing staff could be helpful for customer service. She discussed that the role of the Commission is to hear all sides, make its best decision, and make recommendations to the Council. She discussed the physical space of the Council and the cost related to increasing the number of Councilmembers.

The members discussed the geographic diversity of the County and the unique identity of certain areas in the County, for example, Columbia. The members discussed that there are issues unique to certain areas, and how should these differences factor, if at all, into the consideration of the number of Councilmanic districts. The members also discussed demographic changes in the County.

Mr. Kohn suggested the members consider holding a public hearing for major issues, including the Council serving as the Zoning Board, a part time Council versus a full time Council, and increasing from five to seven the number of Councilmanic districts.

Ms. Popp discussed that the issue of full time versus part time is not a Charter Review Commission issue. This is an issue for the Compensation Review Commission.

Mr. Leong discussed that the Commission members have not reviewed what they think are the major issues. The members need to determine what those issues are and inform the public.

Ms. Stansky discussed that in Anne Arundel County there is one commission that conducts charter review and redistricting every ten years. The Howard County Charter Review Commission does not redraw the district lines, but it reviews how County government works as controlled by the Charter. She discussed the location of population centers and the need for compact and contiguous Councilmanic districts. Ms. Stansky discussed a suggestion to review a map from the Department of Planning and Zoning to identify population centers, and what the map might look like with seven districts and what it might look like with five districts.

Mr. Leong discussed the need for the Commission to determine what are the top ten issues of interest to the Commission.

Mr. Skalny discussed that some of the topics that have been discussed warrant another public hearing with a small number of topics that warrant additional community input.

Mr. Leong discussed that the Commission members had not yet determined what are their top three issues.

Mr. Howard discussed that the members have discussed the size of the Council and the Zoning Board, but they have not discussed the specifics of a proposal.

Mr. Leong discussed that his top issues are budget related, including how the budget is produced and agreed to.

The members discussed making recommendations on five to seven issues.

The members reviewed Section 903. Removal of members of Boards and Commissions.

Mr. Howard discussed if Section 903 applies to members of the Board of Appeals, and if not, are there provisions for the removal of members of the Board of Appeals.

Mr. Gwynn discussed that he will review State law to see if there are removal provisions for members of a board of appeals under State law.

Mr. Gwynn reviewed § 4-302 of the Land Use Article, Annotated Code of Maryland, that provides that a member of a board of appeals must be appointed by the local executive and confirmed by the legislative body. The section authorizes the removal by the local executive of a member of a board of appeals. The appointing authority must appoint a new member to fill the unexpired term of any member who leaves the board. The law could be interpreted to mean the legislative body would confirm the appointment of a new member to fill a vacancy.

The members discussed if a new subsection (g) should be added to Section 501 to clarify the process for the removal of a member, or if a cross reference to the Land Use Article should be added.

Ms. Popp discussed putting this issue in a parking lot, and that it may already be provided for in State law.

The members discussed that the Commission recommendations for changes to the Charter will go to the Council. The Council will decide which recommendations will be on the ballot.

Mr. Kohn discussed adding “if a member of a board or commission misses 50 percent of the meetings” to the language in Section 903 that provides that a member of any board or commission who is absent from three consecutive regular meetings of the board or commission, unless excused by resolution, is deemed to have vacated his or her office.

Mr. Walsh discussed if this language could be added to the enabling legislation that establishes a board or commission rather than the Charter.

Mr. Skalny discussed adding this language to the list of parking lot issues. He discussed adding missing 80 percent of the meetings to Section 903.

Mr. Leong discussed if the Councilmembers believes there are certain rules that are beneficial to the conduct of a commission, they can place those rules in the enabling legislation for the commission.

The members discussed the last sentence in Section 904. Construction of Powers.

The members had no comments on Section 905. Additional compensation prohibited.

The members discussed the meaning of “reasonable” in Section 906. Right to inspect and copy public records.

The members discussed that Section 907 relating to the Citizens’ Election Fund system was added in 2016 and does not take effect until the 2022 election cycle.

The members had no comments on Section 908. Bonding of officers.

The members discussed the content of the County Flag that has been adopted in accordance with Section 909. County Seal and County Flag.

The members discussed what would be the penalty if a witness does not appear under Section 910. Subpoena power.

The members had no comments on Section 911. Custody of papers and records and Section 912. Separability.

The members discussed the placement of Section 913. Citation in the Charter.

The members discussed submitting to staff a list of parking lot issues and housekeeping issues.

The members discussed if “officer” in subsection (j) of Section 914, relating to Definitions and rules of construction, includes the County Executive.

Mr. Walsh discussed that the requirement for the signatures of 10,000 registered voters for a petition to amend the Charter under Section 1001, relating to Amendments, is prescribed by State law.

Mr. Gwynn discussed that the requirement for publication in one newspaper of a proposed amendment to the Charter is prescribed by the State Constitution. There could be publication in more than one newspaper.

The members discussed requiring a higher threshold than publication in one newspaper and requiring electronic publication in addition to newspaper publication, unless contrary to State law.

Mr. Walsh discussed a housekeeping recommendation to include electronic publication whenever there is a requirement in the Charter for publication in a newspaper.

The members discussed adding a new subsection (o) to Section 914 that “notice” must include electronic publication.

Mr. Gwynn discussed different requirements for publication in a newspaper. For example, Section 1001 requires publication in at least one newspaper for five successive weeks. Section 209 requires publication of each bill and the time and place of the hearing once a week for two successive weeks in at least one newspaper.

The members had no comments on Section 1002. Charter Review Commission.

The members discussed the recommendation of Mr. Heurwitz relating to Section 1003, Termination of the Charter, to require a supermajority of the votes cast on the question of repealing the Charter rather than the majority of votes cast under Section 1003. The members also discussed if the requirements relating to termination of the Charter are set in State law and outside the purview of the Commission.

The members had no comments on Sections 1101. Nature of this Article., 1102. Existing offices, departments and boards., Sections 1103-1113. Reserved, Section 1114. Appendix to this Charter., and 1201. Nature of the Article.

Ms. Stansky discussed reviewing the legislative history in Section 1202, relating to the establishment of District boundaries for Councilmanic Districts, when the members discuss Councilmanic districts.

The members discussed that in light of Section 1203 that terminated Article XII relating to transitional provisions, it may not be necessary to comment on the sections in Article XII.

Mr. Walsh discussed that the members had completed their review of the Charter.

The members discussed compiling a list of issues to be discussed at the next Commission meeting on November 20, 2019.

Mr. Walsh discussed that Commission members may send a list of issues to Ms. Rosen for her to compile for discussion at the next meeting on November 20, 2019.

The members discussed making a list of housekeeping issues.

Mr. Walsh adjourned the meeting at 10:31 a.m.