

## Minutes

May 8, 2019

Ms. Sonnier opened the meeting at 8:33 a.m.

Charter Review Commission Members Present: Yolanda Sonnier, Chairperson, Ron Brade, Judith Center, Tahira Mussarat Husain, Ayesha Holmes, Deeba Jafri, Elgin Klugh, Stu Kohn, Fred Leong, Margaret Ann Nolan, Dawn Popp, Carolan Stansky, and James Walsh

Charter Review Commission Member Calling in via Teleconference: Paul Skalny

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

Ms. Sonnier welcomed Mr. Brade. Mr. Brade introduced himself.

Ms. Sonnier asked if there were any modifications to the April 24, 2019 minutes that were sent out to the Commission members.

Mr. Skalny identified himself as the Commission member calling in to the meeting.

The Commission members agreed to the following revisions to the April 24, 2019 minutes:

- 1) “Ms. Sonnier explained that the 2011 Commission held three public hearings, one at the George Howard Building and at two other locations in the county.”; and
- 2) In the discussion concerning public hearings, language will be added that “The members agreed that locations for public hearings will be the George Howard Building, Glenwood Community Center, and North Laurel Community Center.” and “The Commission members proposed June 4, 2019 for the first public hearing, with alternative dates of June 18, 2019 or June 19, 2019, if June 4, 2019 was not viable.”.

Ms. Nolan suggested clarifying that the Rules of Procedure, as amended, were approved unanimously.

The Commission members approved unanimously the minutes of the April 24, 2019 meeting with the revisions described above.

Ms. Sonnier reviewed a list of individuals who have been sent letters requesting input on recommendations for changes to the Charter. A County Council member has requested until June 30, 2019 to provide input. The members provided feedback that it is fine for the County Council members to provide any input by June 30, 2019.

Ms. Sonnier reviewed that members have discussed designating one or two meetings for public officials to attend if they would like to discuss any recommendations. After the public officials submit any recommendations in writing, members would have a chance to review the recommendations and ask them questions at a Commission meeting.

In response to a question asked by Mr. Kohn, Mr. Walsh discussed attendance at the public hearings held by the 2011 Charter Review Commission. Mr. Walsh recalled that there were between five to 10 individuals attending each public hearing. They testified between three to five minutes.

The members discussed the attendance of members of the public at Commission meetings and public hearings. Members of the public can attend the Commission meetings. The members agreed that any individuals who wish to speak can testify at a public hearing.

Ms. Sonnier suggested that if a member of the Commission belongs to an organization to let the members of the organization know they may submit written testimony in advance of the public hearing so that Commission members may review the testimony in advance of the hearing and ask questions during the hearing. In addition, Ms. Sonnier suggested keeping the members informed about the public hearing dates.

Ms. Stansky reviewed the Rules of Procedure for the County Council for public testimony and suggested the Commission follow the model in the County Council Rules.

The members agreed to follow the rules for public testimony of the County Council regarding the time limit for public testimony at the public hearings.

Ms. Sonnier reviewed that an individual may testify for three minutes, and an individual who represents an organization may testify for five minutes. An individual may also submit written testimony to the Commission email address. Members may ask questions of individuals who testify.

The members requested that public hearing dates and the Commission email address be added to the County Council Facebook page and that staff provide notice of whom to contact for assistance for individuals who need accommodations to fully participate in the public hearings.

The members discussed meeting dates for June and July. The public hearing is scheduled for June 4, 2019 at 7:00 p.m. in the George Howard Building. The members agreed to meet on June 6, 2019, June 20, 2019, July 11, 2019, and July 24, 2019 at 8:30 a.m. The Commission will not meet during August. The Commission will resume meeting in September and October. The members will discuss meeting dates for September and October in the later part of June.

Mr. Kuc and Mr. Gwynn responded to legal questions that have been asked by Commission members.

Mr. Gwynn reviewed the process after the Commission submits its report to the County Council. The County Council has the discretion to accept or reject any recommendations of the Commission. If the Council accepts a recommendation, a resolution would be filed in June or July. The resolution would go through the legislative process in time for the Office of Law to certify a ballot question to the State Board of Elections. The question would appear on the ballot. The State Board of Elections will issue a calendar in the next month.

Ms. Stansky commented that the County Council can review the recommendations and make any changes to the recommendations.

Mr. Gwynn explained that two thirds of the Council must approve a resolution for an amendment to the Charter. If a majority of voters vote in favor of the proposed amendment, the change to the charter becomes effective 30 days after the election.

Ms. Sonnier asked if the Commission could be asked to respond to questions from the County Council after the Commission submits its written report.

Mr. Gwynn responded that the County Council could ask the Commission to clarify its recommendations.

Mr. Gwynn discussed the legal difference between a resolution and a bill. A resolution is more temporary in nature. They are both law. Resolutions are not subject to the veto of the County Executive. Usually, but not always, there is no executive signature on a resolution.

In response to a question if there are parts of the County Code or the County Council Rules of Procedure that the Commission should consult or review, Mr. Gwynn advised the members that the County Code and the County Council Rules of Procedure are available online. He reviewed the task of the Commission as stated in Council Resolution 18 "...to review the Charter, to identify sections of the current Charter that need to be revised, and to recommend changes for consideration".

The members discussed issues relating to a leave of office by the County Executive, a County Council member, or a staff person.

Mr. Kuc commented that there are provisions relating to the County Executive and the County Council members that prohibit them from accruing annual leave, and they are not entitled to payment in lieu of annual leave.

In response to a question concerning the continuation of pay for an elected official who becomes disabled, suddenly ill, or takes a leave of absence, Mr. Kuc responded that the salary continues with the office. It is the prerogative of the office that the official will continue to draw the salary they are entitled to by law as long as the official is in office.

The members discussed if there should be limits set on how long someone can be away from office.

Mr. Kuc referred to Article III, Section 304 of the Charter, that applies to certain officers in the Executive branch regarding inability to perform duties. There is a six-month baseline period after which it is run, the office can be deemed vacant, and there is a process for filling that office.

Mr. Gwynn reviewed the definition of "moral turpitude".

Mr. Gwynn reviewed the definition of "office of profit or trust", including the various factors used to evaluate if an office is an "office of profit or trust". Examples of individuals who hold an office of profit or trust are the members of the County Council and certain department heads in the county because they exercise authority over policy making.

The Commission members discussed examples of offices of profit or trust.

Mr. Kuc reviewed additional factors used to determine if an office is an office of profit or trust as described in case law and an opinion of the Attorney General.

Mr. Gwynn, Mr. Kuc, and the Commission members discussed the authority of counties in Maryland to set various taxes and fees, that is granted to the counties by the General Assembly.

Mr. Kuc discussed that the State can delegate different powers of taxation to each of the jurisdictions. It is a policy judgment of the State which powers of taxation it grants. All tax powers reside in the State, and the powers of taxation granted to the counties are the prerogative of the State. The State does not violate any constitutional provision by delegating different powers to the counties. Provided that no constitutional protections are violated, the State may treat the counties however it wishes to do so.

Mr. Gwynn responded to a question concerning language in the veto letter of Council Bill 11-2019 relating to change of substance of certain amendments to the bill. Mr. Gwynn and Mr. Kuc advised the Commission members to read the veto letter that explains the thoughts of the County Executive.

Mr. Kuc referred to the language in Article II, Section 209(c) of the Charter relating to the amendment of a bill "...before it is passed and the amendment constitutes a change of substance...".

Mr. Kohn discussed his concern that the language is too generic. He discussed the need for everyone to understand what the rules are.

Mr. Kuc discussed that case law defines what is a substantive change. The courts have discussed this issue. There is a lot of deference to policy makers. If someone does not like a law, it can be petitioned to referendum, or an office holder can be voted out of office.

Ms. Stansky commented on the option of changing the Charter to better define the language.

Mr. Kuc commented on the need to recognize that you cannot anticipate all possible circumstances. The language needs to allow the body to function in an efficient manner.

The members discussed the county board of education budget process, the possibility of improving the process, and the limitations on making any changes.

Mr. Gwynn explained that the County government and the school board are two separate legal entities.

Mr. Kuc explained that there is a process in State law that requires the school board to submit its budget to the County Executive. The County Executive may reduce the request. The County Council may restore the cuts by cutting County government funds or raising taxes. They cannot move money around in the school budget because they would be changing the school system policy choices.

Mr. Gwynn explained that the rules relating to how to become a city or municipality are in State law.

Mr. Kuc reviewed the procedures in State law to become a city or municipality.

Ms. Sonnier asked if there are any other questions for Mr. Kuc and Mr. Gwynn relating to Article II.

Mr. Leong asked about obsolete cross references in Article II.

Mr. Walsh discussed the recodification of the Maryland Annotated Code that resulted in the obsolete cross references in the Charter.

The Commission members discussed how to address the issue of obsolete cross references and obsolete language.

Ms. Nolan discussed if there is language that could be used to address the issue of obsolete cross references, for example, “as subsequently amended”.

Ms. Sonnier discussed if the charge of the Commission includes the correction of obsolete cross references or how to address obsolete language.

Ms. Nolan suggested that the Office of Law identify obsolete cross references in the Charter for future discussion.

The Commission members discussed if they wanted to use the remaining time of the meeting to further discuss Article II or to discuss action items for the next meeting and adjourn.

Mr. Leong requested additional discussion of the issues of whether to change the number of councilmanic districts and the age of candidates for office.

Ms. Sonnier suggested that these are large items of discussion that would take the Commission members beyond 10:30 to discuss.

The members agreed to resume discussion of Article II at the next meeting and to discuss action items for the next meeting and adjourn.

Ms. Sonnier requested the Commission members continue to read Article II and to provide any items for discussion or suggested changes to the Charter to Ms. Rosen before the next meeting, so that they can be sent out to the Commission members in advance of the meeting. In addition, questions for the Office of Law should be submitted in advance of the next meeting.

Ms. Sonnier asked for any new business.

The Commission members discussed the process for signing up to testify at the public hearings, the process for submitting written testimony in advance of the public hearings, and how to address the needs of individuals who need accommodations to participate in the public hearings. Ms. Rosen will confirm these procedures.

The meeting was adjourned at 10:05 a.m.