

Minutes

June 20, 2019

Ms. Sonnier opened the meeting at 8:34 a.m.

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

Member calling in via teleconference: Paul Skalny

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

The Commission members approved unanimously the minutes of the June 4, 2019 public hearing and the June 6, 2019 Commission meeting.

Ms. Sonnier announced that members of the County Council will attend the July 24, 2019 meeting. Mr. Leong, Ms. Stansky, and Ms. Popp met on June 11, 2019 to discuss the implementation of SharePoint with Ms. Shives and Ms. Thakkar. Ms. Sonnier also participated in the meeting. Mr. Leong will share ideas about the organization of SharePoint later in the meeting today when Ms. Thakkar will also be present.

The members discussed Article II, Section 209(e) relating to the votes required for a bill to become law.

Mr Kohn discussed the language "...or such greater number as may elsewhere be required in this Charter". What are the circumstances that require a greater number?

Mr. Walsh cited overriding a veto.

Mr. Kohn discussed if the language should be changed to specify other provisions of the Charter that require a greater number.

Mr. Skalny suggested keeping the current language.

The members discussed Article II, Section 209(f) relating to the effective date of laws.

Ms. Popp commented that this is another example of a requirement for the affirmative vote of two-thirds of the members, if a law is to become effective on a date later than sixty-one days after the enactment of the law.

Ms. Nolan commented that the County Council could decide to implement another effective date. It is hard to have a one size fits all effective date.

Ms. Stansky clarified that an emergency bill takes effect right away. What happens if a law is petitioned to referendum?

The members discussed Article II, Section 209(h) relating to the failure of bills.

Ms. Stansky commented that the section was amended in 2018.

Mr. Kohn discussed the impact of an August recess on the section. If a bill is introduced in June and does not pass within 70 calendar days, what happens in August?

Ms. Stansky asked if the impact of this section is a question for the Councilmembers?

Mr. Gwynn discussed that people know the Council is off in August. A councilmember would wait to introduce a bill in September.

Mr. Leong discusses the ability to extend the deadline for another 35 days.

Mr. Howard discussed that the section refers to calendar days and not legislative days.

Mr. Leong discussed it is up to a Councilmember to know the deadline could fall in August and to account for this.

The members discussed Article II, Section 210 relating to recording, printing, and compiling laws.

Mr. Kohn asked about the location of the book of indexed laws.

Ms. Nolan suggested asking the Council Administrator.

Mr. Walsh discussed the requirement for the printing and publication of laws in Section 210(b).

Ms. Stansky discussed that Prince George's County requires the codification of local laws every four years compared to not greater than every ten years in Howard County.

The members discussed the requirement for at least one electronic medium.

Ms. Popp discussed if there should be a requirement that the electronic version be kept current as of six months.

Mr. Gwynn explained that the online code is updated monthly. The Code must be recodified at least every ten years. It could be done sooner.

The members discussed if the requirement for recodification no greater than every ten years should be changed to a shorter time. The members discussed that this change could be recommended if the members suggest a clean-up of the Code.

Mr. Kohn suggested that “County Commissioners” in Section 210(c) be changed to “Council”.

The members discussed Article II, Section 211 relating to the referendum.

Mr. Kohn discussed that there cannot be a referendum of a resolution and asked if this should be changed.

Mr. Walsh discussed the background of the change to five per centum of the qualified voters of the County required to petition a law to referendum that was recommended by the 2011 Charter Review Commission.

Ms. Popp discussed that a referendum petition may be filed only within 60 days after a law is enacted. Do the members want to discuss if the timeframe for filing a referendum petition should be changed? The members discussed placing this issue in a parking lot and discussing with the Councilmembers at the July 24, 2019 meeting.

Mr. Kohn discussed that any issues in a parking lot relating to the Council should be forwarded to them in advance of the July 24, 2019 meeting.

Ms. Sonnier suggested that members send to Ms. Rosen a list of questions for Councilmembers prior to the July 24, 2019 meeting.

Ms. Jafri discussed a list of issues.

Ms. Sonnier explained that Mr. Leong will discuss later in the meeting an issue tracker for the members to use.

Ms. Sonnier reviewed that a letter was sent to the Councilmembers requesting feedback about the adequacy of the length of time to prepare for office between the time of election and the first Monday in December. Ms. Jung responded to the request. The members can ask the Councilmembers this question on July 24, 2019.

The members discussed that a change to the Code can be made by asking a councilmember to file legislation.

Ms. Jafri suggested asking the Council Administrator if she recommends any changes to the Charter.

Ms. Sonnier discussed that a request for feedback regarding any recommended changes to the Charter will be sent to the Council Administrator.

The members discussed Article II, Section 212 relating to the County Auditor.

Mr. Kohn discussed the source of funding for the compensation of the Auditor.

Mr. Gwynn advised that the Auditor's salary is in the Council budget because the Auditor is an employee of the Council.

Ms. Stansky discussed the tie in to the issue of should the Council have its own legal counsel. If a position is in the Charter, there is a much stronger ability to budget for it. If language is in the Charter concerning its own legal counsel, the Council could budget for the counsel. She would like the opinion of the Council on this issue.

Ms. Sonnier commented that this a parking lot issue.

Ms. Nolan discussed that because a position is in the law, it does not mandate funding for the position. There may be language in State law for a position, but the Governor may choose not to fund the position. The Council Administrator can address the issue of separate counsel for the Council. You cannot hire one person, no matter how much you pay the person, who has all the combined expertise of the attorneys in the Office of Law.

Mr. Howard discussed that the County is an administrative unit of the State. The County Council and the County Executive are not traditional separate branches of government that need separate counsel.

The members reviewed Article II, Section 213 relating to special audits and had no comments.

The members reviewed Article II, Section 214 relating to investigations by the Council.

Mr. Kohn asked if boards and commissions should be included in this section.

Ms. Jafri discussed that "agency" covers boards and commissions.

Ms. Sonnier and Mr. Gwynn agreed that boards and commissions fall under "agency".

The members discussed the amount of the fine and the length of imprisonment.

Ms. Stansky discussed that the amount of the fine is low, and the length of imprisonment is high.

Ms. Nolan commented that \$1,000 is low. If you are trying to change behavior and get the requested cooperation, the amount could be higher. Mr. Howard agreed with Ms. Nolan.

Ms. Popp commented the section was last amended in 1996.

Ms. Hussain commented it has been a long time since the section was amended.

Mr. Skalny suggested comparing this section to other provisions relating to a failure to comply with a subpoena under other civil and criminal laws.

Ms. Sonnier requested that the Office of Law compare the amount of the fine and length of imprisonment to other instances of a failure to comply with a subpoena.

Mr. Kohn discussed defining “agency” in Article IX, Section 914. Definitions and rules of construction.

Mr. Walsh discussed that Section 914(n) relating to the term “County Government” covers Mr. Kohn’s concern.

Mr. Kohn discussed changing “office or agency” to “County government”.

Mr. Walsh discussed the intent of Section 214 is to give the Council authority to investigate specific agencies. The use of “County government” could be interpreted to mean County government as a whole as opposed to a specific board or agency.

The members discussed whether to change Section 214.

Ms. Popp discussed that in certain cases it is better not have a specific definition because it could exclude other items that the Office of Law could want to request. It is better to have flexibility.

Mr. Walsh commented that the defined term in Section 914(n) uses “includes” rather than “means” so allows other items to be included in County government.

Ms. Sonnier commented that this is a cleanup matter.

The members discussed Article II, Section 215 relating to noninterference with the executive branch.

Ms. Nolan discussed that this section is necessary and provides a check. She does not recommend any changes.

The members discussed Article II, Section 216 relating to special assistance.

Ms. Stansky discussed the language “from time to time”. What if the Council wanted to hire a lawyer for an entire session, could someone argue that “from time to time” means only for a project?

The members did not discuss any recommended changes to Section 216.

The members discussed Article II, Section 217 relating to legislation providing for a system of arbitration to resolve negotiation disputes between unions and the County Executive.

Mr. Howard discussed that this section has not been put into effect in 13 years. He would like to eliminate the section.

Ms. Popp discussed that this section was approved by the voters in a referendum. Legislation has not been adopted to implement the section. If legislation were to be put forward, the public could weigh in. Ms. Popp suggested no changes to the section.

The members discussed Article III, Section 301 relating to the Executive Branch. The members discussed changing “his” to the “the County Executive’s” and all these references throughout the Code.

The members discussed Article III, Section 302 relating to the County Executive. Ms. Jafri reviewed the requirement for the County Executive to be a resident of the County for a period not less than five years immediately prior to election.

Ms. Stansky reviewed the residency requirements for the Governor and other examples of residency requirements.

The members discussed Article III, Section 302(d) relating to compensation and expenses.

Ms. Stansky discussed that the County Executive salary was raised, but the raise was less than the recommendation of the Compensation Review Commission.

Mr. Howard discussed the difference in the term limits between the County Executive and the County Councilmembers as raised by Angie Boyter at the public hearing. The County Executive cannot succeed himself or herself in office if he or she has served for two consecutive four-year terms. A person who has been elected to the County Council three times or who has been elected to the County Council twice and has been appointed to fill a Council vacancy and served two or more years of that term is ineligible to be a candidate for the County Council.

Ms. Popp discussed having the same term limits for the County Executive and County Councilmembers.

Mr. Leong asked about the origin of the term limits.

Mr. Walsh discussed that the Councilmember term limits are the result of a citizen initiative.

Mr. Howard discussed that the County Executive term limit has always been in the Charter.

Mr. Leong discussed the consideration of the public that voted for the Councilmember term limit language.

Ms. Nolan discussed that experience is important for government service. Why should someone be excluded from public service 15 years later?

Mr. Howard cited the example of Governor Brown in California.

Mr. Leong discussed that the issue was raised in public testimony. Term limits and the two different structures of those term limits should be discussed later.

Ms. Holmes discussed that term limits are good, but an individual should be allowed to run at a later time. Term limits for the County Executive and Councilmembers should be the same.

Ms. Stansky discussed that in Prince George's County an individual can be a councilmanic district representative and then can run for an at large position.

Mr. Kohn discussed if a change should be made to the compensation and allowance amount for the County Executive.

Ms. Stansky commented that the amount will increase shortly.

The members discussed if salary floors are needed throughout the Charter, and if this should be a cleanup item.

Mr. Gwynn discussed that under the Express Powers Act, a Charter county is not required to have a County Executive. If a County Executive is authorized in the Charter, the County Council can set a salary floor. This is a policy call of the Council.

The members did not discuss any changes to Article III, Section 302(g) and (h).

The members discussed Article III, Section 302(i).

Ms. Popp discussed if Section 302(i) is the State of the County, why is it given at a paid event of the Howard County Chamber of Commerce. Ms. Popp discussed suggesting in a letter that the State of the County be given to the County Council and not to the Chamber of Commerce.

Mr. Walsh discussed that it is the preference of the County Executive to present the State of the County this way.

Mr. Howard discussed transmitting a letter to the Council that would appear in the Council Journal.

Ms. Holmes discussed that she has heard from many people regarding the inequity of the event. It should be delivered to the County Council in the Banneker Room.

Mr. Kohn discussed that the previous Administration reported to the Chamber of Commerce and the County Council in the Banneker Room.

Ms. Popp discussed adding "at a meeting of the Council for this purpose" to Section 302(i)3.

Ms. Sonnier discussed that the current language states “to report to the Council and the public” and does not specify the mode of the report.

Ms. Jafri discussed the need for more specific language.

Ms. Popp discussed the language “present to the Council in a public meeting”.

Ms. Holmes discussed that if there is an oral presentation, anyone needs to be able to access it.

Mr. Walsh discussed that the State of the Union address was originally in writing only.

Ms. Stansky discussed that this is an equity issue.

Mr. Howard discussed the Chamber of Commerce event could happen after a public event or the transmittal of a letter.

Mr. Leong discussed having a written or oral presentation first and then the possibility of another event.

Ms. Holmes asked why anyone should have to pay to hear the report.

Mr. Leong discussed the difference between a paid political event and an obligation of the office and a duty to perform the obligation. The public should not have to pay.

Ms. Holmes discussed the need to clarify this section that the report be available to the public first without a fee.

Ms. Sonnier asked if Ms. Holmes is suggesting language that if the County Executive provides an oral report, it must first be presented to the public.

Mr. Walsh discussed that whether the report is oral or written, the first presentation must be free and open to the public.

Ms. Holmes discussed that after a public presentation at no fee, the Chamber of Commerce could hold a function.

Mr. Skalny discussed that the State of the Union is televised. What if the Chamber of Commerce presentation was recorded and made available to the public?

Ms. Holmes discussed that some people do not have a television or internet access. It must be as easy as possible for the public to access the report. The burden should not be on the citizens. The burden should be on the government to make the report public.

Mr. Walsh discussed that the Executive must report to the Council and to the public. The State of the Union is to the United States Congress.

Ms. Holmes discussed that anyone must have free access to the presentation.

Ms. Sonnier discussed the space limitations of the Banneker Room. Should it be televised?

Ms. Holmes discussed that the Chamber of Commerce event is not for everyone to attend. It is not for the public. It is for people who can pay and attend at 9:00 am.

Mr. Skalny discussed the distinction between paying to see and making it available so that all the citizens of Howard County can see it. He discussed access to the presentation.

Ms. Popp discussed at least making the presentation accessible at a County Council meeting.

Ms. Holmes discussed specifying that the report be presented at a meeting of the County Council.

Ms. Sonnier announced that the issue will be picked up at the next meeting when the members continue their discussion of the powers and duties of the County Executive. Ms. Sonnier will not be at the next meeting of the Commission on July 11, 2019. Ms. Holmes will conduct the meeting. If someone is unable to attend the meeting, please let Ms. Rosen know so we can make sure there is a quorum.

Ms. Hemali and Mr. Leong discussed options for implementing SharePoint.

Mr. Leong discussed options regarding folders, a homepage, technical limitations, and possible workarounds.

Ms. Hemali discussed what external users can see on SharePoint.

Mr. Leong discussed the use of an issue tracker as a parking lot for items that are worthy of discussion. The idea is to group categories, including grammatical changes and major issues that are worthy of discussion. This will allow everyone in the group to have input and would allow the group to prioritize the importance of discussion. This will allow the group to be efficient with its discussions. Mr. Leong discussed if the members are comfortable working in Excel.

Ms. Sonnier discussed not making the process overly cumbersome. She discussed that Mr. Leong did a great job organizing SharePoint so that members could use it. If members have any suggestions regarding SharePoint, please share them.

Ms. Hussain asked if an issue is on SharePoint, will it also be discussed at a meeting?

Ms. Sonnier discussed that when an issue is on SharePoint before a meeting, it alerts members to what issue is to be discussed at the meeting.

Mr. Leong discussed that comments can be added and that you can add to the folders. The minutes also reflect the discussion. You could write a whole page and put it on SharePoint. SharePoint gives members the opportunity to read ahead.

Ms. Hemali discussed that everyone should use comments. If you click on a new comment, there will be an email identifier attached to the comment.

Ms. Stansky discussed if Google docs should be used rather than SharePoint.

Ms. Sonnier discussed the use of SharePoint because of the Open Meetings Act and the Public Information Act.

Ms. Hemali discussed that the County can only be responsive to requests if SharePoint is used and can only provide support for SharePoint. The County can only adhere to security requirements via SharePoint. There are other external users of SharePoint, including a Department of Public Works storm water group.

Ms. Sonnier requested that all the Commission members receive invitations to access SharePoint. Ms. Hemali will create instructions for SharePoint.

Ms. Hemali requested that any technical questions be sent to Ms. Rosen who will forward them to her.

Ms. Sonnier suggested that members start using SharePoint to access functionality.

Ms. Sonnier adjourned the meeting at 10:37.