

## Minutes

June 6, 2019

Ms. Sonnier opened the meeting at 8:31 a.m.

Charter Review Commission Members Present: Ron Brade, Judith Center, Elgin Klugh, Stu Kohn, Fred Leong, Dawn Popp, Paul Skalny, Yolanda Sonnier, Chairperson, Carolan Stansky, and James Walsh

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

The Commission members approved unanimously the minutes of the May 23, 2019 meeting, with the suggestion that the Charter Review Commission website specify that any written testimony submitted to [charterreviewcommission@howardcountymd.gov](mailto:charterreviewcommission@howardcountymd.gov) 48 hours prior to a public hearing will be forwarded to the Commission members. Any written testimony that is not submitted 48 hours prior to a public hearing should be brought to the hearing for distribution.

Ms. Sonnier reviewed the location of the North Laurel Community Center for the September 19, 2019 public hearing at 7:00 p.m. The Commission members agreed to hold the third public hearing on October 17, 2019 at 7:00 p.m. at the Gary J. Arthur Community Center. The Commission website will be updated to reflect the dates and locations of the public hearings. Ms. Sonnier requested that the members try to arrive by 6:45 p.m. and to let Ms. Rosen know if they are unable to attend a public hearing. Ten members are needed for a quorum at a public hearing.

Mr. Skalny began the discussion of the June 4, 2019 public hearing. He commented that there was a lot of discussion concerning the number of Councilmembers, councilmanic districts, and at large districts.

The members discussed how to generate interest for people to attend future public hearings, including identifying issues for the public, contacting local media, the Charter Review Commission website, the Howard County Government website, and requesting Councilmembers to post information on their social media accounts and links to the Commission website.

Ms. Sonnier discussed that the 2011 Charter Review Commission had a chart of major issues that narrowed the focus of the Commission. The 2011 Charter Review Commission requested comments from the public on those issues.

Mr. Walsh commented that the chart was created after the Commission had gone through the entire Charter.

Mr. Skalny discussed that the Commission members have been appointed in a representative fashion. Any recommendations of the Commission will go to the County Council. There will then be a public hearing. Any recommendations adopted by the County Council must

go on the ballot. He discussed his concerns relating to identifying specific topics in advance of a public hearing and possibly excluding other topics.

Ms. Popp discussed councilmembers posting examples of issues that have been raised on social media.

Mr. Leong discussed issues that were raised at the public hearing, including the school board budget process, criteria for forfeiture of public office, eligibility for public office, term limits, reduction of the number of legislative sessions, and legal support for the County Council.

Mr. Skalny discussed when the Commission should vet these issues. He suggested vetting them as the members review the Charter.

Ms. Stansky agreed with Mr. Skalny. She also suggested that members make any requests for information on any issues now, so they have the information they need when the Commission gets to the issue in the Charter.

Ms. Sonnier suggested that any requests for information be sent to Ms. Rosen.

Mr. Kohn discussed that major topics of concern be put in a parking lot and can be revisited after the Commission completes its review of the Charter. An issue that can be put in the parking lot is if the County Council should be a part-time job or not. Additional issues can be highlighted and put in the parking lot and revisited after review of the entire Charter.

Mr. Skalny discussed identifying issues and attaching to particular part of the Charter so that when the members review that area of the Charter they know to review the issue. If a topic has come up in a hearing, it can be attached to the Charter.

Mr. Skalny discussed creating buckets of issues to discuss at the end of the review of the Charter and identifying questions for the Office of Law, for example, moral turpitude. He suggested that any questions for the Office of Law be sent in writing to Ms. Rosen.

Ms. Center agreed with the parking lot concept. The members should not come to agreement until after the entire Charter is reviewed and public hearings are held. She discussed flagging issues and then putting them off to the side and carrying on the information gathering process.

Mr. Gwynn addressed the issue of whether the Council can have its own attorney and referred to Article II, Section 216 of the Charter, which authorizes the Council, at its discretion, and subject to the provisions in its budget or supplementary appropriation, by resolution to employ legal advisors. It is a policy call if the Council wants to employ separate legal counsel.

Mr. Leong discussed issues relating to the school budget process and that the Office of Law has explained the constraints of current law on the process. Testimony was given at the public hearing regarding small changes that could be made to create a better balance.

Mr. Walsh discussed that staggering the terms of the Councilmembers would be a violation of Article 17, Section 2 of the Maryland Constitution.

Ms. Shives and Ms. Thakkar presented a demonstration of SharePoint, which is a collaborative tool. Commission members will receive an email invitation to access SharePoint.

Ms. Sonnier discussed the creation of a document on SharePoint for parking lot issues and asked if the site would show who added what to documents.

Ms. Thakkar explained that external users do not have full access to the site and would not see the version history of who edited a document. For security purposes, external users cannot see everything on the site.

Mr. Skalny discussed the creation of a parking lot document with commentary. He asked for recommendations on how to best create the parking lot.

Ms. Thakkar discussed the best practice is for each person to create a folder or file.

Mr. Skalny discussed the creation of a list of topics and the maintenance of thoughts on each Charter section.

Mr. Walsh discussed having one folder for each Charter section. Everyone puts thoughts on that particular section in that particular folder.

Ms. Shives discussed that each folder could be called a parking lot. All issues be put in a parking lot. There could be subfolders. Commission members may not download documents from SharePoint.

Ms. Popp discussed the editing of documents and the need for people to know she has edited a document. She discussed the functionality of track changes.

Ms. Thakkar discussed that external users cannot print and download for security reasons.

Mr. Leong discussed an overview document. He discussed the creation of an Excel spread sheet with the Charter sections in a column. Under each section, someone can enter comments. There could be an Excel document with a column with names and comments.

Ms. Thakkar asked what does the group want?

Ms. Thakkar created an Excel spread sheet.

Mr. Leong suggested the first column identify the Charter section and another column contain names and comments.

Mr. Skalny discussed that there could be multiple documents for one section and requested a recommendation from Ms. Thakkar.

Ms. Stansky suggested a group to work with Ms. Shives and Ms. Thakkar. Ms. Stansky, Mr. Leong, and Ms. Popp volunteered to work with Ms. Shives and Ms. Thakkar.

Ms. Center asked about the compatibility of SharePoint with Apple and Microsoft products.

Ms. Thakkar responded they are compatible because SharePoint is cloud based.

The members discussed the application of the Open Meetings Act and the Public Information Act to the SharePoint site.

Mr. Gwynn discussed that the Open Meetings Act requires meetings to be open to the public. A subgroup discussing the SharePoint site is not under the Act, unless 10 or more members are communicating. Documents are subject to the Public Information Act.

Ms. Stansky suggested that the Office of Law review any recommendations of the subgroup.

Mr. Skalny discussed Article II, Section 208(b)(1) that requires, in the event a legislative session should fall on a holiday, the session-day must be held on the next succeeding day which is not a holiday. The members discussed the definition of holiday at the public hearing.

Mr. Kohn suggested that “county” precede “holiday”.

Mr. Leong suggested that the issue of which holidays should be flagged.

The members discussed that each division of Howard County government uses different holidays.

Mr. Skalny suggested that the Council will have to decide which holidays to observe.

Mr. Brade suggested “County Council designated holiday”.

The members also discussed the suggestion of a reference to the County Council Rules of Procedure.

The members agreed to “County Council designated holiday” in both references to “holiday” in Article II, Section 208(b)(1).

The members discussed “legislative session” in Article II, Section 208(b)(2) and if “session” in Article II, Section 208(b)(3) should be amended to “legislative session”. The members discussed the differences between a legislative session and a non-legislative session.

The members tabled discussion about Article II, Section 208(b)(4).

Ms. Stansky asked if there is any guidance in State law or in the Charter concerning the time and notice for an emergency session under Article II, Section 208(d).

Mr. Gwynn explained that Article II, Section 209(d) provides notice requirements for an emergency session under Article II, Section 208(d).

There was no discussion relating to Article II, Section 208(e) concerning Council quorum requirements.

The members discussed Article II, Section 208(f) relating to the adoption of Rules of Procedure. Mr. Skalny commented that the Rules of Procedure give the Council latitude to define holidays.

There was no discussion relating to Article II, Section 208(g) concerning public meetings.

There was no discussion relating to Article II, Section 208(h) concerning journal requirements.

There was no discussion relating to Article II, Section 209(a) relating to the style of the enacting clause for Council laws and (b) relating to the titles of laws.

The members discussed Article II, Section 209(c) relating to the procedure for passage of laws. Ms. Stansky asked if this subsection should include resolutions.

Mr. Gwynn explained that the Charter defines “law” to include resolutions.

Mr. Leong asked about the process for amendments and special appropriations.

Mr. Gwynn reviewed the legislative process.

Mr. Kohn suggested tabling the discussion until the members review the Charter provisions relating to the County budget.

The members agreed to table the discussion.

The members discussed the addition of language in Article II, Section 209(c) that would require the Council Administrator to post a copy of a bill and notice of the time and place of the hearing “in at least one electronic medium readily available to the public”.

The members discussed the change of substance provision in Article II, Section 209(c).

Ms. Stansky discussed if there are many amendments to a bill, should the Council be authorized to pend the vote and conduct a public hearing on the amendments. She requested legal insight and additional discussion on this issue.

Mr. Gwynn discussed that Section 209(c) relates to the issue of an amendment constituting a change of substance of the bill. This is up to the discretion of the Council to determine. Mr. Gwynn reviewed the language of the section.

Mr. Walsh commented that there is always a potential for dispute. The Executive can veto a bill, if the Executive decides it was a change in substance.

Ms. Stansky thought the language could be tightened.

Mr. Skalny discussed the determination of whether substance was changed is always going to be subjective. If the changes are known to be of concern to a significant part of the public, the bill should be referred for another public hearing.

Mr. Kohn discussed the difficulty of interpreting and applying the section.

Mr. Gwynn discussed that amendments do not have separate hearings unless they are deemed to be a substantive change.

Mr. Leong suggested tabling the issue unless someone provides specific language to address the issue. There is no way to enforce the determination of a change in substance.

Mr. Skalny discussed providing an opportunity for Councilmembers to refer a change of substance issue to the Office of Law for an opinion.

Mr. Gwynn discussed that change of substance issues are looked at when the Office of Law determines legal sufficiency for an amendment. The Office of Law reviews each amendment for legal sufficiency and evaluates if it would be a change of substance.

Mr. Kohn discussed the issue of separate legal counsel for the Council and asked when the Councilmembers will appear before the Commission.

Ms. Sonnier discussed the Councilmembers attending the July 24, 2019 meeting.

Mr. Kohn suggested that the members be requested to attend the July 24, 2019 meeting.

Mr. Skalny discussed that administrative issues could be in another bucket for discussion that could be addressed electronically.

The members discussed Article II, Section 209(d) relating to the procedure for passage of emergency bills.

Ms. Popp discussed that the section does not require the Council to first determine if it is an emergency. She would like to discuss at another meeting having the Council first determine if it qualifies as an emergency before taking up the substance of the emergency bill.

The members discussed having the Council determine by a two thirds vote if there is an emergency.

Mr. Walsh discussed if there is an emergency, the Council needs to act quickly. He does not want to add another procedural step which could be disadvantageous to the public.

Mr. Skalny reviewed the language: "To meet an immediate emergency affecting the public health, safety, or welfare, the Council may pass emergency bills.". The spirit of the paragraph indicates the intent.

The issue was put in a parking lot for later discussion.

Ms. Sonnier announced the next meeting of the Commission will be on June 20, 2019 at 8:30 a.m. and adjourned the meeting at 10:27 a.m.