

Charter Review Commission

Minutes

C. Vernon Gray Room

January 28, 2020

Charter Review Commission Members Present: Richard Butler, Judith Center, Aysha Holmes, James Howard, Elgin Klugh, Stu Kohn, Fred Leong, Margaret Ann Nolan, Dawn Popp, Yolanda Sonnier, Chairperson, Carolan Stansky, and James Walsh

Charter Review Commission Members on Teleconference: Deeba Jafri and Fred Leong

Staff Present: Lynne Rosen, Legislative Analyst and Diane Schwartz Jones, Council Administrator

Staff on Teleconference: Gary Kuc, County Solicitor

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

The Commission members approved the minutes of the January 14, 2020 meeting with one abstention.

Ms. Center discussed moving the whistleblower protections discussion from today's Agenda to the meeting date of February 11, 2020 for discussion of audit issues. She discussed that Mr. Glendenning had specific recommendations regarding whistleblower protections that are interrelated with audit issues.

The members agreed to move discussion of whistleblower protections to the meeting on February 11, 2020.

Mr. Kuc discussed that the members have received verbal advice from Mr. Gwynn relating to whistleblower protections for County employees. He suggested that members review Council Bill 7-2020 relating to whistleblower protections that has been prefiled for introduction on February 3, 2020. Mr. Kuc discussed that Mr. Gwynn advised there are provisions in State law that would cover County employees for reporting specific problems and protect them from retaliation. There are specified areas that the State regulates under the Maryland Occupational Health and Safety Act. Mr. Kuc is reviewing the federal Sarbanes-Oxley Act discussed by Mr. Howard to see if it provides protections for County employees and what would be the scope of those protections.

The members discussed the format of the Commission meetings on February 11, 2020 and February 25, 2020.

Ms. Sonnier discussed that the members have had time to meet with Mr. Glendenning and Ms. Sun. She discussed a streamlined process for receiving additional information from them because of the schedule of the Commission and the amount of work that needs to be done.

Ms. Nolan discussed streamlining the process by asking them questions, which could be a more efficient way of capturing thoughts.

The members agreed that Mr. Glendenning and Ms. Sun would not be asked to attend the meetings and would be asked to respond in writing to any written questions that should be sent to staff by next Monday, February 3, 2020.

Ms. Sonnier discussed that at the last meeting the members had discussed submitting a report earlier than May 1, 2020.

Ms. Schwartz Jones reviewed a timeline for the 2020 Census provided by the United States Census Bureau. She discussed that when the Councilmanic Redistricting Commission reviews councilmanic districts it will need to have census data. According to the timeline, states will receive redistricting information on March 31, 2021. Under the Charter, the Councilmanic Redistricting Commission is appointed on April 1 of the year following the Census. Ms. Schwartz Jones reviewed, for discussion purposes only, a base timeline for Charter amendments. She discussed that the Council Administrator sets up scheduling with the Council Chair. She discussed that the Office of Law is required to certify a summary of ballot questions to the State Board of Elections by July 31, 2020. The Office of Law needs time to prepare to have the questions certified. The latest date by which proposed amendments could be approved by the Council is July 6, 2020.

Mr. Kuc discussed that the July 6, 2020 date would work from his perspective to get the work done to certify the ballot questions.

Ms. Schwartz Jones discussed that under this scenario, a resolution would have to be prefiled on May 21, 2020. A resolution would have to be drafted before May 21, 2020 and receive legal sufficiency from the Office of Law. There is another scenario for introduction of a resolution on May 4, 2020. This timeline would be during budget season. Ms. Schwartz Jones discussed that decisions have not been made regarding the Council calendar for review of Charter amendments. Ms. Schwartz Jones discussed that there is a potential for the Charter Review Commission to participate in the Council Monthly Meeting in March.

The members discussed if the date in the Charter that requires the Commission to “make its report not later than May 1 of the following year” in Section 1002 of the Charter should be changed.

The members discussed that issuing a preliminary report prior to May 1 could make the timeline work, and there is no need to change the May 1 date in Section 1002 of the Charter.

Mr. Howard discussed that a Councilmember can propose an amendment to the Charter at any time.

Mr. Walsh discussed that there were four Charter amendment questions on the ballot in the 2012 election and one Charter amendment question on the ballot in the 2014 election.

Ms. Sonnier discussed that during a conference call with Guy Mickley, Director, Howard County Board of Elections, regarding the timeline for the Board of Elections to prepare to place a question on the ballot for voters (Early Voting begins on October 22, 2020 and General Election on November 3, 2020), Mr. Mickley discussed the July 31, 2020 date by which the Office of Law must certify a summary of a ballot question to the State Board of Elections. The Howard County Board of Elections will receive the summary from the State Board of Elections. Regarding the timeline for establishment of new Councilmanic Districts after the 2020 Census, Mr. Mickley discussed that the Board of Elections needs thirteen weeks for it to accomplish what it needs to do prior to the Primary Election in June. He would like the Board of Elections to have the approved plan of Councilmanic Districts by December 31, 2021 or the first week of January 2022.

Ms. Schwartz Jones discussed the need to make sure the County Council has time to do its work.

Ms. Sonnier discussed that thirteen weeks prior to the Primary Election is the timeframe that the Board of Elections requested to have the plan of Councilmanic Districts.

Mr. Howard discussed that regardless of the number of Councilmanic Districts that are recommended, the same job needs to be done.

Ms. Schwartz Jones discussed the need to make sure there are no unintended consequences that result in shortchanging something that needs to happen.

Ms. Sonnier discussed that during the teleconference call today with Mr. Mickley, the members should ask questions on any issues that need to be clarified.

Mr. Kohn discussed by when does the County Council need to have the recommendations of the Charter Review Commission.

Ms. Popp discussed the prefile deadline of May 21, 2020.

Ms. Sonnier discussed the need to stay on track and have a clear understanding of why a report needs to be submitted earlier than May 1, 2020.

Ms. Stansky discussed the timeline for action by the Commission on the issues it is considering, for example, increasing the number of Councilmembers, prior to the public hearing.

Ms. Schwartz Jones discussed the need to consider that budget season is in April. Legislative Analysts will need to draft resolutions. It would be good for the Council to receive recommendations as early as possible.

The members discussed the dates for: 1) appointing the Councilmanic Redistricting Commission; 2) when the Howard County Board of Elections needs its information by; and 3) when the State will receive information from the Census Bureau.

Mr. Howard discussed that the question before the Commission is does the Commission want to recommend any changes to the dates in Section 202(f).

Ms. Sonnier suggested that while the members are waiting for Mr. Mickley to call in, the members could discuss the following issues: Should the number of Councilmanic districts be increased? If yes, how many Councilmanic districts should there be? Should any of the Councilmembers be elected at large?

Mr. Howard discussed having a formal motion and debating each issue as a formal motion. Mr. Howard moved that the Commission recommend to the County Council that the Council be restructured to keep five members elected by district and add two members elected at large.

Ms. Stansky seconded the motion for the purpose of discussion.

Mr. Walsh discussed an alternate motion of seven members elected by district.

The members discussed the parliamentary procedures for considering the motions.

Mr. Kuc advised that Mr. Walsh's motion needs to be seconded and be made an amendment to the first motion.

Ms. Popp seconded Mr. Walsh's motion so that it is on the table for discussion.

The members discussed the following two proposals: 1) expand the Council to seven members, with five elected by district and two elected at large; and 2) expand the Council to seven members, with all elected by district.

Mr. Kohn discussed that the consensus of the Councilmembers seemed to be that they were satisfied with the current structure and how would the Commission members change their minds with a recommendation for another structure.

Ms. Sonnier discussed that when a report goes to the Councilmembers with a description of the people who have given public testimony and whether their constituents agree with any of the recommendations, the Commission will have done what it is supposed to do.

Mr. Leong discussed the input the Commission received from the Councilmembers. Mr. Leong discussed that logistics, for example, office space, should not impact on whether the number of districts is expanded.

Mr. Howard discussed cost increases that would result if the number of districts were expanded. He discussed another logistical issue that the election of five of the Board of Education members is tied to the current five Councilmanic Districts, and the Board of Education has two at large seats. The General Assembly could address this issue in the 2021 Session.

The members discussed if State legislation would be needed if the voters of Howard County approved a Charter amendment to alter the number of Councilmanic Districts.

Ms. Holmes discussed that the members should focus on the questions at hand regarding expanding the number of Councilmanic Districts to seven, and if any of the members should be elected at large. The role of the Commission is to put forth recommendations.

Ms. Sonnier discussed the testimony at the public hearings on these questions.

Mr. Walsh discussed that there would be 46,000 to 47,000 people per district if there were to be seven districts. Prior Councils were elected at large until the 1980s. Going back to elected at large districts is reversing what was enacted in the 1980s regarding electing Councilmembers by district.

Ms. Nolan asked about the rationale for the change from elected at large to elected by district.

Mr. Walsh discussed that people who did not live in Columbia felt they were not being represented on the Council.

Ms. Stansky discussed that 1986 was the first year that the members were elected by Councilmanic Districts.

Mr. Leong discussed that the County is not homogenous. Mr. Leong discussed public testimony that members elected at large have less accountability. He discussed that the issue of establishing the boundaries of Councilmanic Districts is not an issue for the Charter Review Commission.

Mr. Howard discussed another option of expanding the Council to six members elected at large and one elected at large, who could be the Council President.

Ms. Center discussed that a lot of power is vested in members elected at large, and that they could be susceptible to special interests.

Mr. Leong discussed that the Councilmembers indicated that they want to be able to appoint the Chair of the Council.

Ms. Stansky discussed the merits of rotating the Chair.

Ms. Popp discussed that she would like to have the opportunity to vote on expanding the number of Councilmanic Districts after the next public hearing. She would like to hear more testimony. Representation is not solved by having a member elected at large. She would like to bring this issue up after a public hearing and would like to expressly ask for public testimony on this issue.

Mr. Kuc asked if Ms. Popp was making a motion to postpone the vote.

Ms. Popp discussed that today could be a straw vote, and there could be an official vote after the public hearing.

Ms. Nolan discussed the comments about members elected at large. She discussed that the Commission members have to answer why should the number of Councilmanic Districts be expanded. She discussed the need for more constituent services. Her council member has a

workload that is different than a member representing Columbia because Ellicott City does not have covenants like in Columbia. She discussed if increasing staff for constituent services could be helpful with this issue.

Ms. Sonnier discussed that the issue of increasing staff for constituent services was addressed at the last public hearing. People testified that they want to be able to speak directly with the Councilmember. It is not just an issue of constituent service. Individuals want one on one or group attention from a Councilmember.

Ms. Nolan discussed that the Commission members need to be aware of the fiscal impact of their recommendation and the difficulty of conducting a fiscal analysis of the recommendations.

Ms. Holmes discussed that some of the issues can be addressed with more staff but not all the issues. She discussed that the public feels strongly about the issue of expanding the number of districts. She discussed electing members by district versus at large. She asked if other counties have full time councilmembers.

Ms. Stansky discussed that Prince George's County Councilmembers are full time for salary purposes.

Ms. Schwartz Jones discussed that the Montgomery County Council is a full time Council.

Ms. Stansky discussed some of the Councilmanic District expenses and the need for data to support recommendations.

Mr. Leong discussed that the Commission members have looked at the size of Howard County districts compared to our peers that are large suburban counties. There is a case to be made that growth in Howard County supports the expansion of the number of Councilmanic Districts.

The members discussed the pros and cons of Councilmembers elected by district and Councilmembers elected at large.

Mr. Leong discussed that two of the members of the Board of Education are elected at large by the voters of the County.

The members discussed some of the budget costs of the Councilmembers, the budget of the County Council, and what is the possible percent of the County Council budget of the entire County budget.

Ms. Nolan discussed the importance of being aware of the costs of recommendations that are being discussed.

The members discussed the need for additional public input, and what should be advertised for the public hearing.

Ms. Sonnier discussed that when the Commission members scheduled the public hearing, they agreed to put out questions for the public to consider. She also discussed that there are two motions on the table.

Mr. Howard discussed that the Commission members had previously discussed having a report ready for the public to read for the last public hearing of the Commission.

Mr. Walsh discussed another amendment that whatever is voted on today would be presented to the public as a preliminary recommendation.

Ms. Sonnier discussed having a preliminary report on the web site prior to the public hearing. After the public hearing, the Commission could discuss if the preliminary report should be the final report.

Mr. Walsh made a motion that any recommendation the Commission approves today is considered a preliminary recommendation to be presented to the public at the March hearing.

Mr. Kuc advised the members to vote on the motion made by Mr. Walsh.

The members voted unanimously in favor of the motion that any recommendation the Commission approves today is considered a preliminary recommendation to be presented to the public at the March public hearing.

The Commission voted on the Walsh amendment to the Howard motion. The Walsh amendment is to recommend that the number of Councilmanic Districts be expanded from five to seven.

The motion passed with Mr. Howard and Ms. Nolan voting against the motion.

The members voted on the motion to recommend the number of Councilmanic Districts be expanded from five to seven with all seven members elected by district. The motion passed with Ms. Nolan voting against the motion.

Ms. Sonnier discussed that the preliminary recommendation of the Commission to the Council is that the number of Councilmanic Districts be expanded from five to seven with all seven members elected by district.

The Commission members discussed with Mr. Mickley via teleconference the impact on the budget of the Board of Elections of additional Councilmanic Districts, including the number of polling places and the hiring and training of election judges.

The members and Mr. Mickley discussed that the Board of Elections will implement whatever the results are of any additional Councilmanic Districts and any redrawn Councilmanic District boundary lines.

The members and Mr. Mickley discussed the information that is available using geographic information systems mapping tools.

Mr. Mickley discussed his responsibilities as the Director of the Board of Elections.

Mr. Mickley discussed the current timeline for redistricting in the Charter and moving the dates by several months so that the Board of Elections can effectively do its job. The change in the date of the Primary Election in 2022 from September to June is the cause of the issue. He discussed that 13 weeks is the time needed to prepare for the Primary Election in June 2022. The Board of Elections would like to have a plan of Councilmanic Districts by the first week of January 2022.

Ms. Sonnier discussed that under the current Charter, the Council must appoint a Councilmanic Redistricting Commission no later than April 1 of the year after the Census.

Mr. Mickley discussed that the timeline was not an issue in 2012 because it was a Presidential Election year. He discussed that the process needs to be accelerated because 2022 is an election year for the Governor, in addition to local elections. Mr. Mickley discussed that he prefers receiving the Councilmanic District boundaries information by the first week of January.

Ms. Stansky discussed the schedule in the Prince George's County Charter.

Mr. Mickley discussed past legal challenges to redrawn councilmanic district boundary lines, the need to address any challenges, and the time needed to carry out the process to prepare for the election.

Ms. Schwartz Jones discussed the timeline to receive Census data, and that the State does not receive the data until March 31, 2021. She discussed the need to factor in the date of receipt of census data into what needs to happen.

Ms. Stansky discussed the need to pay attention to the end date because of the change in the date of the Primary Election.

The members discussed the timeline for establishing the Councilmanic District Boundaries.

Ms. Stansky discussed that the dates in the Charter have to be changed, regardless of the number of districts, so that the Election Board can receive the plan of Councilmanic Districts on time.

Mr. Walsh discussed that the Charter sets deadlines for when things need to be done. The Council can appoint the Councilmanic Redistricting Commission sooner than the date in the Charter.

Mr. Leong discussed that there is nothing in the Charter that prevents the Council from acting sooner.

Mr. Kuc discussed that the Redistricting Plan prepared by the Councilmanic Redistricting Commission will become law by March 15, if no ordinance re-establishing the District boundaries has been enacted.

Mr. Mickley discussed that the March 15 date does not work because it is not enough time for him to do what he needs to do.

Mr. Kuc asked Mr. Mickley how far back he would want to see the three dates moved.

Mr. Mickley discussed that he wants the dates moved back three months for the time the election was moved from September to June.

Ms. Stansky discussed the need to change the dates in the Charter to have effective operations.

Ms. Sonnier thanked Mr. Mickley for calling in and discussed that the members would talk to him another time. Ms. Sonnier reviewed the Agenda items that were not discussed, and that staff would email to the members CB7-2020 relating to whistleblower protection.

The members discussed the need to inform the public about the issues that are being discussed prior to the public hearing, ideally two weeks prior to the hearing.

Mr. Leong discussed a suggestion for efficiency that the members put their ideas in writing for items to be discussed at the next meeting.

The members agreed to meet on February 18, 2020 at 8:30 a.m., which was initially reserved as an inclement weather make up date.

The members discussed putting their thoughts in writing for the next meeting.

Ms. Sonnier adjourned the meeting at 10:31 a.m.