

Charter Review Commission
Wednesday, April 24, 2019
C. Vernon Gray Room
8:00 a.m.

Minutes

Ms. Sonnier opened the meeting at 8:03 a.m.

Charter Review Commission Members Present: Judith Center, Ayesha Holmes, James Howard, Deeba Jafri, Elgin Klugh, Stu Kohn, Fred Leong, Margaret Ann Nolan, Dawn Popp, and Yolanda Sonnier, Chairperson

Charter Review Commission Members Calling in via Teleconference: Ron Braden, Paul Skalny, Carolan Stansky

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

Ms. Sonnier confirmed that everyone had received a copy of the minutes of the April 10, 2019 meeting. She asked if there were any changes to the minutes. Ms. Sonnier suggested in the fourth paragraph on page two of the minutes the addition of “It was recommended to also receive input from previously elected officials.”. The members also agreed to add in the second paragraph on page two of the minutes “The question of what constitutes a quorum will be decided at the next meeting during the discussion of the adoption of rules of procedure.”.

The Minutes from April 10, 2019 with the revisions described above were approved unanimously.

The members discussed the adoption of the Rules of Procedure. Ms. Sonnier suggested that the title of the Rules of Procedure be changed to “Rules of Procedure for the 2019 Charter Review Commission”.

Ms. Sonnier discussed that no one had volunteered to serve as the Vice Chairperson of the Commission. Ms. Sonnier suggested the following revised language for Rule II.d.: “At any meetings of the Commission in the absence of the Chairperson, the Chairperson shall appoint a person to preside and shall have all powers at such meetings delegated herein by the Chairperson for that particular meeting.”.

The members discussed Rule II.e. relating to Robert’s Rules of Order and the impact on discussion using those rules. The members agreed to revise this section as follows: “All votes of order of the Commission shall be conducted in accordance with Robert’s Rules of Order, newly revised.”.

The members discussed the quorum requirements in the Rules of Procedure. The members agreed that a quorum is two-thirds of the Commission. An action requiring a vote by

the Commission requires the affirmative vote of the majority of the members present, unless otherwise specified in the rules.

The Rules of Procedure, as amended, were approved unanimously.

Ms. Sonnier discussed that Mr. Walsh has volunteered to be the parliamentarian. She designated Mr. Walsh as the parliamentarian.

Mr. Kuc presented an overview of the County Charter. Mr. Kuc explained that Mr. Gwynn will discuss court decisions regarding what is proper to have in a county charter.

Mr. Kuc explained that the Charter has 12 Articles. Article I identifies the County and its rights and its status in relationship to the State. Article II identifies the legislative branch. All legislative powers are vested in the County Council. Article III identifies the executive branch. Many of the provisions are determined in accordance with State law. Article IV deals with offices, departments, and boards that are part of the executive branch. Article V deals with the Board of Appeals, which has land use jurisdiction and hears appeals from administrative agencies of the County. Article VI deals with the budget and the powers of the county executive and county council regarding the budget and the rainy day fund. Article VII deals with the merit system, which is the County's personnel system, and identifies the scope of the merit system. Article VIII provides the purchasing rules for the County, including competitive bidding. Article IX contains general provisions, including ethics and the citizens' election fund system. Article X provides for the amendment or termination of the Charter. Articles XI and XII are transitional provisions concerning laws prior to 1968. In general, the articles discuss exercises of power and who exercises the power.

Mr. Gwynn suggested that the members review provisions in their binder relating to home rule. Prior to the establishment of charter and code counties, each county was a commissioner county. State law handled many issues that were particular to counties. The State delegated the option to each county to become a charter county. If a county became a charter county, there were certain legislative powers they could have. This is the purpose of the Express Powers Act which lays out the subjects of these legislative powers. Express powers are in addition to any other State delegated powers. A charter is like a constitution. It has the basic structure of government. Article II addresses the legislative power of the County Council and Article III addresses the power of the executive branch. There is case law which distinguishes what is proper material for a charter and what is not. Collective bargaining has been found to be improper charter material because it divests the County Council of its legislative powers. This is the authority of the County Council. Rent control is an example of improper charter material. This is a proper Code provision. Anything that divests the County Council of its legislative authority is improper. You may not divest the County Council of its legislative authority. Mr. Gwynn advised the members to think of the charter as a high-level document that sets up the structure of government. Improper charter material must be reviewed on a case by case basis. The members discussed if the school board is proper material for the charter. Mr. Gwynn responded that the school board is separate from County government. The County government cannot force the school board to do anything because it is a separate entity. The permitted

involvement of the County Council with the school board is during the budget cycle and with land acquisition.

Ms. Sonnier discussed questions submitted by Ms. Stansky via email. Ms. Stansky asked if commission members need to disclose their current appointment in any forum? Ms. Nolan suggested that the appointment is a matter of public record. Ms. Stansky asked if she could speak with a County Council member or a State Senator or Delegate to get perspectives before raising a matter with the Commission. Mr. Gwynn responded a Commission member is free to talk with elected representatives as long as the member does not violate the Open Meetings Law.

Ms. Stansky requested a definition of “moral turpitude” as it appears in the Charter. Mr. Kuc responded that he would respond at a later time. Ms. Sonnier discussed that she will forward the other legal questions submitted by Ms. Stansky to the Office of Law.

Mr. Gwynn discussed the requirement of the Open Meetings Law that each public body designate someone to take the Open Meetings Law training. Ms. Popp commented that she has taken the training. Mr. Kuc asked when she took the training. Ms. Popp responded that she had the training six months ago. Ms. Sonnier designated Ms. Popp as the member of the Commission with the required training under the Open Meetings Law.

The members began discussion of the Preamble, Section I, and Section II of the Charter.

Ms. Sonnier commented that Mr. Leong has prepared a chart of the Charter. If a member of the Commission would like to utilize the chart, please contact Mr. Leong. Mr. Leong explained that he copied and pasted each provision of the Charter to an Excel spread sheet, which makes it easier for him to annotate.

Mr. Leong asked about the process to ask questions about the Charter as members try to understand what the charter prescribes and how it is implemented. Ms. Sonnier responded that questions should be sent to the Commission email address. Ms. Rosen will forward the questions to Commission members in advance of the next Commission meeting. Legal questions will be forwarded to the Office of Law. Ms. Sonnier commented that requests for items to be added to the agenda should be sent directly to her.

Ms. Sonnier stated that the report of the commission will include recommendations for changes to the charter and the reasons for those changes.

The members discussed a grammatical concern about Article I, Section 102 raised by Ms. Stansky. Mr. Kuc discussed that when a court reads a provision of the Charter, the Court looks at the entire context. You need to look at the entire provision and how the different parts relate to each other.

The members discussed Article I, Section 103 and did not identify any needed changes.

The members discussed Article I, Section 201 relating to the composition of the legislative branch. Ms. Popp asked why this section does not mention the County Council acting

as the Zoning Board. Mr. Howard commented that provisions relating to the Zoning Board are in the County Code.

The members discussed the term “Councilmanic” in Article II, Section 202 and the need to make the Charter language gender neutral. Mr. Kuc commented there have been amendments to the Charter to make it gender neutral but that “Councilmanic” was missed.

Ms. Popp asked if the members should be voting on suggested changes at this time. Ms. Sonnier responded that the members are discussing suggested changes that can be put on a list for voting at another time. Ms. Popp agreed that voting should be at a later date and after the Commission hears from the public. Ms. Sonnier reviewed the suggested changes in Section 202 from “Councilmanic District” to “Council District”.

Ms. Center discussed changing “he” and “she” to “them”, “they”, or “their”. Ms. Sonnier requested any other suggested changes that affect the entire Charter. She discussed the need to identify gender changes throughout the Charter.

The members discussed the number of members of the County Council. Mr. Klugh requested additional information about how districts are drawn. Mr. Howard referred to Section 202(f) relating to redistricting. Ms. Sonnier referred to requests for data submitted by Ms. Stansky, including requests for population data in Maryland counties and Baltimore City, current population of Howard County by councilmanic district, and specified demographic information for Howard County. Ms. Jafri asked about the population in each councilmanic district. Mr. Skalny commented on the need to understand how the population has grown in Howard County and what are the relative sizes of districts in other jurisdictions. Mr. Howard commented that he analyzed the size of the population that each Howard County Council member represents. He also analyzed population data for legislatures in the other counties in the State and Baltimore City. Mr. Howard concluded that councilmanic districts in Howard County are significantly large relative to those in other jurisdictions. The members further discussed requests for research related to population growth over the next ten years, in addition to the data requested by Ms. Stansky. The Chair summarized a request for the following research: 1) population in Howard County when the Charter was adopted in 1968 and what prompted the change from three commissioners to five County Council members; 2) population growth in Howard County since this change; and 3) current projections for growth in the population and what is the basis for the projected growth. Ms. Popp suggested that some of the requested data may be in the report of the most recent Compensation Review Commission. The discussion on Article II, Section 202(a) was tabled until after the receipt of demographic information and after public hearings. Ms. Popp suggested that future discussion of Section 202(a) include the election of members at large.

The members discussed the use of titles at the beginning of each section of the Charter. Ms. Nolan commented that the titles do not have meaning in terms of statutory construction. A court will not look to a title of a section for statutory construction. It is a common convention used in state law and county codes. It is background that informs the rest of the provision.

The members discussed Article II, Section 202(b) relating to the qualifications of the County Council members. Ms. Jafri requested clarification of the language “a period of not less

than two years”. Mr. Howard commented it is not less than two years prior to the nomination of the candidate. The members also discussed the age requirement of not less than 25 years of age at the time of election and the possibility of changing the age requirement to 21 or 18. Mr. Leong suggested that this issue be marked for future discussion. Ms. Nolan asked about the age requirements in the Charters of other jurisdictions. The members discussed the age requirement of not less than 30 years of age at the time of the election of the County Executive. Mr. Kohn commented on the difference in the age requirement for County Council members and the County Executive. Mr. Howard discussed a requirement for holders of both offices of a “registered voter”, which would be 18 years of age. Ms. Holmes commented on research relating to the lack of full executive function until 25 years of age. Ms. Holmes will send research on this topic to Ms. Rosen for distribution to the Commission members. Ms. Sonnier suggested additional discussion of age requirements after members have a chance to review the research and age requirements in other charters.

The members discussed Article II, Section 202(b)2 relating to other offices or employment. Ms. Sonnier referred to Ms. Stansky written comments on the lack of consistent capitalization in this section for “council” and “state”. The members further discussed issues relating to the other offices or employment language, including could a person run for office while still an employee of the State or Howard County government, could a public school teacher employed in Howard County versus Montgomery County hold a County Council office, and could a public school teacher employed in Delaware or Virginia hold a County Council office. Mr. Howard commented that there are other issues relating to federal employment.

The members discussed questions relating to Article II, Section 202(b)3. Mr. Leong requested a definition of “office of profit or trust”. Ms. Sonnier suggested that legal questions be sent to Ms. Rosen to send to the Office of Law.

The members discussed the need to update obsolete provisions relating to compensation in Article II, Section 202(d).

The members discussed the need for a process for members to submit questions relating to the Charter. Ms. Nolan commented on the need for a sequence of circulating questions to members to avoid duplication. Ms. Sonnier explained that a process will be established, and she will notify members of the process.

The members discussed how to best handle future discussions. For future meetings, should issues for discussion be submitted in advance of a meeting? Mr. Leong commented it is useful to know questions in advance for discussion items.

The members discussed dates for future Commission meetings and public hearings. 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. The start time for the meetings on May 8, 2019 and May 23, 2019 was changed from 8:00 a.m. to 8:30 a.m. The members agreed that locations for public hearings will be the George Howard Building, Glenwood, and North Laurel. 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. Dates for

public officials to attend Commission meetings and dates for additional public hearings and their locations will be further discussed at the next meeting of the Commission. Discussion concerning the length of time for testimony and public notice of the meetings will continue at the next meeting of the Commission.

Ms. Sonnier discussed sending out letters requesting input from public officials by a certain date. Letters will be sent to public officials requesting input by June 10, 2019.

The meeting was adjourned at 10:37 a.m.