

MINUTES

FREDERICK COUNTY CHARTER REVIEW COMMISSION

Thursday, December 19, 2019

Members Present: John Daniels, Dylan Diggs, Paul Gilligan, Lisa Jarosinski, Dr. April Miller, Walter Olson, Stephen Slater

Call to Order: Stephen Slater, Chairperson, called the meeting to order at 6:00 pm

Pledge of Allegiance

Approval of December 11, 2019 Meeting Minutes:

Motion to approve the December 11, 2019

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs			✓		
Gilligan	✓		✓		
Jarosinski			✓		
Miller			✓		
Olson			✓		
Daniels, Vice Chair		✓	✓		
Slater, Chair			✓		

Workshop and Vote on Charter Proposals:

Floor Manager - Vice Chairperson John Daniels

Spreadsheet Item 31 – Article 7, Section 703(a) – Review process of appointing future charter review commission members including time period and potentially adding one to two members to be appointed by the county executive.

The current Charter language is below:

703. Charter Review Commission (a) A Charter Review Commission shall be appointed by the Council no later than six months following the installation of newly elected council members after the election of 2018. A Charter Review Commission may be appointed at such other times as the Council, in its discretion, may determine but at least once every 10 years beginning in 2018. The Charter Review Commission shall be composed of seven registered voters of the County, including at least one member from each Council District established pursuant to Section 204 of this Charter. No person shall be eligible for appointment to the Commission who holds elective office. The chair of the Commission shall be elected from and by the members of the Commission.

Motion was made to take no action on Spreadsheet Item 31.

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs			✓		
Gilligan			✓		
Jarosinski			✓		
Miller			✓		
Olson	✓		✓		
Daniels, Vice Chair		✓		✓	
Slater, Chair			✓		

Spreadsheet Item 31 – A vote was taken to take no action, therefore this matter did not move forward.

Floor Manager – Commissioner Walter Olson

Spreadsheet Item 38 – Add penalty for the county executive not devoting full time to the county executive job functions as specified in Article 4, Section 405(b); perhaps declaring the county executive office vacant after the county council resolution stating the county executive is in violation (adding paragraph (5) to Section 407).

The current Charter language is below:

405. Qualifications of the County Executive (b) The Executive shall devote full-time to the duties of the office. The Executive may not participate in any private occupation for compensation. During the term of office, the Executive may not hold any other office of profit.

407. Forfeiture of Office by the Executive An Executive shall immediately forfeit office and the office shall be deemed vacant upon: (1) the Executive ceasing to be a citizen of the United States or a registered voter of the County; (2) the Executive being convicted of or pleading guilty to a felony or a crime involving moral turpitude; (3) the Executive being granted probation before judgment for a felony or a crime involving moral turpitude; or (4) acceptance by a court of a plea of nolo contendere for a felony or a crime involving moral turpitude.

Motion to set aside Spreadsheet Item 38, adding language for a penalty for the county executive for not devoting full time to the county executive job functions as specified in Article 4, Section 405(b) and to declare the county executive office vacant after the county council resolution stating the county executive is in violation (adding paragraph (5) to Section 407), for the next charter review commission to address.

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs		✓	✓		
Gilligan			✓		
Jarosinski			✓		
Miller			✓		
Olson			✓		
Daniels, Vice Chair	✓		✓		
Slater, Chair			✓		

Spreadsheet Item 38 – Language added for a penalty for the county executive for not devoting full time to the county executive job functions as specified in Article 4, Section 405(b) and to declare the county executive office vacant after the county council resolution stating the county executive is in violation (adding paragraph (5) to Section 407) was set aside for the next charter review commission to address.

Floor Managers - Commissioner Lisa Jarosinski and Commissioner Dylan Diggs

Spreadsheet Item 23 – Article 5, Section 503 - Require the county executive to provide mandatory weekly budget progress reports beginning January 1 of each year.

The current Charter language is below:

503. Preparation of the County Budget (a) Not later than April 15 of each year, the Executive shall prepare and submit a proposed Budget to the Council for the ensuing fiscal year. The proposed Budget shall present a complete financial plan for the Government reflecting anticipated revenues from all sources, expenditures, and any surplus or deficit in the general or special funds of the Government. (b) During preparation of the Budget, the Executive shall hold at least two public hearings to receive public comment. One hearing shall be held in December to receive proposals for inclusion in the Budget. The other shall be held in March to receive comments on budget requests. The Executive shall provide sufficient notice of the public hearings and shall cause to be published in at least one newspaper of general circulation in the County a notice of the date, time and place of each public hearing. If the Executive determines that no such newspaper exists in the County, the Executive shall use whatever media it deems most suited to satisfy the public notice requirements of this section. The Executive shall prepare a draft Budget and make it available to the public prior to the March hearing date. (c) The proposed Budget shall be reproduced and made available to the public.

Motion was made to take no action on Spreadsheet Item 23.

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs			✓		
Gilligan			✓		
Jarosinski	✓		✓		
Miller				✓	
Olson		✓	✓		
Daniels, Vice Chair			✓		
Slater, Chair			✓		

Spreadsheet Item 23 – A vote was taken to take no action, therefore this matter did not move forward.

Spreadsheet Item 24 – Article 5, Section 503(b) - Require additional public meeting(s) other than the two provided in this section to allow for additional public input into the budget process.

The current Charter language is below:

503. Preparation of the County Budget (b) During preparation of the Budget, the Executive shall hold at least two public hearings to receive public comment. One hearing shall be held in December to receive proposals for inclusion in the Budget. The other shall be held in March to receive comments on budget requests. The Executive shall provide sufficient notice of the public hearings and shall cause to be published in at least one newspaper of general circulation in the County a notice of the date, time and place of each public hearing. If the Executive determines that no such newspaper exists in the County, the Executive shall use whatever media it deems most suited to satisfy the public notice requirements of this section. The Executive shall prepare a draft Budget and make it available to the public prior to the March hearing date.

Motion was made to take no action on Spreadsheet Item 24.

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs				✓	
Gilligan		✓	✓		

Jarosinski	✓		✓		
Miller				✓	
Olson			✓		
Daniels, Vice Chair			✓		
Slater, Chair			✓		

Spreadsheet Item 24 – A vote was taken to take no action, therefore this matter did not move forward.

Spreadsheet Item 26 – Article 5, Section 506(d) - Extend time for the county council to act on the budget resolution.

The current Charter language is below:

506. Action on the Budget by the Council (d) The adoption of the Budget shall be by the affirmative vote of not less than four members of the Council in a law enacted not later than May 31, which shall be known as the “Annual Budget and Appropriations Ordinance of Frederick County.” If the Council fails to adopt the Budget by May 31 pursuant to this subsection, the proposed Budget as submitted by the Executive shall become law.

Motion was made to take no action on Spreadsheet Item 26.

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs				✓	
Gilligan			✓		
Jarosinski	✓		✓		
Miller			✓		
Olson			✓		
Daniels, Vice Chair		✓	✓		
Slater, Chair			✓		

Spreadsheet Item 26 – A vote was taken to take no action, therefore this matter did not move forward.

Spreadsheet Item 25 – Article 5, Section 506 - Grant to the county council the power to transfer/add funds to sections of county budget (perhaps with supermajority).

The current Charter language is below:

506. Action on the Budget by the Council (a) After a public hearing, the Council may decrease or delete any items in the Budget, except those required by State law, by provisions for debt service on obligations then outstanding or for estimated cash deficits. The Council shall have no power to change the form of the Budget as submitted by the Executive, to alter revenue estimates, or to increase any expenditure recommended by the Executive, unless expressly provided in State law and except to correct mathematical errors. (b) Except as provided in subsection (c) of this section, any change in the proposed Budget to decrease or delete an item in the Budget made pursuant to subsection (a) of this section shall constitute a change of substance requiring that a public hearing be held following the posting of a fair summary of the change plus the date, time and place of the public hearing. This notice must be posted on the County website at least two days in advance of the public hearing. (c) A decrease or deletion of one or more items in the Budget may not constitute a change of substance in the proposed Budget if the decrease or deletion constitutes less than a one percent change in the total Budget or less than a fifty percent decrease in any one line item in the Budget. (d) The adoption of the Budget shall be by the affirmative vote of not less than four members of the Council in a law enacted not later than May 31, which shall be known as the “Annual Budget and Appropriations Ordinance of Frederick

County.” If the Council fails to adopt the Budget by May 31 pursuant to this subsection, the proposed Budget as submitted by the Executive shall become law. (Res. 16-17, 7-19-2016)

Motion was made to take no action on Spreadsheet Item 25.

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs			✓		
Gilligan			✓		
Jarosinski	✓		✓		
Miller				✓	
Olson		✓	✓		
Daniels, Vice Chair			✓		
Slater, Chair			✓		

Spreadsheet Item 25 – A vote was taken to take no action, therefore this matter did not move forward.

Spreadsheet Item 39 – Article 5, Sections 503, 509, and 513 (Also, Article 1, Section 104) – Budget provisions making clear distinctions between Operating Budget, Capital Budget, and Capital Improvement Plan (CIP) and specifying “divisions” to more accurately reflect structure of County government, etc.

The current Charter language is below:

503. Preparation of the County Budget (a) Not later than April 15 of each year, the Executive shall prepare and submit a proposed Budget to the Council for the ensuing fiscal year. The proposed Budget shall present a complete financial plan for the Government reflecting anticipated revenues from all sources, expenditures, and any surplus or deficit in the general or special funds of the Government. (b) During preparation of the Budget, the Executive shall hold at least two public hearings to receive public comment. One hearing shall be held in December to receive proposals for inclusion in the Budget. The other shall be held in March to receive comments on budget requests. The Executive shall provide sufficient notice of the public hearings and shall cause to be published in at least one newspaper of general circulation in the County a notice of the date, time and place of each public hearing. If the Executive determines that no such newspaper exists in the County, the Executive shall use whatever media it deems most suited to satisfy the public notice requirements of this section. The Executive shall prepare a draft Budget and make it available to the public prior to the March hearing date. (c) The proposed Budget shall be reproduced and made available to the public.

509. Transfer of Appropriations (a) The Executive may transfer unencumbered appropriations in the Operating Budget within the same department, agency, or office and within the same fund. On the recommendation of the Executive, the Council may transfer unencumbered appropriations in the Operating Budget between departments, agencies and offices within the same fund. (b) A transfer may not be made between the Operating Budget and Capital Budget appropriations. On the recommendation of the Executive, the Council may transfer appropriations between Capital Projects within the same fund provided the Council neither creates nor abandons any Capital Projects except in accordance with Section 512 of this Charter. (c) Notwithstanding any provisions of this section, the Council may provide by law for inter-fund cash borrowing in the same fiscal year to meet temporary cash requirements. Nothing contained in this section may be construed to prevent reimbursement among funds for services rendered.

513. Amendment to Capital Budget after Adoption of the Budget Upon recommendation of the Executive and after a public hearing and an affirmative vote of at least four council members, the Council may amend the Annual Budget and Appropriations Ordinance to provide funds for a Capital Project not previously appearing in the Capital Budget for the fiscal year. The amendment may not increase the total amount of appropriations for the fiscal year, unless such increased appropriations shall be funded from revenues received in excess of those budgeted or from

unanticipated revenues not previously budgeted in the Annual Budget and Appropriations Ordinance for the fiscal year.

104. Definitions

Motion to table until the January 16, 2020 meeting.

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs		✓	✓		
Gilligan			✓		
Jarosinski	✓		✓		
Miller			✓		
Olson			✓		
Daniels, Vice Chair			✓		
Slater, Chair			✓		

Spreadsheet Item 39 – Changing budget provisions in Article 5, Sections 503, 509, and 513 (Also, Article 1, Section 104) to make clear distinctions between Operating Budget, Capital Budget, and Capital Improvement Plan (CIP) and specifying “divisions” to more accurately reflect structure of County government, etc. was tabled to January 16, 2020.

Floor Manager Vice Chairperson John Daniels

Spreadsheet Item 15 – Article 2, Section 213 - Add to county council staff a budget director and staff attorney independent of the county executive and county attorney. (Tabled from the December 11, 2019 meeting)

The current Charter language is below:

213. Council Assistance The Council may by resolution, at its discretion and subject to the provisions of its budget or supplementary appropriation, employ administrative employees or such legal, financial or other advisors as it deems necessary to perform its functions.

Motion was made to take no action on Spreadsheet Item 15.

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs				✓	
Gilligan			✓		
Jarosinski	✓		✓		
Miller				✓	
Olson			✓		
Daniels, Vice Chair		✓	✓		
Slater, Chair			✓		

Spreadsheet Item 15 – A vote was taken to take no action, therefore this matter did not move forward.

Floor Manager - Commissioner April Miller

Spreadsheet Item 5 – Article 2, Section 205(c) – Prohibit council members from serving as employees of the Board of Education due to perceived conflict of interest

The current Charter language is below:

205. Qualifications (c) While serving as a council member, no council member may: (1) Hold any other elected public office; (2) Hold any other office of profit created by the Maryland Constitution or laws of the State, pursuant to Article 35 of the Maryland Declaration of Rights; or (3) Be

employed by a department or agency of the County government, which is substantially controlled by the Executive or the Council.

By consent, the discussion on Spreadsheet Item 5, Article 2, Section 205(c) will be continued during the next meeting on January 16, 2020.

Discussion on the Format of the Final Charter Review Commission Report:

By consent, the discussion on the final Charter Review Commission Report will be will be continued during the next meeting on January 16, 2020.

Future Agenda Items:

1. Spreadsheet Item 39 – Article 5, Sections 503, 509, and 513 (Also, Article 1, Section 104) – Budget provisions making clear distinctions between Operating Budget, Capital Budget, and Capital Improvement Plan (CIP) and specifying “divisions” to more accurately reflect structure of County government, etc.
2. Spreadsheet Item 5 – Article 2, Section 205(c) – Prohibit council members from serving as employees of the Board of Education due to perceived conflict of interest.
3. Discussion on the Draft of the Final Charter Review Commission Report.
4. The next meeting will be held Thursday, January 16, 2020, at 6:00 pm.

Public Comments:

The following people gave public comments:

Richard Kaplowitz, Crestwood Village 7056 Catalpa Road, Frederick

Topics included: teachers as members of the county council, council staff (subject matter expert), county budget, charter review commission.

Commission Member Comments:

Commission Member comments were provided.

Adjournment:

By unanimous consent of the Commission members, the meeting adjourned at 9:00 pm.

Stephen Slater, Chairperson
Charter Review Commission