

CHARTER REVIEW COMMISSION

January 9, 2012

The Honorable Mary Kay Sigaty
Chairperson, Howard County Council
3430 Court House Drive
Ellicott City, Maryland 21041

Dear Chairperson Sigaty,

Enclosed please find the report of the Howard County Charter Review Commission, as required by Resolution Number 10, adopted by the Howard County Council on March 7, 2011.

Since the first meeting of the Commission in April, 2011, the Commission met eleven times. We completed a comprehensive review of each section of the Charter and supporting documents to ensure that the Charter remains current to meet the demands and needs of the Howard County community, even during rapidly changing times. After inviting heads of County departments and offices to speak about amendments to the Charter, and holding three public hearings, the Commission hereby submits eight recommendations for review and consideration. These recommendations represent compromises among the members, and thoughtful changes that could be made to keep the Charter current.

I would like to take this opportunity to thank all of the members of the Commission who worked to create this document. Throughout all of the meetings, the Commission members remained thoughtful of their purpose and respectful toward each other.

On behalf of the full Commission, I would like to say that we were pleased and proud to be able to serve the people of Howard County in this capacity.

Sincerely,

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Chair

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Introduction

The fifteen member Howard County Charter Review Commission is composed of a diverse group of individuals, who volunteered their time and skills. The Commission began by studying the Howard County Charter and County government. In addition, the Commission invited directors of departments and chairs of committees and commissions in the County to provide input on how the Charter was functioning. Proposals for Charter changes were also solicited from elected officials and citizens. In order to keep the public informed of its work, the Commission maintained a webpage and posted every suggested charter revision, recordings of meetings, and minutes for public review. The Commission held three public hearings that were located throughout the County to encourage residents to take part in the Charter review discussions. All of the Commission meetings were advertised and open to the public.

The Commission agreed on eight (8) recommendations of both substantive and technical changes. New language is shown in capital letters and deleted language is shown in ~~strikeout~~. Some of the changes were specifically requested by heads of agencies. Sharon Greisz, then-Director of Finance, made a request that resulted in proposal number five (5), allowing grant funds to carry over in the County budget from one year to the next. Margaret Ann Nolan, County Solicitor, made a request that resulted in proposal number six (6), aligning County public inspection law with the Maryland Public Information Act.

The Commission also recommends the proposal submitted by the Council Chair, known as proposal number two (2), allowing the Council 12 hours rather than 4 hours to post emergency legislation. Council Member Fox provided several recommendations, including two that were agreed upon by the Commission. These recommendations, proposal number three (3) and proposal number seven (7) respectively, extend the life of a bill from 95 days to 125 days, allowing the Council more time to review complex legislation, and language addressing both new and existing capital projects in Section 613 of the Charter.

While the Commission thoroughly and thoughtfully reviewed each request for an amendment, it was not able to agree on all of the proposals offered. Two examples of these were Council Member Watson's recommendation to increase the number of representatives on the Council and Council Member Fox's recommendation to clarify the County's policy on eminent domain. The Commission received input from the public during hearings on the issue of increasing the number of Council seats, both by increasing the number of districts and by creating at-large positions. The Commission ultimately believed that there was not a groundswell in the community over this issue to indicate that the community is feeling that they were unrepresented by Council Members, or that Members are overworked and stretched thin. The Commission also reviewed Council Member Fox's Resolution Number 150, proposing an amendment to the Charter regarding eminent domain. The Commission listened to the issues

and ultimately determined that there was not the support on the Commission to recommend such an amendment.

The recommendation that produced the most discussion was proposal number four (4), removing the minimum and maximum number of signatures for a referendum to create a flat percentage of the population. The Commission met with the Director and Chair of the Board Elections, as well as legal counsel to the Board of Elections. During this meeting the Commission was given data regarding the number of voters in the County, the effect proposed changes would have on the number of signatures required, and what other jurisdictions require. It was also one the more common topics the public testified on during the public hearings. The topic of the number of signatures required has been a topic that has been raised in every Charter Review Commission, and one that people obviously feel very passionate about. Ultimately, the Commission concluded that a percentage would allow the requirement to change as the population changes, and a 5% requirement, currently 5,068 people, is very close to the current 5,000 maximum currently required.

The eight recommendations were narrowed from much broader lists that were created by the Commission members during review of the Charter. The list of recommendations is much shorter than that offered by previous Charter Review Commissions. The Commission believed that it was more important to vet ideas and provide concise recommendations for the Council. Members of the Commission welcome any and all questions from the Council and the public.

Charter Review Commission 2011

Recommended Amendments

Note: [[Text in double brackets]] indicates deletion from existing law; TEXT IN SMALL CAPITALS indicates addition to existing law.

1. Description: *Changes to various publication and advertising requirements, requiring those matters to be accomplished also through the use of an electronic medium readily available to the public.*

Section 208. Sessions of the County Council; quorum; rules of procedure.

(h) *Journal.* The Council shall provide for the keeping of a Journal which shall be [[open to the public inspection at all reasonable times]] AVAILABLE TO THE PUBLIC IN ELECTRONIC FORM AT ANY TIME.

Section 209. Legislative Procedure.

(c) *Procedure for passage of laws.*

A proposed law may be introduced by bill by any member of the Council during any legislative session of the Council; provided, however, that the Council may reject any proposed law on its introduction by a vote of two-thirds of its members. Every copy of each bill shall bear the name of the member or members of the Council introducing and co-sponsoring it and the date it was introduced for the consideration of the Council.

Not later than the next calendar day following the introduction of a bill, the Chairperson of the Council shall schedule a public hearing thereon.

Within twenty-four hours after the introduction of any bill, a copy thereof and notice of the time and place of the hearing shall be posted by the Administrator of the Council on an official bulletin board to be maintained in a public place by the Council. Such public hearing shall commence not less than ten calendar days after its introduction. The hearing may, but need not be, held during a legislative session and may be recessed from time to time.

The title of each bill and the time and place of the hearing thereon shall be published once a week for two successive weeks in at least one newspaper of general circulation in the County, AND IN AT LEAST ONE ELECTRONIC MEDIUM READILY AVAILABLE TO THE PUBLIC.

After the public hearing, as herein provided, a bill shall be finally passed during a legislative session, with or without amendment. If a bill is amended before it is passed and the amendment constitutes a change of substance, as determined by the affirmative vote of a majority of the Council, the bill shall not be passed until the title of the bill has been rewritten to reflect the substance of the amendment, a date for a public hearing is scheduled thereon and the revised title published in at least one newspaper of general circulation in the County, AND IN AT LEAST ONE ELECTRONIC MEDIUM READILY AVAILABLE TO THE PUBLIC, setting forth the time and place of the hearing to be held thereon.

The title of each enacted bill shall be published once in at least one newspaper of general circulation in the County, AND IN AT LEAST ONE ELECTRONIC MEDIUM READILY AVAILABLE TO THE PUBLIC.

A public hearing shall be held on all resolutions of confirmation of executive and Council appointments to all boards and commissions and in no event shall such resolution of confirmation be adopted less than twenty-five days after its introduction.

(d) Procedure for passage of emergency laws.

To meet an immediate emergency affecting the public health, safety, or welfare, the Council may pass emergency bills. Every emergency bill shall be plainly designated

as such, and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the claimed emergency in clear and specific terms. The term "emergency bill" shall not include any measure creating or abolishing any office; changing the compensation, term, or duty of any officer; granting any franchise or special privilege; or creating any vested right or interest.

Upon the introduction of an emergency bill, the Chairperson of the Council shall schedule a public hearing which shall take place not less than thirty-six hours after its introduction. The Administrator of the Council shall, within four hours after its introduction, post a copy thereof and notice of time and place of the hearing upon an official bulletin board to be maintained by the Council in a public place, AND IN AT LEAST ONE ELECTRONIC MEDIUM READILY AVAILABLE TO THE PUBLIC.

In accordance with State law, the validity of emergency legislation shall not be affected if passed prior to the completion of advertising thereof. An emergency bill may be passed during any legislative session by an affirmative vote of two-thirds of the members of the Council. The effective date of all emergency bills shall be the date of their enactment.

Section 210. Recording, printing and compilation of laws.

(b) *Printing and publication of laws.* The Council shall cause each ordinance, resolution, rule and regulation having the force and effect of law and each amendment to this Charter to be printed promptly following its enactment and they shall receive such publication as may from time to time be required by law. The rules, regulations, ordinances, resolutions and Charter amendments shall be made available to the public at reasonable prices to be fixed by the Council, AND IN AT LEAST ONE ELECTRONIC MEDIUM READILY AVAILABLE TO THE PUBLIC.

Section 604. Filing of proposed budget; copies.

The proposed County budget shall be filed with the Administrator of the Council and a copy shall be delivered to each member of the Council. At least three complete copies

shall be on file in the office of the Council and shall be available for inspection by the public during regular business hours. One copy shall be supplied to each newspaper of general circulation in the County and to each County library. The budget message and supporting summary tables shall be reproduced in multiple copies, and a copy shall be made available to any interested person on request. ALL OF THE DOCUMENTS REQUIRED BY THIS SECTION SHALL BE MADE AVAILABLE IN AT LEAST ONE ELECTRONIC MEDIUM THAT IS READILY AVAILABLE TO THE PUBLIC.

2. Description: *Change posting deadline for emergency legislation from 4 hours after introduction to 12 hours after introduction.*

Section 209. Legislative Procedure.

(d) Procedure for passage of emergency laws.

To meet an immediate emergency affecting the public health, safety, or welfare, the Council may pass emergency bills. Every emergency bill shall be plainly designated as such, and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the claimed emergency in clear and specific terms. The term "emergency bill" shall not include any measure creating or abolishing any office; changing the compensation, term, or duty of any officer; granting any franchise or special privilege; or creating any vested right or interest.

Upon the introduction of an emergency bill, the Chairperson of the Council shall schedule a public hearing which shall take place not less than thirty-six hours after its introduction. The Administrator of the Council shall, within ~~[[four]]~~ TWELVE hours after its introduction, post a copy thereof and notice of time and place of the hearing upon an official bulletin board to be maintained by the Council in a public place. In accordance with State law, the validity of emergency legislation shall not be affected if passed prior to the completion of advertising thereof. An emergency bill may be passed during any legislative session by an affirmative vote of two-thirds of the members of the Council. The effective date of all emergency bills shall be the date of their enactment.

3. Description: *Allow Council action on a bill to be postponed for one additional 30-day period. This would extend the maximum possible life of a bill to 125 days, from the current 95 days.*

Section 209. Legislative Procedure.

(h) *Failure of bills.* Any bill not passed within sixty-five calendar days after its introduction shall fail, unless, by affirmative vote of two-thirds of the members, the Council shall extend the deadline for another thirty days. THE COUNCIL MAY APPROVE A MAXIMUM OF TWO SUCH EXTENSIONS FOR EACH BILL.

4. Description: *Change the number of required signatures for a referendum to be 5% of the of the qualified voters of the County calculated upon the whole number of votes cast in the County for Governor at the last preceding gubernatorial election, as opposed to the current provision of 5% of the registered voters, with a minimum of 1,500 and a maximum of 5,000 signatures required.*

Section 211. The referendum.

(a) *Scope of the referendum.* The people of Howard County reserve to themselves the power known as "The Referendum," by petition to have submitted to the registered voters of the County to approve or reject at the polls, any law or a part of any law of the Council. The referendum petition against any such law shall be sufficient if signed by five per centum of the [[registered voters of the County, but in any case not less than 1,500 nor more than 5,000 signatures shall be required]] QUALIFIED VOTERS OF THE COUNTY CALCULATED UPON THE WHOLE NUMBER OF VOTES CAST IN THE COUNTY FOR GOVERNOR AT THE LAST PRECEDING GUBERNATORIAL ELECTION. Such petition shall be filed with the Board of Supervisors of Elections of Howard County within sixty days after the law is enacted. If such a petition is filed as aforesaid, the law or part thereof to be referred shall not take effect until thirty days after its approval by a majority of the qualified voters of the County voting thereon at the next ensuing election held for members of the House of Representatives of the United States; provided, however, that if more than one-half but less than the full number of signatures required to complete any referendum petition against such law be filed within sixty days from the date it is enacted,

the time for the law to take effect and the time for filing the remainder of signatures to complete the petition shall be extended for an additional thirty days. Any emergency measure shall remain in force from the date it becomes law notwithstanding the filing of such petition, but shall stand repealed thirty days after having been rejected by a majority of the qualified voters voting thereon. No law making any appropriation for current expenses shall be subject to rejection or repeal under this section.

5. Description: *Allow grant funds to carry over in the County budget from one year to the next.*

Section 611. Lapsed appropriations.

Unless otherwise provided by public general law, all unexpended and unencumbered appropriations in the current expense budget remaining at the end of the fiscal year shall lapse into the County treasury, except that appropriations to the risk management AND GRANTS funds shall be non-reverting. No appropriation for a capital project in the capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, however, that any capital project shall stand abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation made therefor. The balances remaining to the credit of the completed or abandoned capital project shall be available for appropriation in subsequent capital budgets.

6. Description: *Make the provisions regarding public records consistent with State law, and expand the public right to inspect records to include all persons, not just county residents.*

SECTION 906. RIGHT TO INSPECT AND COPY PUBLIC RECORDS.

ANY PERSON SHALL HAVE THE RIGHT TO INSPECT ANY PUBLIC RECORD, IN ACCORDANCE WITH THE MARYLAND PUBLIC INFORMATION ACT, IN THE POSSESSION OF ANY BOARD, COMMISSION, OFFICE, OR DEPARTMENT OF THE COUNTY. A COPY OF ANY SUCH DOCUMENT

SHALL BE FURNISHED UPON PAYMENT OF A REASONABLE FEE PRESCRIBED BY THE COUNTY COUNCIL.

(The resolution to amend the Charter would also repeal existing §§ 906 and 907.)

7. Description: *Clarifying that the existing provision in §613 applies to new capital projects only.*

Section 613. - Restrictions of capital projects; amendment to capital budget after adoption of budget.

(A) *NEW CAPITAL PROJECT.* No obligations of the County shall be authorized in any fiscal year for or on account of any capital project not included in the County budget as finally adopted for such year; provided, however, that upon receipt of a recommendation in writing from the Executive and the Planning Board, the Council may after public hearing and with the affirmative vote of two-thirds of its members, amend the County budget TO APPROVE A NEW CAPITAL PROJECT in accordance with such recommendation without increasing the total amount of appropriations therefor.

(B) *AMENDMENT TO EXISTING CAPITAL PROJECT.* THE COUNCIL SHALL ESTABLISH BY LAW PROCEDURES FOR AMENDING THE COUNTY BUDGET TO APPROVE CHANGES TO CAPITAL PROJECTS INCLUDED IN THE COUNTY BUDGET AS FINALLY ADOPTED FOR ANY FISCAL YEAR.

Technical Corrections

8. Description: *Removing occupations from the list of factors to be considered during Council redistricting; correcting a reference to State law in the Board of Appeals section; removing duplicate definitions in §§ 615A and 615B; and correcting a typographical error in § 709.*

Section 202. The County Council.

(f) *Redistricting.*

1. *Boundaries.*

The Council shall appoint, by resolution, not later than April 1 of the year after each decennial census date, a Councilmanic Redistricting Commission. The Central Committee of each political party which polled at least twenty-five per centum of the total vote cast for all the candidates for the Office of County Executive in the last preceding general election shall nominate three persons to serve on the Commission. The Council shall appoint all such nominees as members of the Commission as well as one additional member of the Commission. The Council shall appoint the Chairperson of the Commission from among the Commission members. No person shall be eligible for appointment to the Commission who holds elective office.

By October 15 of the year in which the Commission is appointed, the Commission shall prepare a plan of Councilmanic Districts and shall present that plan to the Council. Within thirty days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If by March 15 of the year following submission of the plan, no ordinance re-establishing the boundaries of the Councilmanic Districts has been enacted, then the plan as submitted by the Commission shall become law. Any Councilmanic District established in accordance with this Article shall be compact, contiguous, substantially equal in population, and have common interest as a result of geography, [[occupation,]] history, or existing political boundaries. Any ordinance establishing Councilmanic Districts shall be exempt from referendum.

The Board of Supervisors of Elections shall take any necessary steps to implement any such revisions of the Councilmanic District Boundaries so adopted.

Section 501. The County Board of Appeals.

b) *Powers and functions.* The Board of Appeals may exercise the functions and powers relating to the hearing and deciding, either originally or on appeal or review, of such matters as are or may be set forth in Article [[25a, Subparagraph (u)]] 25A, SECTION 5 (U) of the Annotated Code of Maryland, excluding those matters affecting the adopting of or change in the general plan, zoning map, rules, regulations or ordinances.

Section 601. Fiscal year and tax year and definitions.

(b) *Definitions.*

(7) THE TERM “*ESTIMATED SURPLUS*” SHALL MEAN THE AMOUNT INCLUDED AS SURPLUS REVENUE IN THE CURRENT EXPENSE BUDGET FOR THE ENSUING FISCAL YEAR.

(8) *THE TERM* “EXCESS SURPLUS” SHALL MEAN THE AMOUNT BY WHICH THE SUM OF THE ESTIMATED SURPLUS AND THE UNBUDGETED SURPLUS EXCEEDS THE AMOUNT WHICH IS REQUIRED TO BE APPROPRIATED TO THE BUDGET STABILIZATION ACCOUNT UNDER SECTION 615A OF THIS CHARTER.

[[~~(7)~~]] (9) The term "operating expense program" shall mean a summary projection of receipts and operating expenses for the fiscal year covered by the current expense budget and the next succeeding five fiscal years.

(10) THE TERM "TOTAL GENERAL FUND EXPENDITURES" SHALL MEAN THE TOTAL OF ALL EXPENDITURES FROM THE GENERAL FUND, INCLUDING OPERATING TRANSFERS TO THE BOARD OF EDUCATION, THE HOWARD COMMUNITY COLLEGE, AND OTHER FUNDS, BUT NOT INCLUDING THE AMOUNT OF ANY EXCESS SURPLUS USED FOR THE RESTRICTED PURPOSES LISTED IN SECTION 615B OF THIS CHARTER.

(11) THE TERM "UNBUDGETED SURPLUS" MEANS THE AMOUNT, DETERMINED BY AUDIT FOR THE LAST COMPLETE FISCAL YEAR, BY WHICH THE ACTUAL GENERAL FUND SURPLUS EXCEEDS THE AMOUNT OF ESTIMATED SURPLUS FOR THAT SAME FISCAL YEAR.

(The resolution to amend the Charter would also show the above definitions being deleted from §§ 615A and 615B.)

Section 709. Prohibitions.

(c) *Influence.* No person may use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the

classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing [[thee]] THE vote or political action of any person, or for any consideration. No person, directly or indirectly, shall give, render, pay, offer, solicit or accept any money, service or other valuable consideration for securing or providing any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service.