

Charter Review Committee of 2011

April 10, 2012

There being a quorum present, Chairman, M.J. Caldwell called the meeting to order at 6:00 p.m. with the following members in attendance: Allen Brown, Cathy Keim, Greg Belcher, Ed Urban, Fran Starkey, John Cannon, M.J. Caldwell and Mark Kilmer.

Excused: Christina Rodriguez, Katrina Purnell, L.C. Jones, Orvill Penn

Absent: Brad Gillis, William Hall

Representing the County Executive's Office: Wayne Strausburg,
Director of Administration

Assigned Staff: Ed Baker, Maureen Lanigan, Matthew Creamer

In attendance: Richard M. Pollitt, Joe Holloway, Bob Culver

Chairman Caldwell extended a welcome and introduction to County Executive, Richard M. Pollitt, Jr. Mr. Pollitt expressed his appreciation for members of the Charter Review Committee taking their time to conduct a page by page, line by line review of our county charter and he thanked members for their service. Mr. Pollitt said he hopes that the committee may find it helpful to hear the Executive's perspective on the first five years of this new form of government and he wanted to relate some of his impressions and experiences. He added that he had not been a fan of changing to an elected executive and when the question was put on the ballot, he had voted "no". He said he recalled with great respect, many of those who had served on the county council over the years, such as Albert Bailey, David Grier, Henry Parker, Bob Lawrence, Lewis Riley and others. Mr. Pollitt said it had been his view that the system was not broken, that there needed only to be a change of the people in office, which could be accomplished by the voters. But, he added, the taxpayer revolt changed all of that, which resulted in another ballot question to

establish a county executive form of county government. Mr. Pollitt said he had been encouraged by a number of people to run for County Executive, which he did and he was fortunate to be elected County Executive, not once, but twice. He came to realize that as the first elected executive, everything he did tended to set a precedent. He added that a lot of people didn't understand the role of an elected executive and thought it meant they were getting an elected Director of Administration. He said, but that's not it at all. The new system makes one person responsible for what the county does, for economic development, for every aspect of the community that the county has responsibility for, making sure we are competitive, efficient, the quality of our lives, making the county whole, for making a sense of community. He said at the beginning even county employees didn't understand how the new system is supposed to work. People were used to going to the County Council and under our new system, county operations are under the authority of the Executive. He said it's been an evolving process. Mr. Pollitt said he hopes the committee will be mindful of the spirit and the intent of the new Charter and will not want to weaken the system. He reminded the committee that under the old Charter the county's infrastructure had been neglected and when a large tax increase was needed to get things done the voters responded by putting in place a new system with a County Executive who would be accountable to the public. He said when he became the Executive his first goal was to make county government accountable and to restore public confidence. He added that as the first County Executive there were no footsteps to follow and he had relied on the experience of other County Executives, who had been very helpful. Mr. Pollitt expressed the importance of the Charter maintaining the checks and balances between the Executive and the Council. He said during the first term there were efforts by some on the Council to do away with the position of the Public Information Officer in the Executive's Office. He suggested that since the Executive cannot make any cuts to the operating budget of the County Council, that the committee consider extending the same courtesy to the County Executive's Office budget, giving the protection of the Charter to keep the Council from cutting it. Mr. Pollitt said if we're going to have an elected Executive we should let the Executive lead the county. The Executive's authority should not be diluted and especially not so soon after the system has been put in place. He further added

that some have said the county should go back to the old Charter. He asked the committee to exercise caution, that the new Charter had been passed by a strong majority of the voters and it would be wrong to scrap the system after such a short time. Mr. Pollitt thanked the committee again for the good work that's being done and for the members' commitment to doing a thorough job of it. Mr. Caldwell asked whether there were any questions for Mr. Pollitt. Mrs. Keim asked whether the budget process allows enough time for Mr. Pollitt and his staff to prepare the budget and does the state legislature always have such a large impact on the county budget. Mr. Pollitt responded that yes, these are difficult times and it is always a challenge to go through the budget process within the time that's available. He added that because education is a top priority of the state and because education is always the largest portion of the county's budget, the decisions made by the Legislature have a big impact on the county. He added the Maintenance of Effort bills that came out relatively late in the session for something so important and having so much affect on the counties that our county would have to seek a waiver because we just won't be able to meet the requirements of the bills. He said we have built our budget for next year based on the current MOE level and we will begin to recover from the massive state funding cuts to the county in the past few years. With the new requirements, we doubt we can meet them.

Mr. Cannon commented that at the last committee meeting the committee reviewed the Capital Improvements Budget Section. He mentioned the committee's discussion whether the Executive should be required to hold a public hearing before the budget goes to the County Council, because all the Council can do is approve it, or cut it and there's no opportunity for the public to be heard. Mr. Pollitt said he had not given a lot of consideration to that point, as the Capital Budget had not been a big issue before, but as a general rule, he believes the more public involvement in the process the better it will be. Mr. Caldwell added that the issue is whether the Executive should be required to hold a public hearing, or whether it should remain discretionary. He said the committee had discussed it and a motion to require the Executive to hold a public hearing had failed. Mr. Brown pointed out that the committee has been reviewing the questions it received from Mr. Pollitt's office as they come to the respective sections in the Charter. Mr. Caldwell noted that the committee

received questions from the County Council and those were being reviewed, too. Mr. Caldwell thanked Mr. Pollitt for coming to the committee meeting and Mr. Pollitt thanked the committee for receiving him. He said he is always available and thanked the committee again for its service.

Mr. Caldwell suggested before the committee goes to the next section of the Charter that the Committee **look at Section 607, again**, recalling the discussion from the last meeting with the Howard County Charter. At Mr. Caldwell's invitation, Mr. Baker distributed a handout comparing 3 alternatives in other counties, regarding employees engaging in political activity. The committee reviewed the alternatives. Mr. Caldwell noted that they are very similar and asked whether Mr. Baker had prepared them, to which Mr. Baker replied that Ms. Lanigan had done the work. Ms. Lanigan concurred that the sections are very similar in content, but they are arranged differently. Mr. Cannon asked which of the alternatives would Mr. Baker and Ms. Lanigan recommend, to which Ms. Lanigan expressed preference for alternate 3 because of the way the wording flows. Mr. Baker noted in numbers 1 and 2 the reference to the county personnel regulations complicates the matter, because some employees are subject to the personnel regulations and some, such as Sheriff's Deputies, are not. Ms. Starkey inquired what was the problem with the wording in Section 607. Mrs. Keim responded that several on the committee believe the present wording could impinge upon an employee's rights as a citizen, yet it is recognized there is need for language to protect an employee from political pressure on the job. Ms. Starkey said she believed number 3 to be consistent with Section 607. Following further discussion **Mr. Cannon moved to accept number 3, with a second from Dr. Belcher.** Mr. Caldwell said he had a question about the last line in number 3. Mr. Baker replied that it doesn't bar an employee from contributing but it bars elected officials from asking for contributions. Mr. Caldwell asked whether the language should include employees appointed by the Executive and Dr. Belcher asked whether it should include the Council Administrator, adding the words "by them". **Mr. Cannon and Dr. Belcher accepted the amendment to add "by them"**. Mr. Caldwell noted the prohibition is against requesting employees to pay, not against candidates requesting support, adding that he's not suggesting either way, just throwing it out for discussion. Mr. Urban said no employee should do any political activity during working hours.

Mr. Caldwell acknowledged Mr. Joe Holloway in the audience. Mr. Holloway said when he was first elected there was a push to get something done about the revenue cap and there were county employees out talking about the revenue cap. Mr. Baker said one has to exercise good judgment; if we try to define every possibility of what may be political activity, it will invite litigation. Mr. Caldwell suggested an addition to the second sentence of number 3 ... "or request another officer or employee to participate in political activity, while on the job during working hours". Ms. Starkey said we can't address every possibility. Mr. Urban said employees are not supposed to engage in anything except their job while they're on the job doing what they're getting paid for. Mr. Kilmer said these concerns could be expanded upon in personnel regulations. The Charter should provide the basic framework.

Mr. Kilmer called for the question. Mr. Caldwell said all in favor of accepting the language of number 3 to replace Section 607, with the amendment "with them" please vote aye. The vote was unanimous. Mr. Baker said he would prepare language representing the committee's vote on these sections and distribute them to the committee before the next meeting.

Mr. Caldwell recalled that **at the last meeting** the committee had **discussed Section 704 Capital program and budget**, at length and a **motion to require the Executive to hold a public hearing did not pass**. Mr. Cannon said the issue was the committee waiting for Mrs. Morris to suggest a date for such a hearing that would fit into the schedule of the budget process to be included in Section 704 D. **Mr. Kilmer said the Charter could require the Executive to hold a hearing before the capital budget goes to the County Council without the Charter including a specific date. Mr. Kilmer restated his comment in the form of a motion, seconded by Mrs. Keim.** Mr. Strausburg commented from the audience that if the motion only requires the Executive to hold a hearing with public input before the budget goes to the County Council, he has no issue with such a requirement. Mr. Caldwell said it is rare to require the Executive to have a public hearing, adding it would be good public policy, it would be good politically, and it would be good for transparency in government, but it is rarely a requirement at the Executive level. Mr. Caldwell **there is a motion and a second that the Executive shall be required to hold a**

public hearing on the Capital Budget and Program for the purpose of information, all in favor of the motion vote aye. There where five votes in favor and 2 votes, Ms. Starkey and Mr. Caldwell opposed to the motion. The motion passed. Mr. Caldwell called a 5 minute recess.

The meeting resumed at 7:15 pm to consider **Section 705 Expense budget and budget message. Section 705 A** – Mr. Caldwell asked whether March 15th is a reasonable date, to which Mr. Strausburg responded in the affirmative. Following discussion **there were no recommendations for changes to this section. Section 705 B – Statements to the County Executive.** Mr. Caldwell noted that the information required by 705-B is an exhaustive list.

Mr. Caldwell acknowledged Mr. Joe Holloway in the audience, who asked the committee to explore changes in the Charter to give the County Council line item veto with the Executive's Proposed Expense Budget. Mr. Caldwell acknowledged the request and made a note of it. Mr. Caldwell asked Mr. Creamer to make a brief presentation to the committee at the next meeting on the budget the Council receives, what level of information it receives and on what level the Council can make cuts. Following discussion there **were no recommendations for changes to Section 705-B.**The committee continued to 705 –C Hearings, 705-D Submitted to the County Council. Following brief discussion **there were no recommendations for changes in sections 705-C and D.**

705-E Inspection of documents; hearings. Mr. Baker commented that number 2 should be first and number 1 should be second. Ms. Starkey said to eliminate confusion number 2 should be eliminated. Mr. Cannon noted that there had been a limited concern among the County Council that there was a restriction on the Council to speak with, or hear from department heads about their budget. Ms. Starkey said it's important to remember there is a fine line between the Executive and the County Council. Mr. Caldwell opined in agreement with Ms. Starkey, adding that he would consider it to be a very heavy dark line of separation between the Executive and the Legislative Branch, but as to the Council's ability to get budget information from department heads, the County Council has subpoena power. Mr. Joe Holloway said he agrees with Mr. Cannon, but it could put department heads in a difficult situation. Mr. Bob Culver from the audience commented that a recent and bad example of important information that the

County Council did not get concerned the early retirement program that was offered last year to certain employees. He said that the county got hoodwinked into it. Mr. Strausburg commented from the audience that he has no issues with department heads attending budget sessions to share information about their budgets as long as it facilitates a good outcome, but he doesn't think it's a good idea to put an employee in a position where he feels conflicted, adding it's less on the structure and more on the presentation that's involved. Given the hour, Mr. Caldwell considered the committee had reached a reasonable stopping point for the meeting. He asked that **committee members continue familiarizing themselves with Article VII and consider Mr. Joe Holloway's request for "a line item veto"** for the next meeting, which will be held on April 24, 2012 at 6:00 pm in the Council Chambers. On motion by Mr. Cannon, seconded by Mr. Kilmer and unanimously carried, the meeting was adjourned at 8:05 pm.

Matthew Creamer