

2021 Wicomico County Charter Review Committee Report

The 2021 Charter Review Committee (CRC) was appointed by the Wicomico County Council on March 2, 2021 by Resolution No. 22-2021. The CRC consisted of the following 15 individuals:

Sharon Morris
Tony Sarbanes
Michelle Protani-Chesnik
Dr. Katherine Jones
Sonya Whited
Mat Tilghman
Bob Benson
Mike Dunn
Wayne Strausburg
Dallas Baker
Blair Todd
David Plotts
Julie Bellamy
Phil Tilghman
Doug Gosnell

Additionally, the Wicomico County Council appointed the following individuals as alternates to the CRC:

John Rankin
Bill Chambers
Chris Eccleston
Darren Lombardo
David Mitchell
Rick Pollitt
Vincent Shapanus
Mark Tyler
Carol Zimmerman

PROCESS

At its first organizational meeting, each member of the CRC signed a Pledge, signifying their willingness to do their best for the purpose at hand. The CRC elected Mike Dunn as its Chair, and Bob Benson as its Vice-Chair.

The consensus of the CRC, was that asking all of the alternates to attend most meetings and stay up to date on CRC meetings was asking a bit too much. Therefore, at the start of the

second meeting, all of the names of the alternates were put in a hat and a top three were chosen at random. John Rankin was randomly selected as the first alternate, and he attended many of the CRC meetings. The CRC would like to extend its thanks to all the alternates but would especially like to extend thanks to John for his commitment as the first alternate.

According to the County Council, so many alternates were appointed in 2021 because in 2011, the last time the CRC met, attendance among the CRC members was inconsistent. The CRC is happy to report that attendance in 2021 was outstanding. Anytime a CRC member could not make a meeting, they would notify the Council Administrator as well as the Chair. Overall, attendance was consistent during the course of the eight plus months that the CRC met. As an aside, the experience of the 2021 CRC would indicate that future County Councils may not need to appoint as many alternates.

At its first organizational meeting, the CRC decided that it would meet on the first and third Thursdays of each month until its work was concluded. Every aspect of the work, at every step of the way, was fully transparent. Council Administrator Laura Hurley and her team did an professional job of posting the minutes of each meeting, and posting a running "Scorecard" of actions that were being considered by the CRC.

The CRC reviewed the County Charter in sequential order starting with Article 1, and making its way to the end – paragraph by paragraph. If a member of the CRC had a suggested change to any section of the Charter as the CRC went through it, discussion was held by the entire CRC. After such discussion, the Chair would ask for a motion. If a motion was offered to make a formal change to the Charter, it was brought to the floor. After more discussion, a vote was taken on the motion. If the motion passed, it became a recommended Charter change. If the motion failed, it failed. Most of the recommended Charter changes came with near unanimous votes of the CRC. But even if a motion for a Charter change carried by the slimmest of margins, it moved forward. From the initial meeting of the CRC, it was the goal of the Committee to operate by consensus so that any recommendations made by the Committee to the County Council would not be perceived to be partisan and the Committee is pleased to report that the recommendations made by the CRC met that goal.

As mentioned above, early on, the CRC asked the Council Administrator to keep a running "Scorecard" of the changes that it was recommending. After the CRC finished going through the entire Charter, it held subsequent meetings to review the "Scorecard" - and to review every Charter change that had been recommended. In effect, the CRC went through the entire Charter two times. Some of the recommendations the CRC made on its first review of the Charter did not make it upon the second review of it.

It should be noted that this "Scorecard" – as well as all the minutes of each meeting, public comments and all resource materials were published in real time on the Wicomico County Council webpage. Additionally, it should be noted that the CRC reviewed more than 30 items that the County Council, collectively, had asked the CRC to look at in the Charter. These 30+ items were submitted to the CRC by the County Council to begin its work.

In addition to the sequential review of the Charter, when the CRC believed a particular item/section in the Charter needed additional research, the Committee would request a CRC member volunteer to “Workshop” that particular item/section. This was an idea brought to the CRC by Mr. Walter Olson, who had been a member of the Frederick County CRC. Once the individual CRC member finished his or her “Workshop” - their findings would be reported out to the full committee. It is important to note that the findings were meant not to be in support of, or against, the item/section in the Charter, but merely meant to present additional information on it.

The final “Process” decision that the CRC had to reach was regarding how to present its recommendations to the County Council. The CRC had good discussion on whether to rank/prioritize its recommended changes, or to simply submit them as is, unranked and not prioritized. In a unanimous vote of the CRC, it was decided to submit the recommendations unranked, and without priority.

CRC 2021: Context

In 2011, the last time a CRC was formed, the County Executive form of government was still in its infancy. In 2006, for the first time, voters in Wicomico County elected their first ever County Executive. Prior to 2006, Wicomico County did not have a County Executive. It had only a seven member County Council, which operated as both the legislative and administrative branch of the government (with a Council appointed County Administrator in place to deal with the day to day administrative tasks.) So, when the 2011 CRC was formed, this new County Executive form of government was only five years old.

The County Executive form of government has now been in place for 15 years. At the very first meeting, the CRC addressed a fundamental question, one of the 30 referred by the County Council: should it consider an amendment to the Charter to eliminate the County Executive form of government and revert back to the pre-2006 form of government, i.e., a government that no longer had the elected position of County Executive?¹ By a unanimous vote at that first meeting, a vote reaffirmed when the CRC went through its “Scorecard” a second time, the CRC declined to make a recommendation regarding the form of government.

Time and time again throughout the course of deliberations over these last eight months, issues were raised – and examples given – of actions by a prior County Executive and/or County Council that the CRC felt were likely violations of the plain language of the County Charter. Many, if not most, of these examples came from the 30 plus questions the County Council

¹ In considering the question of whether the CRC should undertake a review of County Executive versus County Council form of government, Tony Sarbanes, a former President of the County Council prior to the enactment of the County Executive form of government, made the motion that the CRC not undertake that review and argued that the County voters selected the County Executive form of government and that the role of the CRC was not to second guess the decisions of the voters, but rather to address and correct any problems in the Charter to improve the type of governance selected by the voters of the County.

presented to the CRC at its initial meeting. The Committee began its work after a period of great conflict between the two branches of County government. From the Committee's review, it seems clear that not only was there a lack of communication, but there appeared to be an outright dislike and/or distrust of the other branch. As a result of this conflict, a primary question posed by the 30 plus questions the County Council presented to the Committee was whether some form of punitive consequence could or should be added to the Charter to address future Charter violations.

After exhaustive research on the topic, and exhaustive opinions on the topic from legal counsel, it was determined that punitive actions are difficult, at best. If punitive provisions could be added to the Charter, there would need to also be added some form of quasi-judicial proceeding to adjudicate such complaints or to hear such allegations. Therefore, the CRC concluded that adding punitive provisions were not practical and makes no formal recommendation for changes to the Charter. The CRC spent considerable time during its deliberations attempting to answer a basic question: are the Charter "violations" that had been identified for the CRC to review Charter problems, or are they people problems, i.e. did they stem from actual weaknesses in the Charter, or did they stem from the breakdowns as described above. The consensus of the CRC was that these so-called Charter problems were more often, people problems and were best resolved by a stronger resolve by the County Council and the County Executive to work together, and to avoid taking/changing/altering the power structure that is outlined in the Charter.

The County Charter is the law of our County. It is the Constitution. With that in mind, the consensus of the CRC is that the multiple Charter changes, such as those included on the ballot in the 2016 election year, should be avoided in the future. Many of those Charter changes appear to have been made to address a lack of communication between the Executive and the Council and a perception by the Council that the Executive was not acting in accord with the Charter. The effect of the Charter amendments was to alter the balance of power between the Executive and the Legislative branch to address this failure. The consensus of the CRC was that while many of the amendments were perceived to be necessary to address the actions of the then County Executive, the end result was that many of the changes actually weakened the Charter.

For Consideration

There were more than a few matters that the CRC discussed that strike at the heart of some of the challenges facing Wicomico County. Among them: the often discussed County Revenue Cap; the question of whether the way in which Council members are elected: from five Councilmanic Districts and two At-Large Council members is still appropriate; adopting stronger Council Rules of Conduct; adopting Roberts Rules of Order for Council meetings.

The CRC decided, ultimately, that these questions are more political in nature, and should be addressed by elected officials who are beholden to the voters, rather than by citizen volunteers like those on the CRC. As a group, however, it was decided the CRC should pass along its

thoughts on the matters above and make a few recommendations for consideration. Those recommendations are as follows:

- Appoint a Citizen Panel to review if the current way in which the County Council is elected is still sufficient for the times. There are very few counties in Maryland which still elect their Councilmembers using the hybrid model that Wicomico County currently uses: i.e. there are five Council members elected from the five Councilmanic Districts, and there are two Council members who are elected At-Large from the entire population of the County. This is not the CRC getting into the redistricting business, it is simply asking the question of viability. Central to the question, and something for a Citizen's Panel to consider: should there be five Council members elected from the five Council districts, or should there be seven council members elected from seven council districts? Or, is the current hybrid model enough? (The CRC is aware that there is a Redistricting Commission doing work at this time. The CRC does not know if the questions raised by the CRC are part of the duties of the Redistricting Commission.)
- The Revenue Cap. It was the CRC's understanding that this provision was initially adopted by voter initiative and was modeled after a similar provision from the Talbot County Charter. As such, the CRC reached out to Talbot County to better understand the process that Talbot County had followed in making recent changes to its revenue cap provision, and it was determined that the Talbot County Council appointed a committee to research this one charter provision and to make recommendations to the Council for any proposed charter amendment. Should the County Council believe changes to the Wicomico County revenue cap be considered, a similar procedure could be followed.
- The Wicomico County Council has never formally adopted any rules of order on how they should conduct their meetings. One of the first things the CRC did was to adopt Roberts Rules of Order as its guiding principle. The CRC recommends the Wicomico County Council do the same thing.
- The Wicomico County Council should consider making its Code of Conduct stronger. Perhaps looking at adding punitive actions, such as censures, to deal with conflict of interest/ethics violations/Charter violations that may occur.
- The CRC strongly believes that when/if violations (or alleged violations) of the County Charter occur – by either branch of government – that those violations be given the light of day. In other words, IF either branch of government believes that a Charter violation has occurred, it is paramount that the alleged violation be discussed publicly.
- A CRC is currently appointed every ten years, as per the Charter. While the CRC took no action on making a formal recommendation to change that, there was much discussion among the CRC members about whether ten years is too long a period of time for a review of the Charter by a CRC. The CRC recommends that a discussion be held about putting a CRC together every five years, instead of every ten years.

With Gratitude and Appreciation

The CRC would like to express its sincere thanks and appreciation to all of those working for the government of Wicomico County who made the CRC's job easier:

Laura Hurley – Wicomico Council Administrator

Lynn Sande – Executive Office Associate, Wicomico County Council

Paul Wilber – Wicomico County Attorney

The CRC would like to also thank those members of the County Council who attended the meetings, off and on, over the course of the CRC's work. The CRC allowed and encouraged participation by the County Council members. Some of their insights and observations during the meetings were very helpful to the CRC. The CRC would also like to extend its thanks to Acting County Executive John Psota for his cooperation during the process.

The CRC also expresses thanks to the Wicomico Youth and Civic Center and its staff, for allowing the CRC to hold more than a few of its meetings there – and to PAC 14 for staffing and recording every single CRC meeting and for putting those meetings on PAC 14, so that the public could follow the work of the CRC. Lastly, the CRC expresses thanks to the citizens for their comments via the online portal or by attending the meetings in person and providing public comments.

Recommended Changes to the Wicomico County Charter

The CRC formally submits the changes to the Wicomico County Charter, attached as Exhibit A, to the Wicomico County Council for its consideration.

CHARTER REVIEW COMMITTEE - APPROVED MOTIONS

Charter Section	Motion:	Made By:	Seconded By:	Passed/Failed
<i>Administrative Motions</i>				
	To Adopt Robert Rules of Order	Mr. Mat Tilghman	Ms. Chesnik	Passed;Unanimously
	To Randomly Draw Names of Alternate Members	Mr. Philip Tilghman	Mr. Gosnell	Passed;Unanimously
	To Adopt a Attendance Policy: If a person misses three consecutive meetings and/or a total of five meetings, they will no longer be on the Committee	Dr. Katherine Jones	Mr. Gosnell	Passed; 13 in favor, 2 opposed
	To address reviewing the Charter as it pertains to an Executive and Council form of government	Mr. Tony Sarbanes	Ms. Sonya Whited	Passed;Unanimously
	To add a Table of Contents to the Charter	Mr. Todd	Mr. Phil Tilghman	Passed;Unanimously
<i>Article I. Name and Rights of the County</i>				
No Approved Motions				
<i>Article II. County Council</i>				
202.A	To add a residency requirement for the County Council of two years in Wicomico County and residency within the district for one year, and a minimum age of 25 years.	Mr. Dallas Baker	Ms. Sonya Whited	Passed;Unanimously
202.D	To include "felony with moral turpitude"	Mr. Dallas Baker	Mr. Doug Gosnell	Passed;Unanimously
202	To add the language "at the time of election"	Mr. Benson	Mr. Baker	Passed;Unanimously
205.A& B	To eliminate "unless there is a special election as described in section 206 to fill the seat."	Mr. Matt Tilghman	Mr. Wayne Strausburg	Passed;Unanimously
205	To add "To fill a vacant position of an unaffiliated member who has left office, unaffiliated voters would submit their name to the County Council"	Mr. Tony Sarbanes	Mr. Wayne Strausburg	Passed;Unanimously

206	To strike Section 206 from the Charter	Mr. Wayne Strausburg	Mr. Plotts	Passed;Unanimously
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Article III. The Legislative Branch

312 & 313	To send the recommendations from Lindsey Rader to the County Council	Mr. Phil Tilghman	Ms. Bellamy	Passed;Unanimously
314.A	To delete the word "generally" and insert the words "unless for the purpose of inquiry or information."	Mr. Bob Benson	Dr. Katherine Jones	Passed;Unanimously

Article Article IV. The Executive Branch

405	To make the age of the County Executive 30	Mr. Tony Sarbanes	Mr. Doug Gosnell	Passed;Unanimously
405	To add the language "at the time of election"	Mr. Benson	Mr. Baker	Passed;Unanimously
407.C	To add that all members must be present for the vote	Mr. Sarbanes	Mr. Plotts	Passed;Unanimously
412	To remove "prior to assuming the duties of the office" and replace it with "within six months of assuming the duties".	Ms. Sonya Whited	Mr. Strausburg	Passed; 8 in Favor, 3 opposed
413	To remove the second sentence in its entirety, starting with "Within Six Months"	Mr. Dallas Baker	Dr. Katherine Jones	Passed; 12 in Favor, 1 Abstained
414	To add Letter D to state the County Executive must notify the County Council in writing within 10 working days of a vacancy of a department head.	Dr. Katherine Jones	Mr. David Plotts	Passed;Unanimously

Article V. Administrative Organization

502.C	To state "except that no such suspension or removal may be ordered including but not limited to those protected classes under federal and state law."	Dr. Katherine Jones	Ms. Sonya Whited	Passed;Unanimously
503	To add Number 11 - Salisbury-Wicomico: Ocean City Regional Airport	Ms. Sharon Morris	Mr. Mat Tilghman	Passed;Unanimously
504	To remove the word "substantial from Section 504.a	Ms. Sonya Whited	Ms. Michelle Chesnik	Passed;Unanimously

505	To remove last sentence in Section 505.a	Mr. Phil Tilghman	Mr. Wayne Strausburg	Passed;Unanimously
506	To remove the last sentence in Section 506.a	Dr. Katherine Jones	Ms. Whited	Passed;Unanimously
507.A	To read, "The County Attorney shall serve at the pleasure of the County Executive.", and any other language will be deleted.	Mr. Bob Benson	Ms. Julie Bellamy	Passed;Unanimously

Article VI. Personnel Provisions

601.A	To read, upon the recommendation of the County Executive, the County Council shall establish a personnel system which will have the force of law by Resolution after a Public Hearing. Upon recommendation of the County Executive, the County Council may modify or revise the personnel system by Resolution after a Public Hearing.	Mr. Sarbanes	Mr. Mat Tilghman	Passed;Unanimously
601.B	To clarify that proposed changes to employees benefits programs must be approved by the County Council	Mr. Strausburg	Mr. Dallas Baker	Passed;Unanimously
609.B	To remove "other than the County Executive"	Ms. Sonya Whited	Mr. Wayne Strausburg	Passed; 13 in favor, 1 abstention

Article VII. Budgetary and Fiscal Procedures

704, 705, 710 & 712	To send the recommendations from Lindsey Rader to the County Council	Mr. Phil Tilghman	Ms. Bellamy	Passed;Unanimously
707	To state, "The County Council may, by resolution, change any of the dates, and corresponding hearing dates, set forth in Sections 704 and 705 herein, provided that said resolution states the reasons for said change or changes, and such resolution shall be effective only during the fiscal year in which said resolution is adopted, subject to the restrictions set forth in Section 705."	Mr. Phil Tilghman	Ms. Sharon Morris	Passed;Unanimously

Article VIII. Purchasing

No Approved Motions

Article IX. Miscellaneous Provisions

No Approved Motions

Article X. Manner of Terminating this Charter and Making Amendments Thereto

No Approved Motions

Article XI. Definitions and Rules

1101	To add number 15 to state the words County Commissioners shall refer to County Council	Ms. Sharon Morris	Mr. Phil Tilghman	Passed;Unanimously
1101	To add a definition for Local Governing Body. <i>"Whenever State or Federal Law confers a power or duty on the County by language that refers to "the local Governing Body," or by similar language, any action required of the County shall be taken by the County Executive and then referred to the County Council for confirmation."</i>	Mr. Dallas Baker	Ms. Julie Bellamy	Passed;Unanimously

Article XII. Transitional Provisions

No Approved Motions