

## **Charter Review Committee of 2011**

June 12, 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, Christina Rodriguez, Greg Belcher, Ed Urban, Fran Starkey, Mark Kilmer and , L.C. Jones.

Excused: Brad Gillis, Orvill Penn, John Cannon, Katrina Purnell

Absent: William Hall

Representing the County Executive's Office: Sharon Morris, Deputy Director of Administration

Assigned Staff: Ed Baker, Maureen Lanigan, Matthew Creamer

There were no minutes available for approval.

Mr. Caldwell commented that as a result of the reexamination of several sections of the Charter at the last meeting, the Committee is now ready to reexamine Article VII, Section 705. Expense budget and budget message. He noted that regarding Section 705 A, a couple of other charters require the Executive to present the proposed budget to the County Council 90 days before the end of the fiscal year, which would allow the County Council more time to consider the budget. There followed general discussion of the pros and cons of such a requirement, noting that our present Charter gives the County Council 70 days to consider the Executive's budget. It was noted that the Charter could be amended to move the date earlier when departments are required to submit their budget requests to the Executive. Mr. Creamer commented that with the exception of the Board of Education, all the Department heads report to the Executive, so the Executive can require budgets to be submitted by any date of the Executive's choosing. Mrs. Morris noted that the Board of Education never submits its budget request by the March 15<sup>th</sup> deadline. Mr. Creamer replied that the reason is that the Board of Education has

latitude in the State Education Article of COMR, which gives the BOE a later deadline, adding that since the Board of Education Budget is the largest single component of the budget, the Executive cannot see a big part of the whole picture until the BOE budget is received. Mr. Brown noted that the Board of Education is at the mercy of the State Department of Education, the Legislature and the Governor, because so much of the Board's funding comes from the state. Thus the Board can't finalize its budget until it knows what the Legislature will provide for schools funding. Mr. Creamer added that the County Executive is similarly affected, because the county's budget is heavily impacted by the outcome of the Session of the Maryland Legislature, as well. Mrs. Morris noted that if the date to submit the proposed budget to the County Council is changed, it will require changing all the other dates pertaining to the budget process, as well. After further discussion there was no motion to recommend amending Section 705 A. to change the date for submission of the Executive's proposed budget to the County Council.

**Section 705 B. There were no changes suggested.**

**Section 705 C.** It was recalled that the committee had already recommended amending this section to require the Executive to hold at least one public hearing on the proposed budget before submitting it to the County Council. **There were no further changes recommended.**

**Section 705 D. There were no recommendations for changes.**

Mr. Caldwell speculated on the merits of the Executive submitting the proposed budget to the County Council 4 or 5 days earlier than the 3<sup>rd</sup> Tuesday, to give a little more review time. Mrs. Morris noted that as technology changes, the Council will receive the budget earlier.

**Section 705 E. There were no recommendations for changes.**

**Section 705 F.** Mr. Caldwell noted that the Montgomery County Charter gives the County Council the authority to add to or to reduce, or eliminate appropriations in the proposed budget. He recalled that the Council having authority to add to the proposed budget was debated heavily by the Charter Committee ten years ago. He said the current

wording was agreed upon because the Executive has authority over the entire Executive Branch, has authority over implementing the budget adopted by the County Council and the present wording makes the County Executive a more powerful position, it being modeled after the form of state government in Maryland. Mr. Caldwell asked committee members whether anyone wanted to make a motion to consider amending the present language. **There was no motion for changing the section brought forth.**

Dr. Belcher expressed a concern relating to 705 D, as to what is interpreted as the official budget. Dr. Belcher provided committee members of a prepared document. The document is reproduced in its entirety; only the font has been changed to distinguish the document from the rest of these minutes and it is contained herein as follows:

Discussion: The current charter at 705 0.1. (see page 22) states as follows: "The expense budget shall include in both detail and summary form:". (It then goes on to list the required content of the expense budget).

Issue: The current official expense budget contains only summary material. The detail is published as a separate document, referred to as the 'Munis detail', and is currently available to the public on a limited basis and is not part of the official expense budget. Most importantly, since the current official expense budget exists in summary form only, it is therefore not in conformity with the current charter requirement that the budget include detail.

Additionally, regarding salary information, the Munis detail includes only totals by department. A second salary detail document, which is also not part of the official expense budget, includes individual salaries by name.

Recall that the Harford County charter served as the template for most of our current charter regarding our county executive form of government.

The Harford County expense budget contains the detail discussed above within the official expense budget. Again, ours does not.

Also, the Harford County charter mandates content for expense budget inclusion beyond that now contained within our own charter. The effect of such inclusion, it appears to me, is greater clarity as to what should be required to appear within our own expense budget. Such inclusion of additional budget content has the effect of furthering greater Council and public knowledge of and input into the budget process. (I do believe, however, that allowing names to appear as part of a salary detail is unnecessary and should be avoided in favor of listing individual salaries by title or position, only).

Proposed additions or changes to the existing charter would appear as follows with new content in bold italics:

7050.1.

(d) Such other data as the County Executive deems advisable *or the Council may require.*

(e) *A comparative statement of the receipts, amounts budgeted, and actual expenditures for the last completed fiscal year, the estimated receipts and expenditures of the currently ending fiscal year, and the expenditures recommended by the County Executive for the ensuing fiscal year for each program or project which shall be classified by agency, character, and object.*

In summary: Our county expense budget should include the detail which currently exists as information separate from the official budget. To do otherwise would represent a violation of the public trust as well as the requirements of the charter.

Respectfully submitted by Greg Belcher

There followed discussion of Dr. Belcher's recommendation, following which **Dr. Belcher made a motion to add new language to Section 705 D.1.d. Such other data as the County Executive deems advisable, or the County Council may require.** And

**Section 705 D.1.e. A comparative statement of the receipts, amounts budgeted, and actual expenditures for the last completed fiscal year, the estimated receipts and expenditures of the currently ending fiscal year, and the expenditures recommended by the County Executive for the ensuing fiscal year for each program or project which shall be classified by the agency, character and object.**

**The motion was seconded by Mrs. Keim.** Following further discussion of the motion Mr. Caldwell called for a vote, with seven members voting in favor, one member (Ms. Rodriguez) voting opposed. **The motion passed.**

**Section 706. There were no recommendations for change.**

**Section 707. There were no recommendations for change.**

**Section 708. A. It was noted that the committee had already made a recommendation and it did not wish to revisit it.**

**Section 709. There were no recommendations for change.**

**Section 710. There were no recommendations for change.**

**Section 711. There were no recommendations for change.**

**Section 712 There were no recommendations for change.**

#### **Article VIII Purchasing.**

**Section 801 A. There were no recommendations for change.**

**Section 801.B. On motion by Mr. Brown, second by Ms. Starkey and unanimously carried, the committee recommended to incorporate the editor's note in the Charter language.**

**Section 802. A.** There was discussion of the Executive Office request that the committee consider the threshold for formal competitive bidding from the current \$5,000 to \$25,000. It was noted that the amount had been increased to \$5,000 some years ago and with inflation \$25,000 may buy what \$5,000 would buy when that limit was set. Following discussion **Ms. Starkey moved that the threshold to require formal competitive bidding be increased to \$25,000. The motion died for lack of a second.**

It was further noted that the Executive's Office had requested that the committee exempt banking services from competitive bidding. There followed a discussion to the request, but there was no motion forthcoming.

**Section 802. B. There were no recommendations for change.**

**Section 803. There was no recommendation for change.**

#### **Article IX. Miscellaneous Provisions**

**Section 901. There were no recommendations for change.**

**Section 902. There were no recommendations for change.**

**Section 903. There were no recommendations for change.**

**Section 904. There were no recommendations for change.**

**Section 905. There were no recommendations for change.**

**Section 906. There were no recommendations for change.**

**Section 907. There were no recommendations for change.**

**Mr. Kilmer distributed a handout which included proposed amendments to create a new Section 908. Transparency and an amendment to Section 1002 A.**

A copy of Mr. Kilmer's handout in its entirety is included in these minutes as follows:

Kilmer Proposed Charter Amendments

Article 908 -- Transparency

Whenever any language in this charter reads "make or made available to the public" or requires that an item be submitted to the public or "made public" or "shall be open to public inspection," that item shall be published within 2 business days on the County's website.

The County shall make all financial transactions available to the public through a searchable database on the County's website.

Rationale:

The following sections of the charter mandate that certain items be made available to the public: 201 (B) (1), 305 (C), 402 (B), 505 (B) (7) & (9), 704 (F) & (I), 705 (D), and 904 (B). Mandating that these items be posted on the county's website would ensure that the public has easy access to them. Placing such a mandate in this section would allow a future charter review committee to easily update it as technology changes.

Many counties have a searchable database of expenditures online, giving the public an opportunity to see where taxpayer money goes. Here are a few resources on counties that do so:

Dupage County, IL -- <http://www.dupageco.org/Auditor/Checkbook.aspx>

A variety of Texas counties -- <http://www.texas Transparency.org/local/counties.php> A partial list of other counties undertaking this

transparency: <http://www.fiscalaccountability.org/index.php?content=transsub3>

Section 1002 (A)

Amendments to this Charter may be proposed by resolution of the County Council approved by not less than five (5) of its members, and such resolution shall be exempt from veto. Amendments may also be proposed by petition filed with the County Executive and signed by an amount of registered voters in the county at least equal to ~~not less than~~ twenty per centum (20%) of ~~the registered voters of the county~~ the number of voters in the previous presidential election, or ten thousand (10,000) registered voters, whichever is less. ~~of such registered voters in case twenty per centum (20%) of the number of registered voters is greater than ten thousand (10,000).~~

Rationale:

In Section 312, we changed the requirement for filing a petition to place legislation to a referendum from 15% of registered voters to a number of signatures equal to 15% of those who cast votes in the previous presidential election. This change would simply change this section to the same standard.

There followed discussion of Mr. Kilmer's recommendation on behalf of Transparency, to which Mr. Creamer concurred in concept, observing that it has been the practice of the Legislative Branch to post the actions by the County Council on the county's web page, noting that when the technology became available and affordable, the County Council began posting searchable streaming video of all Council Legislative Sessions, in addition the longstanding practice of posting all minutes of Legislative Sessions, all Ordinances and all Resolutions on the web page. He added that the minutes of the Charter Review Committee and those of the Redistricting Committee are posted on line, noting that transparency in government is a County Council priority and for him, a personal priority. He suggested, though, that recognizing that whatever can go wrong, will go wrong, that a Charter requirement that web posting within two business days could exact a hardship, especially as in current circumstances caused by short staffing in some departments, or from some technical problem which could occur to prevent posting within that short time. He suggested that posting on line within five business days would be more reasonable, adding that with some things, such as the annual budget, once the budget is adopted there is still a lot of work to breaking down some appropriations across all departments. He said with Munis, these things can usually be done more quickly than previously. He was concerned over not being able to meet a charter imposed time limit, if it were unavoidable. Following discussion of Mr. Kilmer's proposed new Section 908. Transparency, **Mr. Kilmer made a motion to recommend a new Section 90-8. Transparency**

**With wording as proposed in his handout, described as Section 908. A. Transparency, changing the within two business days requirement to within five business days. The motion was seconded by Dr. Belcher, with seven votes in the affirmative and one vote by Mr. Jones, opposed. The motion passed.**

Continuing with Mr. Kilmer's proposed recommendation, Section 908. B. Mr. Baker said the proposed language could create tremendous

problems, explaining that often times financial transactions include information such as Social Security numbers, credit card numbers and other information which is prohibited from public disclosure. He said there would be no objection to the idea of posting information which can be made public, but there would have to be protection against releasing information which cannot be made public. After further discussion **Mr. Baker was asked to prepare language for a new Section 908. B. Transparency, which the committee can consider that will meet the spirit and intent of the proposal while protecting against the concerns Mr. Baker had noted.**

**Article X. Manner of Terminating This Charter and Making Amendments Thereto.**

**Section 1001. Termination. There were no recommendations to change this section.**

**Section 1002. Amendment.** As presented in his written recommendations, herein before stipulated, **Mr. Kilmer made a motion to amend Section 1002. A. Amendment as follows:**

Amendments to this Charter may be proposed by resolution of the County Council approved by not less than five (5) of its members, and such resolution shall be exempt from veto. Amendments may also be proposed by petition filed with the County Executive and signed by **(an amount) a number of registered voters in the county at least equal to twenty per centum (20%) of the number of voters who voted in the previous presidential election, or ten thousand (10,000) registered voters, whichever is less. The motion was seconded by Mr. Urban.** Following further discussion **the motion passed by unanimous vote.**

**Section 1002. B. Adoption. There were no recommendations for changes.**

**Section 1002. C. Charter Review Committee. There were no recommendations for changes.**

**Article XI. Definitions and Rules. There were no recommendations for changes to Article XI.**

**Article XII. Transitional Provisions. There were no recommendations for changes to Article XII, until Section 1205. C. Until December 5, 2006. On motion by Mrs. Keim, second by Mr. Jones the committee voted to recommend renumbering the section per the editor's notation. There were seven votes in the affirmative and one vote, Dr. Belcher, opposed.**

It was noted that if Mr. Baker finds anything else the committee may have overlooked, that he should bring it to the committee's attention at the next meeting. Mr. Caldwell noted that if committee members wanted to revisit any sections, the time was at hand to do so. He questioned whether the committee had voted to limit the number of terms for the County Council. Several responded that a limit of two terms had been recommended for the County Executive, but the committee had declined to impose limitation on the number of terms council members could serve. Dr. Belcher expressed opposition to limiting the pool of candidates from which voters could choose. It was noted that the chair cannot make a motion, so for purposes of discussion **Mrs. Keim made a motion that council members be limited to serving three consecutive terms. The motion was seconded by Mr. Jones. Following further discussion there were three votes in favor of the motion and five votes opposed. The motion failed.**

The committee reviewed again the list of questions **from the Executive's Office:** question # 7 concerning Section 504, the committee declined to revisit the matter. Concerning **question # 9 pertaining to Section 601-C, on motion by Ms. Starkey and second by Mr. Urban and unanimously passed, the committee voted to recommend including all county positions, except department heads, in the merit system.**

**On motion by Ms. Starkey, second by Mr. Urban and unanimously approved, the committee voted to recommend the change suggested in the editor's note in Section 801 B.**

In Article VIII. Purchasing- The committee discussed exempting the Independent Auditor from competitive bidding. No motion came from the discussion.

There being no further discussion, Mr. Caldwell noted that the next meeting will be on June 26, 2012 and will probably be the last meeting of the committee. Mr. Urban and Mrs. Keim noted they will be unable to attend. The meeting was adjourned at 8:15 pm.

Matthew Creamer