

# MINUTES

## FREDERICK COUNTY CHARTER REVIEW COMMISSION

October 28, 2019

**Members Present:** John Daniels, Dylan Diggs, Paul Gilligan, Lisa Jarosinski, Dr. April Miller (arrived at 8:12 pm), Walter Olson, Stephen Slater

### Call to Order – Stephen Slater, Chair

Time: 7:00 pm

Attendance:

Slater	✓		Jarosinski	✓
Daniels	✓		Miller	
Diggs	✓		Olson	✓
Gilligan	✓			

### Pledge of Allegiance

### Approval of October 17, 2019, Meeting Minutes:

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

### Vote on Tabled Charter Proposals to Move Forward to Workshop and Public Hearing:

Spreadsheet Item 1 – Article 1, Section 104(a) – Change definition of “Agency” from, “...entity of the Frederick County Government.” to “...entity funded by Frederick County taxes.”

Motion to *not* move to workshop:

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

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

*Spreadsheet Item 1 – Article 1, Section 104(a) will not be moved to workshop*

Spreadsheet Item 17 – Article 4, Section 402(f) - Clarify whether Section 402(f) requires the county executive to sign any contracts entered into by the Frederick County Sheriff's Office where there is an expenditure of County funds. (i.e. MOA between DHS/ICE and FCSO re: Section 287(g)).

Motion to move to workshop:

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

*Spreadsheet Item 17 – Article 4, Section 402(f) will be moved to workshop*

### Workshop on Charter Proposals:

#### Commissioner Diggs Compensation Review

Spreadsheet Item 6 – Article 2, Section 207 - Increase council member salary. Floor Manager – Commissioner Dylan Diggs

The current Charter language is below.

*207. Salary For the performance of public duties under this Charter, each council member shall receive a Salary of \$ 22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.*

Chairperson Stephen Slater made two points. 1) If the “Salary of \$22,500 per annum” language is kept in the Charter, it establishes a base salary amount for the county council members. 2) The amount of \$22,500 for council members was put into the Charter so that changing to a Charter form of government in 2014 would be cost neutral. With inflation, \$22,500 is not worth the same as it was in 2014.

There was discussion on if a change to this language would require an ordinance/bill or if it would require a referendum vote. County Attorney John Mathias read excerpts from the Maryland State Code, *Local Government Article, Section 10-302 (a) Compensation commission. -- By ordinance, a county may establish a commission to recommend*

*compensation and allowances for members of the county legislative body. (b) Recommendations. -- (1) Within 15 days after the beginning of the fourth year of the term2 , a commission established under this section, by resolution, shall submit to the county legislative body its recommendation for the compensation and allowances for members of the county legislative body. (2) Subject to subsection (e) of this section, the commission may recommend an increase or decrease in the compensation and allowances for members of the county legislative body. (c) Legislative action. -- On receiving the resolution, the county legislative body may reduce or reject the commission's recommendation, but may not increase any item. (d) Changes in salary. -- Any change in the compensation and allowances of members of the county legislative body shall be enacted by ordinance before the election for the members of the next succeeding county legislative body and take effect only for the members of the next succeeding county legislative body. (e) Minimum for compensation and allowances. -- The compensation or allowances for members of the county legislative body of a charter county may not be less than provided in the county charter.*

Chairperson Slater asked if the compensation commission recommended to increase the salary of the council members, and the county council adopted it, would the county executive be bound to add that increase to the budget. Mr. Mathias said that the budget would have to be increased. Mr. Mathias will research if revisions to council member salaries can be made by changing Charter language.

It was discussed to let the upcoming county executive and county council member salary review commission concentrate on this item.

Motion to **not** take further action on Spreadsheet Item 6 – Article 2, Section 207:

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

No further action will be taken on Spreadsheet Item 6 – Article 2, Section 207

Spreadsheet Item 19 – Article 4, Section 406(a) – Increase the salary of the county executive. Floor Manager – Commissioner Dylan Diggs

The current Charter language is below.

*406. Compensation of the County Executive (a) Subject to subsection (b) of this section, the Executive shall receive a Salary of \$ 95,000. In addition to Salary, the Executive shall be entitled to receive Allowances and Fringe Benefits as those terms are defined in this Charter. The Executive may not accrue annual leave or be entitled to any payment in lieu thereof.*

It was discussed to let the upcoming county executive and county council member salary review commission concentrate on this item.

Motion to **not** take further action on Spreadsheet Item 19 – Article 4, Section 406(a):

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain

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

No further action will be taken on Spreadsheet Item 19 – Article 4, Section 406(a)

Spreadsheet Item 9 – Article 2, Section 210/207 - County council president shall receive an additional stipend (suggested \$1,000 – \$2,000) to compensate for extra time commitment. Floor Manager – Commissioner Dylan Diggs

The current Charter language is below:

*210. Officers At the first scheduled meeting of the Council in December following an election and biennially thereafter, the Council shall elect from among its members a President and Vice President of the Council. The President, or in the absence of the President, the Vice President, shall preside over meetings of the Council. The Council may provide for the selection of other officers as the Council may deem desirable for the exercise of its powers.*

*207. Salary For the performance of public duties under this Charter, each council member shall receive a Salary of \$ 22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.*

It was discussed that due to the fact that the position of council president is more time intensive, the salary of the council president should be more than the rest of the county council.

Mr. Mathias was asked what it would require to change the Charter language to state that the council members would receive a different amount of compensation than the council president. He will research this question and then reply to the Commission.

Motion to table Spreadsheet Item 9 – Article 2, Section 210/207 pending information from the County Attorney:

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

Spreadsheet Item 9 – Article 2, Section 210/207 was tabled pending information from the County Attorney

Spreadsheet Item 7 – Article 2, Section 207 - Allow benefits for council members. Floor Manager – Commissioner Dylan Diggs

*207. Salary For the performance of public duties under this Charter, each council member shall receive a Salary of \$ 22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.*

Commissioner Diggs offered the following data:

Salary and Benefits Budget	
Individual Costs	Amount
Salary	\$22,500.00
Payroll Taxes	\$1,735.00
Annual Individual Expenses	\$1,000.00
Individual Costs Total	\$25,235.00
Council Total Accounted Costs (current)	\$176,645.00
Fringe Benefits*	
Health Insurance	\$15,143.00
Pension	\$3,015.00
OPEB (Retiree Health)	\$5,064.00
Life Insurance	\$75.00
Dental Insurance	\$60.00
Unemployment Insurance	\$51.00
Benefits Individual Total	\$23,408.00
Benefits Overall Total	\$163,856.00

Overall Costs with Benefits	
Individual Overall Total	\$48,643.00
Total Council Overall Costs (including all seven CMs)	\$340,501.00
Additional Analysis	
Benefits % of current cost	92.76%

Commissioner Diggs stated that the question up for discussion was if the Commissioners wanted to remove, “*The Salary shall be in full compensation for all services performed,*” language in the Charter that restricts the County from offering benefits to council members. Currently, none of the other Maryland counties that have part-time council members (citizen legislators) offer benefits. It was Commissioner Diggs’ opinion not to move this item forward. In his view, the Charter was set up with the council members being citizen legislators (defined as elected legislators that have a full-time occupation besides serving on the council). The Frederick County Charter form of government was too new for the Commission to propose changing the incentive structure.

There was discussion that citizen legislatures only allow people of means to run for a council member position and become elected. Removing the barriers from the Charter language would allow the compensation commission to make the decision. The cost of allowing council members to receive benefits was cited as a deterrent due to the massive jump in compensation even if the council member salaries remained \$22,500. There would be a significant cost to the taxpayer.

Mr. Mathias was asked to create the language for Charter Article 2, Section 207 that will allow for council members to receive benefits.

Motion to 1) remove the language from Charter Article 2, Section 207 that prohibits benefits for council members, 2) ask the County Attorney for proposed language for the change, and 3) include this item in the Commission's final report.

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

*Spreadsheet Item 7 – Article 2, Section 207 will be included in the final Charter Review Commission Report*

**Commissioner April Miller arrived at 8:12 pm**

Spreadsheet Item 11 – Article 2, Section 211 - Change issuance of a subpoena possible with vote of five council members instead of six. Floor Manager – Chairperson Stephen Slater

The current Charter language is below:

*211. Investigations by the Council the Council may investigate the affairs of the County and the conduct and performance of any Agency. The Council may subpoena witnesses, administer oaths, take testimony, and require the production of evidence for purposes of this section. A subpoena may be issued to any current County employee, County agency or department, or contractor doing business with the County upon the affirmative vote of at least six council members.*

Chairperson Slater led the discussion of this issue. Almost all Maryland county charters allow the issuance of subpoenas with a simple majority vote. Frederick County is the only county that currently requires a supermajority of six out of seven council members. Chairperson Slater recommended that the Commission propose the change of a supermajority for subpoenas to five out of seven council members.

Motion to forward a change the language in Article 2, Section 211 of the Charter from six out of seven council members required for a subpoena to five out of seven.

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

*Spreadsheet Item 11 – Article 2, Section 211 will be included in the final Charter Review Commission Report*

## **Future Agenda Items**

Monday, November 4, 2019 (Meeting begins at 6:00 pm)

Discussion with Frederick County Executive Jan Gardner (Confirmed)

Thursday, November 7, 2019

Discussion with Budget Director on Potential Charter Changes – Kelly Weaver (Confirmed)

Workshop on Charter Proposals – Spreadsheet Items 8, 20, 21, 27 - Vacancy – Floor Manager – Commissioner Miller

Monday, November 18, 2019

Discussion with the Director of Frederick County Board of Elections – Stuart Harvey (Confirmed)  
Workshop Proposals

Commissioner Diggs requested to add a workshop on the process of changes to future Charter Review Commissions. Chairperson Slater will add this request to the charter proposal spreadsheet.

Commissioner Olson acknowledged the proposals that were received from Mr. Grose and stated that Carol Jarr Sepe will send in her proposals.

By unanimous agreement, an announcement was made by the Charter Review Commission that the acceptance of Charter change proposals will end on December 1, 2019. A request was made to Council staff to prepare a press release. This information will need to be added to the Charter Review Commission webpage.

## **Public Comments:**

Chairperson Slater stated ground rules for public comment.

Public comment was heard from the following people:

Mark Schaff, Urbana

Bill Ashton, Frederick City

Gil House, Urbana,

Clarence Price, Jefferson

James Grose, Myersville, President of Frederick County Conservative Club

Mary Posey, Myersville

Jason Miller, Mt. Airy

Sally Oden, Frederick

Robert Worley, Knoxville

Sheriff Chuck Jenkins

The topics included: Charter Article 4, Section 402(f), the increase of County spending with the increase of benefits to council members, where salaries come from for County/State employees, increased County Executive spending by adding to her staff and having a private security detail, the elimination of Charter Section 8, the omission of the Prince George's County Charter on the Charter Review Commission webpage, the request to include an index in the Charter, negative impact of professional politicians vs. volunteer citizen politicians, election recalls, elected vs. appointed ethics board, council member code

of conduct, the 287(g) program, ICE, the Frederick County Sheriff's Office, Sheriff Chuck Jenkins, the opinion of County Attorney John Mathias concerning Charter Article 4, Section 402(f), a request to the Commissioners to look at the Charter in its entirety, consider that the taxpayer would be funding the increase in council member compensation, giving full-time benefits to a part-time position, the abolishment of the 287(g) program creating a sanctuary county, the protection of Frederick County citizens, the roll of the Sheriff and the roll of the County Executive

**Commission Member Comments:**

Commission Member comments were provided.

**Adjournment:**

By unanimous consent of the Commission members, the meeting adjourned at 8:57 pm.

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Stephen Slater, Chairperson  
Charter Review Commission