

THE EFFECTIVE DATE OF THIS RESOLUTION IS JUNE 30, 2020

RESOLUTION NO. 20-20

RE: Charter Amendment – County Council - Vacancies

The Frederick County Charter, Section 701, provides that the Charter may be amended by the procedures provided in Article XI-A of the Maryland Constitution.

Article XI-A, §5 of the Maryland Constitution provides, in relevant part, that amendments to any charter adopted by any County may be proposed by a Resolution of the County Council.

Article XI-A, §5 of the Maryland Constitution provides that a Charter Amendment shall be published by the President of the County Council once a week for five successive weeks prior to the election in at least one newspaper published in the County.

Article XI-A, §5 of the Maryland Constitution provides that an amendment so proposed shall be submitted to the voters of the County at the next general or congressional election occurring after the passage of the resolution.

Article XI-A, §5 of the Maryland Constitution provides that if at the election the majority of the votes cast for and against the amendment shall be in favor thereof, the amendment shall be adopted and become a part of the charter of the County from and after the thirtieth day after the election.

The Frederick County Charter, Article 2, County Council, currently allows the Council to fill a vacancy by appointment, from a list of three names submitted by the County central committee of the political party of the vacating Council Member when last elected. If the Council fails to fill a vacancy, the County Executive makes the appointment.

Specifically, Section 209 states:

#### **209. Vacancies**

(a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 208 of this Charter.

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve the unexpired term of office. The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a party member, shall be a member of the same political party as the person who vacated office.

(c) When succeeding a party member, the appointee shall be selected from a list of three persons submitted to the Council by the County central committee of the political party affiliated with the person vacating office, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy. If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

The Council continues to believe that the replacement for a vacating Council member should be selected from a list of candidates submitted by the political party for which the member was affiliated during the election campaign, and if no list is provided or the vacating

council member was not a member of a political party, the council shall appoint the best qualified person to hold the office, and further finds that all persons considered for appointment shall be subject to public interview and comment.

If a vacancy occurs during the first year of a vacating Council member's term, the vacancy shall be temporarily filled by appointment and permanently filled by a special election.

In accordance with Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution, this Resolution proposes adding provisions to allow for a vacancy of a County Council seat to be filled by the selection from a list of candidates submitted by the political party for which the member was affiliated during the election campaign, and if no list is provided or the vacating council member was not a member of a political party, the appointment shall be of the best qualified person to hold the office, and all persons considered for appointment shall be subject to public interview and to public comment. If a vacancy occurs during the first year of a vacating council member's term, the vacancy shall be temporarily filled by appointment and permanently filled by a special election.

The County Council, therefore, adopts this Resolution to amend Section 209 of the County Charter to read:

#### **209. Vacancies**

(a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 209 of this Charter.

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve [the unexpired term of office] for a term pursuant to subsection (f) or (g) of this section, as applicable. The appointee shall be selected by a majority vote of the remaining council members. The appointee

shall meet the same qualifications and residence requirements and, when succeeding a council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the council member vacating office was in the most recent election for council member.

[(c) When succeeding a council member who was elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the Council by the County central committee of the political party affiliated with the council member vacating office was in the most recent election for council member, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.]

(c) If the vacating council member was last elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the council by the central committee of the same party. The central committee must provide the list of three persons within 30 days of the vacancy date. If no list is provided within 30 days, or if the vacating council member was not a member of a political party when last elected, the council shall appoint a person it deems best qualified to hold office, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy within sixty days of the vacancy. If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

(e) All persons considered by the council or county executive for appointment under either subsection (c) or (d) of this section, as applicable, shall be presented to the public, including their names and qualifications. In addition, the nominees shall be interviewed in public by either the council or county executive, including the opportunity for public comment, pursuant to either subsection (c) or (d) of this section, as applicable.

(f) If the vacancy occurs no later than 30 days prior to the candidate filing deadline for the presidential primary election, a new member shall be nominated and elected by qualified voters of the councilmanic district in which the vacancy occurs, at the same time as the presidential general election and in the manner provided by law. In the interim, until a new member is elected, the vacancy shall be temporarily filled pursuant to subsection (c) or (d) of this section. A member appointed under these conditions shall serve until the first Monday of December, following the presidential general election, at which time the winner of the presidential general election for the council seat shall assume office and serve for the remainder of the vacating member's term.

(g) If the vacancy occurs after 30 days prior to the candidate filing deadline for the presidential primary election, the new member shall be appointed pursuant to subsection (c) or (d) of this section, as applicable, and serve the remainder of the vacating member's term.

The County Council held a duly advertised public hearing on this proposed Charter Amendment on June 16, 2020. The public had an opportunity to comment on the proposed Resolution.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the County Council of Frederick County that the following amendment to the Frederick County Charter, Article 2, County Council, shall be submitted to the voters of the County at the next general or congressional election in accordance with Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution:

#### **209. Vacancies**

(a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 209 of this Charter.

(b) When a vacancy occurs, the remaining Council members within forty-five days shall appoint a person to serve [the unexpired term of office] for a term pursuant to subsection (f) or (g) of this section, as applicable. The appointee shall

be selected by a majority vote of the remaining Council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a Council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the council member vacating office was in the most recent election for council member.

[(c) When succeeding a council member who was elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the Council by the County central committee of the political party affiliated with the council member vacating office was in the most recent election for council member, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.]

(c) If the vacating council member was last elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the council by the central committee of the same party. The central committee must provide the list of three persons within 30 days of the vacancy date. If no list is provided within 30 days, or if the vacating council member was not a member of a political party when last elected, the council shall appoint a person it deems best qualified to hold office, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy within sixty days of the vacancy. If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

(e) All persons considered by the council or county executive for appointment under either subsection (c) or (d) of this section, as applicable, shall be presented to the public, including their names and qualifications. In addition, the nominees shall be interviewed in public by either the council or county executive, including the opportunity for public comment, pursuant to either subsection (c) or (d) of this section, as applicable.

(f) If the vacancy occurs no later than 30 days prior to the candidate filing deadline for the presidential primary election, a new member shall be nominated and elected by qualified voters of the councilmanic district in which the vacancy occurs, at the same time as the presidential general election and in the manner provided by law. In the interim, until a new member is elected, the vacancy shall be temporarily filled pursuant to subsection (c) or (d) of this section. A member appointed under these conditions shall serve until the first Monday of December, following the presidential general election, at which time the winner of the presidential general election for the council seat shall assume office and serve for the remainder of the vacating member's term.

(g) If the vacancy occurs after 30 days prior to the candidate filing deadline for the presidential primary election, the new member shall be appointed pursuant to subsection (c) or (d) of this section, as applicable, and serve the remainder of the vacating member's term.

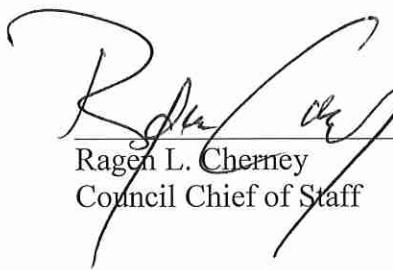
AND BE IT HEREBY FURTHER RESOLVED by the County Council of Frederick County, that pursuant to Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution, the amendments shall be published by the President of the County Council once a week for five successive weeks prior to the election in at least one newspaper published in said County;

AND BE IT HEREBY FURTHER RESOLVED by the County Council of Frederick County, that pursuant to Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution, this proposed Charter Amendment shall be submitted to the voters of the

County at the next general or congressional election occurring after the passage of this Resolution.

The undersigned hereby certifies that this Resolution was approved and adopted on the 20<sup>th</sup> day of July, 2020.

ATTEST:



Ragen L. Cherney  
Council Chief of Staff

COUNTY COUNCIL OF  
FREDERICK COUNTY, MARYLAND

By:   
M.C. Keegan-Ayer, President