

# MINUTES

## FREDERICK COUNTY CHARTER REVIEW COMMISSION

September 5, 2019

**Members Present:** John Daniels, Dylan Diggs, Paul Gilligan, Lisa Jarosinski, Dr. April Miller, Walter Olson, Stephen Slater

**Call to Order:** Stephen Slater, Chairperson, called the meeting to order at 7:00 pm.

### Pledge of Allegiance

### Approval of August 19, 2019, Meeting Minutes:

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

### Frederick County Charter Review Commission Pledge Signing:

Chairperson Stephen Slater read the Charter Review Commission Pledge and it was signed by the commission members. The Pledge will be posted on the Charter Review Commission webpage.

**Discussion with Current Frederick County Council Members – Council President Keegan-Ayer, Council Vice President Michael Blue, Council Member Phil Dacey, Council Member Jerry Donald, and Council Member Jessica Fitzwater:** (Council Member Phil Dacey was absent.)

**Chairperson Slater** welcomed the Frederick County Council Members to the Charter Review Commission meeting. He told the Council Members that the Commissioners have read their written comments and would like more details on their suggestions.

**Council President M.C. Keegan-Ayer** emphasized three suggestions for the Charter Review Commission to review. 1) Add standing committees to assist the Council with fact finding and to monitor the issue once the legislation has

been passed. 2) Vacancy of a county executive – A process should be established for when the county executive position is vacant. Currently, a vacant seat must be filled by a member of the same political party as the one that left. If the elected official changed political parties during their time in office, the seat should be filled by the political party of the elected official when that person was originally elected. 3) Budget concerns – how to balance the power between the county executive and the county council. Currently the Charter allows the council to only make cuts to the budget. Council President Keegan-Ayer would like for the Charter to allow council members to cut a line item and move the money to another area by a super majority.

**Council Vice President Michael Blue** shared Council President Keegan-Ayer's concerns about the budget. He felt that the budget timeline is too short. The council needs to be more involved with the budget process during the entire year. Council Vice President Blue also stated that the process of filling vacancies needs more public input. He realized, however, that our Charter form of government is new and no major changes should be made.

**Council Member Jerry Donald** wanted the Commission to know that they should not feel obligated to make changes to the Charter at this time. He was cautious about suggesting too many changes to the Charter. He was not sure if the problems the council has experienced were due to the personalities of the council members or problems with the Charter. As far as the budget, he felt that having individual meetings with the county executive before the budget process is important. It allows the council members to get a preview of the county executive's budget before April 15. If any changes are made to the Charter to allow the council to add or move funds, it will become a very long and arduous process and will cause problems. Many details will have to be discussed including hiring a budget director for the council if changes are made in the council's budget role.

**Council Member Jessica Fitzwater** had four items she would like the Charter Review Commission to consider. 1) Budget concerns - she stated she was torn in her ideas about how the budget process should be changed in the Charter. She felt the amount of time that is allotted for the council to review the budget is not sufficient. Council Member Fitzwater felt that the budget process issue should be emphasized during the Charter Review Commission discussions. 2) The council president should have some additional stipend. She felt that position is not fairly compensated for the amount of work that is required. 3) Insurance for council members - The lack of benefits and the salary for the council members limits the quality of candidates that run for County office. 4) Section 212 (b) of the Charter - Non-interference – Council Member Fitzwater felt that this section is very vague. For example who decides the definition of "Council"? Who decides if a requests has a legislative component? The communication process between the Council and the County Executive at times seems more complicated than is necessary. She would like to see clarification in this section of the Charter.

**Questions from the Commissioners:**

**Commissioner Walter Olson** – Asked about the topic of standing committees. He asked Council President Keegan-Ayer why the ability to have ad hoc committees was not sufficient. Council President Keegan-Ayer stated under the current Charter, the council is allowed to create ad hoc committees for fact finding for a limited amount of time. The interpretation currently is that once the fact finding is complete, the ad hoc committee must be dissolved. She felt that having a standing committee that met on a quarterly basis would be advantageous to continue to monitor a legislative issue once it was passed. Council Member Fitzwater felt that having standing committees would be challenging for part time council members.

**Commissioner Lisa Jarosinski** shared that the original Charter Board had a fear that standing committees would create legislation and circumvent the county council. The meaning of standing committees must be defined if it is to be added to the Charter.

**Commissioner April Miller** stated that in her experience with the Board of Education, standing committees were successful. She was not opposed to discussing standing committees. Council President Keegan-Ayer explained that she would like to see a standing committee so that an issue could continue to be monitored.

**Commissioner Miller** asked if it would it be beneficial for the council to have meetings with the county executive before April 15 to discuss their priorities. She stated that she did not like the idea of individual council members meeting behind closed doors with the county executive. The current process did not seem open and transparent. She would like public meetings with all of the council members and the county executive to discuss issues before the budget is finalized. Discussing the budget with the county executive should not be based on dynamics and personalities. This would create more interaction between the council and the county executive. The County Chief Administrative Officer, Rick Harcum, explained that the process Commissioner Miller was suggesting could happen now if desired. Commissioner Miller felt that a process in the Charter should be put in place to make it happen. Council Member Fitzwater agreed and added that it would force council members to be more prepared for when the budget is received from the county executive on April 15. Council Chief of Staff Ragen Cherney explained the current process at the beginning of each year is for the council to meet with all of the division directors to find out their budget needs. Commissioner Miller felt that discussing a more defined budget process for the Charter would be beneficial. Council Member Donald added that the current County Executive has been open to all Council Members to meet with her about the budget. Some chose not to accept the invitation.

Rick Harcum added a transparency comment. He pointed out that every budget request is documented and comes through a transparent process. All requests have backup documentation to justify the request and is provided in the “red book” and shared with the Council. Commissioner Dylan Diggs asked if the “red book” was mandatory or provided in good faith by the County Executive. Mr.

Harcum answered that it is not mandated in the Charter but is a process that will be continued by future county executives.

**Commissioner John Daniels** inferred that it was a concern of the Council to be able to have standing committees for the ongoing review of legislative considerations. Council President Keegan-Ayer realized while discussing standing committees, there could be a different interpretation to ad hoc committees in the Charter.

**Commissioner Daniels** continued with thoughts about the budget. He felt that the Charter Review Commission needs to look at a way to get the council involved earlier in the county executive's budget process. Not making too many changes to the budget, however, was a concern.

**Commissioner Lisa Jarosinski** did not have any specific questions for the Council Members. She agreed with Commissioner Miller on having a public budget meeting with the council and the county executive early in the budget process. She would like more discussion on standing committees if Council President Keegan-Ayer does not have success with her ideas on ad hoc committees.

**Commissioner Paul Gilligan** said that he was interested in ad hoc committees and standing committees and would like to have further discussion. He asked Council President Keegan-Ayer if she was sure her new interpretation of ad hoc committees was sufficient. She replied that if she found that there was a problem, she will come back to the Charter Review Commission and let them know.

**Commissioner Gilligan** discussed the budget and the suggestion that the council would need a full time budget director and council attorney. He felt that adding these positions could assist the council with their issues with the budget timeline. Council President Keegan-Ayer explained that administration staff gives the council briefings on a quarterly basis. She suggested that as Council President, she could have a Council workshop that would include staff from the finance department to get a better understanding of the upcoming budget. It will also force the Council Members to become more engaged in the budget process. Under section 213, the council currently has the power to hire more staff and has a contract budget. The council, however, does not have the budget to hire a council attorney or a budget director full time.

The subject of adding health insurance to the council benefits would help attract quality candidates. Chairperson Slater added that the Charter Review Commission could propose to remove the prohibition of insurance benefits from the Charter. This would allow the discussion of providing benefits during the council compensation review. County Attorney John Mathias stated that benefits for council members could not start midterm.

**Council Member Fitzwater** left the meeting at 8:00 pm.

**Commissioner Miller** asked about the council adding new staff salaries to their budget when the county executive has the power to zero out that line item. Council President Keegan-Ayer affirmed that was correct but the council has

tools to encourage the county executive to negotiate. Commissioner Miller stated that having the ability to add and move budget funds would be helpful in this instance.

**Commissioner Dylan Diggs** wanted to make sure that the council members have the tools to do their job even in the worst case scenario of a divided government.

**Chairperson Stephen Slater** asked if obtaining information from the Administration was a severe problem. Would changing the wording in the Non-interference section of the Charter from council to council member be helpful? Council President Keegan-Ayer stated that the process was created to protect Administration staff from Council Member harassment. The Communication Policy between the Council and the County Executive is a fluid document with changes being made periodically. Rick Harcum, Ragen Cherney and John Mathias explained the intricacies of the Communication Policy and the processing of constituent issues. Council President Keegan-Ayer stated the current process is needed to not overwhelm the Administration staff with a large amount of individual Council Member requests for information. Commissioner Miller felt that an elected council member should be able to obtain information needed to assist a constituent or for legislative purposes. She added that this should happen in a timely manner. The flow of information should work for everyone not just for those who are in line with the county executive.

**Chairperson Slater** asked Council Vice President Blue about his first experience with the budget process this past spring. He felt the budget process went very well but more time is needed to discuss the process with the county executive. Council Vice President Blue would like to see more transparency when it comes to public hearings between the council and the county executive on the budget.

**Chairperson Slater** thanked the Council Members for attending the meeting and sharing their thoughts on the Charter.

**Vote on Charter Revisions to Move Forward to Workshop and Public Hearing - Articles 2 & 3:**

Chairperson Slater asked the Commissioners if they wanted to begin working on the proposals on the spreadsheet or to table it until the next meeting. There was a consensus by the Commission to begin.

**Spreadsheet Item 1 – Article 1, Section 104(a) – Definition of “Agency”**

Add phrase “including all entities, however structural, that utilize the County’s financial system”

Motion: To table Spreadsheet Item 1 to a later meeting

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

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

**Spreadsheet Item 2 – Article 2, Section 203 – Council to Act as a Body**

Add to the county council the ability to create standing committees

Motion: To forward Spreadsheet Item 2 to a work session

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

**Spreadsheet Item 3 – Article 2, Section 204(c) (and Section 201) – Election of County Council**

Abolish two at-large council member positions (and reduce county council from seven to five district council members)

Motion: To forward Spreadsheet Item 3 to a work session

There was no support to forward this item to a work session

**Spreadsheet Item 4 – Article 2, Section 204(e) – Election of County Council**

Create staggered terms for council members so all are not elected in gubernatorial election cycles

Motion: To forward Spreadsheet Item 4 to a work session

John Mathias informed the Commissioners that to change this item would need a constitutional amendment

There was no support to forward this item to a work session

**Spreadsheet Item 5 – Article 2, Section 205(c) – Qualifications for County Council**

Prohibit council members from serving as employees of the Board of Education due to perceived conflict of interest

Motion: To forward Spreadsheet Item 5 to a work session

Commission Member	Motion	Second	Aye	Nay	Absent/Abstain
Diggs			✓		

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

Under agreed upon conditions set by the Charter Review Commission, an item would be forwarded to a work session with the assent of three members. Therefore, the item will move forward to a work session.

**Discussion on Additional Meeting Dates:**

Executive Assistant Lee Redmond advised that she has tentatively scheduled additional commission meetings for October 31, 2019, and January 30, 2020. There was a consensus to add January 30, 2020, to the meeting schedule and to find another date the last week of October since October 31, 2019, is Halloween. Ms. Redmond will inquire if the Third Floor Meeting Room and Video Services are available on another date.

**Commission Member Comments:**

**Commissioner Diggs** – felt that the discussions so far have been constructive and wanted to encourage the public to give the commission their suggestions for the Charter.

**Commissioner Gilligan** – felt the advice to not do anything “stupid” with the Charter was useful.

**Commissioner Jarosinski** – did not have any comments

**Vice Chairperson Daniels** – did not have any comments

**Commissioner Miller** – felt that having the difficult discussions are necessary to improve the Charter

**Commissioner Olson** – shared that he attended the County Municipal League meeting and gave a presentation about the Charter Review Commission

**Chairperson Slater** – 1) was very happy that the Pledge was created and signed and 2) was happy about the way the Charter Review Commission process was moving forward

**Future Agenda Items:**

1. Discussion with Current Frederick County Council Members – Council Member Kai Hagen, Council Member McKay and Council Member Phil Dacey (tentative)
2. Continue to Vote on Charter Proposals to Move Forward to Workshop and Public Hearing
3. Discussion with Finance and Budget staff on Article 5 of the Charter-Budget and Finance

#### 4. Discussion on interviewing additional County staff

#### **Action Items:**

There was a consensus for Ragen Cherney to ask the County Executive if County Finance and Budget staff would be allowed to attend a meeting to discuss Article 5 of the Charter.

#### **Public Comments:**

**Mike Morse**, 5512 Old National Pike, Frederick – Supported the proposed changes to Article 1, Section 104(a) – Definition of “Agency”, Article 2, Sections 203 and 211 as submitted by himself, Ellen Lerner and Sea Raven Morse via email on August 29, 2019. The review commission needs to address three anomalies in the current Charter:

1. The county sheriff is not accountable to the County
2. The county executive and council need to sign off on all contracts concerning the County except for those of the sheriff
3. Federal law states that any locale does not have to participate with the 287(g) program unless it wishes to, yet the sheriff is able to make this decision on his own

**Sea Raven Morse**, 5512 Old National Pike, Frederick – Gave information about the sheriff and the 287 (g) program. In addition, she gave the opinion of the Maryland Attorney General that the limited training in immigration enforcement of the sheriff’s deputies increases the risk of racial profiling. The Attorney General’s Office has declined to defend the Sheriff in the Medrano lawsuit. The proposed changes would allow the council to have oversight of the actions of the sheriff’s office.

**Ellen Lerner** – Explained that the proposals emailed by her, Mike and Sea Raven Morse are to bring the sheriff into accountability. Currently, State legislators tell County officials to comply with federal law. She encouraged the Commission to strengthen the Charter and to make proposals to allow the council to make the sheriff more accountable. There are some very unconstitutional and criminal activities that need to be addressed.

**Richard Kaplowitz**, Crestwood Village 7056 Catalpa Road, Frederick – Made statements in response to the proposal spreadsheet that was discussed earlier. He felt that the issue of teachers on the county council is political in nature. The public weighs the qualifications of each individual candidate and does not have a fear that the candidate is only interested in how the position would benefit the candidate. The election process will take care of that concern. Mr. Kaplowitz encouraged the Commission not to make changes in the number of council members at this time. On the issue of the council adding a budget director and a staff attorney, Mr. Kaplowitz felt that there should be an opportunity stated in the Charter for citizens in Frederick to volunteer to take those positions on a part

time basis. There needs to be a legal opinion from the Maryland Attorney General on if there should be restrictions on how the County funds are allocated by the sheriff for the 287(g) program. Finally Mr. Kaplowitz relayed that he felt the Charter should not be abolished.

**Adjournment:** Time: 9:13 pm

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

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 Stephen Slater, Chairperson  
 Charter Review Commission