

# MINUTES

## FREDERICK COUNTY CHARTER REVIEW COMMISSION

August 19, 2019

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

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

**Pledge of Allegiance**

**Approval of August 1, 2019, Minutes:**

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

**Discussion on Compiling Information and Process:**

Compiling Information – Chairperson Slater compiled a spreadsheet containing all proposals that have been received to date. The written comments that have been received have been sorted into Charter sections by topic, nature of change, the person who suggested, and date received. Chairperson Slater offered to continue to compile the information as it is received. When public comment is taken, he will summarize their comments and add them to the spreadsheet. Commissioner Diggs asked if the spreadsheet needed to be posted online. County Attorney John Mathias replied that it was up to the Commission if they wanted it to be posted but it was not a requirement. Chairperson Slater will update the spreadsheet and send it to all the Commissioners every Monday. The Commissioners consented.

Process – Chairperson Slater suggested that the Commission would vote on each item on the spreadsheet. If three of the seven members voted in favor of an item, then that item would be placed as a topic for a workshop and potentially

a public hearing. The items presented for a workshop and eventual public hearing would be voted on again at a later date to decide which ones will be presented to the Council for referendum. Four out of the seven Commissioners would be needed to vote for the item for a majority. All Commissioners agreed on this process.

A community engagement plan was suggested by Commissioner Miller at an earlier Charter Review Commission meeting. (Commissioner Miller was absent.) Chairperson Slater asked staff to send out a press release when items will be going to public hearing. All Commissioners agreed to have press releases sent out to notify the public.

### **Discussion of 2012 Charter Board Pledge:**

The Commission Members agreed to have staff create a document with the following pledge for signature and have it posted on the Charter Review Commission's webpage:

#### **The Frederick County Charter Review Commission Pledge**

We believe that being selected to serve on the Charter Review Commission, tasked to review the provisions of the Charter for Frederick County in the twenty-first century, is both a civic duty and an honor.

We believe that placing this trust in us obligates us to act in the best interest of all the people of Frederick County.

In so doing, we therefore willingly pledge to set aside our personal, professional, business, and political interests to the higher criterion of what would be best for the County and its people. To help learn this, we will widely engage the public to tell us about their concerns.

The final Charter revisions that we will place before the County Council will be the result of our best efforts to integrate and reach consensus on all of the viewpoints brought forward over the months.

We seek to reach all voters so that they will be able to make a fully informed decision on the Charter amendments.

The signed copy of the Pledge will be posted on the Charter Review Commission webpage.

### **Commission Member Comments:**

**Commissioner Diggs** was glad the Commission is moving forward with the pledge. He wanted to clarify that the Commissioner's goal is the betterment of Frederick County.

**Commissioner Gilligan** had no comment

**Commissioner Jarosinski** had questions about Charter Section 402 (f) – Contractual Signing of Agreements – the public is concerned about the immigration issues associated with the 287(g) program. She asked County Attorney John Mathias to give the Commission guidance on what is or is not in their purview to address. Mr. Mathias explained that the 287(g) program is a federal law. There is very little role for states and counties in regard to immigration. The 287(g) program operation is under the Sheriff's Office and the Sheriff is a State constitutional officer. It is not possible for the Charter to be amended to change State law and have oversight over the Sheriff's Office.

**Commissioner Daniels** asked for clarification of 402 (f). Mr. Mathias explained that the Sheriff is a State official. There is Maryland case law precedent stating the County has no authority over the law enforcement activities of the Sheriff. The 287(g) program falls under law enforcement. If the Charter Review Commission decided to recommend oversight of the Sheriff in the Charter, a judge would rule that it was not binding. State law trumps County law. Commissioner Daniels requested Mr. Mathias to write an opinion to state that the Charter has no role in regulating the Sheriff's Office. Mr. Mathias agreed to do that.

**Commissioner Gilligan** asked if the Sheriff is allowed to sign any contract. Mr. Mathias explained that no one in the State level has authority over the Sheriff. He reports to the voters. The Sheriff is subject to the County budget and cannot enter into a contract unless there is money in his budget. The County has a responsibility to pay the necessary expenses of the Sheriff's Office. The Commission agreed to have Mr. Mathias write an explanation of this in the opinion he will submit.

**Commissioner Daniels** clarified his statement from last week when he said Montgomery County Council does not have standing committees. Mr. Mathias gave Commissioner Daniels information from Montgomery County's website that showed that they do have standing committees.

**Commissioner Daniels and Commissioner Olson** will be having a roundtable discussion with the League of Women Voters on Saturday, September 14, 2019, at 9:00 am at Dublin Roasters in Frederick. Mr. Mathias reminded the Commission Members to remember the Open Meetings Act and that four members are a quorum.

#### **Other Business:**

Commissioner Olson asked when the Frederick County Delegation will be contacted for their input on Charter revisions. The Commission Members asked staff to send letters to the County Delegation. The letters should be similar to the ones sent to the current and former Council Members asking for their comments. Former Frederick County Delegation members will not be sent letters. The written response deadline will be September 19,

2019. No letters will be sent to Frederick County municipalities. There was a consensus from all Commission Members.

**Future Agenda Items:**

September 5

- Sign the Frederick County Charter Review Commission Pledge
- Charter discussion with Council President Keegan-Ayer, Council Vice President Blue, Council Member Dacey, Council Member Donald, and Council Member Fitzwater
- Vote on items on the spreadsheet to move forward for workshop discussion and possible public hearing - Articles 2 and 3 of the Charter

September 19

- Charter discussion with Council Member Hagen and Council Member McKay
- Vote on items on the spreadsheet to move forward for workshop discussion and possible public hearing - Articles 4 and 5 of the Charter

October 3

- Charter discussion with County Executive Gardner

**Public Comments:**

1. Bill Ashton, 932 Cherokee Trail, Frederick

Mr. Ashton said that he does not and has never supported Charter government.

Mr. Ashton's requests:

- a. Do not change the structure or authority of the Frederick County Sheriff's Office
- b. Add language to the Charter to cover council member conduct with disciplinary actions – to make sure that a council member is not in office for self-serving reasons

2. Eileen Benecke

Requests/Questions:

- a. Please provide an index at the beginning of the Charter
- b. Clarify the tools in the Charter that the council members have to balance the power between the council and the county executive
- c. Besides amendments, will the Charter Review Commission add more to the final report such as recommendations?

- d. Provide the background documents the original Charter Board used to create the Frederick County Charter
- e. Provide information the Charter Review Commission will be using to make decisions and provide the reasons that information was used
- f. Provide a footprint for the next Charter Review Commission

County Attorney Mathias addressed Ms. Benecke's request for an index for the front of the Charter. He pointed out that the Frederick County Charter is included in the Frederick County Code. The online Code is searchable.

3. Ellen Lehrner

Questions:

- a. Inquired if the Charter Review Commission will discuss Articles 7 and 8?

Chairperson Slater answered that so far no proposals have been submitted regarding those sections. Article 7 covers miscellaneous provisions. To date no one has offered suggestions for this section. If suggestions are received for Article 7 then that section will be discussed. Article 8 discusses the transition from the commissioner form of government to the charter form of government which has already happened.

- b. Inquired as to how the public can offer a proposal to the Charter Review Commission?

Chairperson Slater provided information to find the Charter Review Commission webpage and the email address to send in suggestions.

4. Richard Kaplowitz

- a. Requested to make documents used by the Charter Review Commission, including legal documents provided by attorneys, available to the public via the webpage. The public would like to know the thought process of the Commission.

Chairperson Slater provided closing comments – He encouraged the Commission Members to get out into the public and get feedback from and provide information to individuals and community groups. Chairperson Slater also suggested to invite interested parties to a Charter Review Commission meeting.

**Next Meeting:**

Thursday, September 5, 2019, at 7 pm, Winchester Hall

**Adjournment:** 8:00 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                   |               |               |            |            | Absent                |
| Olson                    | ✓             |               | ✓          |            |                       |
| Daniels, Vice Chair      |               |               | ✓          |            |                       |
| Slater, Chair            |               |               | ✓          |            |                       |

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Stephen Slater, Chairperson  
Charter Review Commission