

Harford County Charter Review Board

February 21, 2012

The Honorable David R. Craig
Harford County Executive
220 South Main Street
Bel Air, MD 21014

The Honorable William K. Boniface
President, Harford County Council
18 Office Street, 2nd Floor
Bel Air, MD 21014

FEB 22 2012

Dear County Executive Craig and Council President Boniface,

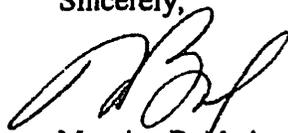
Enclosed please find the report of the Harford County Charter Review Board, as required by Resolution Number 13-11, adopted by the Harford County Council on July 12, 2011.

Since the first meeting of the Board in August, the Board met seven additional times. We completed a comprehensive review of each section of the Charter and supporting documents to ensure that the Charter remains current to meet the demands and needs of the Harford County community, even during rapidly changing times. The Board hereby submits the attached recommendations for review and consideration. These recommendations represent compromises among the members, and thoughtful changes that should be made to keep the Charter current.

I would like to take this opportunity to thank all of the members of the Board who worked to create this document. Throughout all of the meetings, the Board members remained thoughtful of their purpose and respectful toward each other.

On behalf of the full Board, I would like to say that we were pleased and proud to be able to serve the people of Harford County in this capacity.

Sincerely,



Maurice Baldwin
Chair, Harford County Charter Review Board

**Harford County Charter Review Board Report
Resolution Number 13-11
February 16, 2011**

A Charter Review Board was established through a Joint Resolution of the County Executive and the County Council on July 12, 2011. The board met monthly from August 2011 through February 2012 and conducted a thorough review of the Harford County Charter. After the initial meeting of the full Board, three sub-committees were formed to review the Charter by subject. One sub-committee specifically reviewed fiscal sections, one reviewed planning and zoning and the third reviewed executive/legislative and general provisions in the current charter. These sub-committees met numerous times over the past seven months and the following proposals are a result of all recommendations from the three sub-committees (which comprised all Board Members.) After much discussion, research and consideration the following are those sections in the Charter that a majority of the Board has recommended be presented to the County Executive and the County Council for their consideration:

1). The first amendment would change a portion of Section 405(a) which currently provides that the Director of Planning and Zoning shall be eligible for membership in the American Institute of Planners. The Board reviewed this provision and found that the original organization specified in the Charter as of 1973 does not currently exist and recommends the following language as more appropriate:

The Department of Planning and Zoning shall be administered by the Director of Planning who shall have a degree from a recognized college or university and shall have completed a program of studies in city and urban planning [of sufficient scope for acceptance to membership in the American Institute of

Planners]. At the time of appointment, the Director of Planning shall have had five years' experience in an executive position with a planning or zoning agency of a state or local government.

ADDITIONALLY, THE DIRECTOR SHALL BE A MEMBER OF, OR ELIGIBLE FOR MEMBERSHIP IN, A NATIONALLY RECOGNIZED ASSOCIATION FOR PLANNING PROFESSIONALS.

2). Secondly, the sub-committee on Planning & Zoning and Executive/Legislative recommended that a Housing Element and an Agricultural Element be added to the Land Use Plan due to changes in the demographics of the County inventory for available building lots and housing types. With respect to the Agricultural addition, the Board recommends that due to the lack of continuation of the Rural Plan as an element of the Land Use Plan and due to the overall agricultural resources in the County it is necessary that an Agriculture element be a viable part of the Master Plan.

The Board recommends adding a Housing Element and an Agricultural Element to the Master Plan provided for in Section 702. SECTION 702 E. A HOUSING PLAN ELEMENT WHICH SHALL SHOW PROPOSALS FOR THE MOST APPROPRIATE AND DESIRABLE PATTERNS FOR THE GENERAL LOCATION OF PUBLIC AND PRIVATE HOUSING IN HARFORD COUNTY. SUCH HOUSING PLAN SHALL INCLUDE AN ANALYSIS OF EXISTING CONDITIONS INCLUDING ZONING, ENVIRONMENTAL REGULATIONS, MORATORIUMS AND ACTUAL IMPROVEMENTS YIELDS

FOR APPROVED DEVELOPMENT PLANS AS WELL AS PROJECTED ABSORPTION CAPACITY OF EXISTING AND PLANNED GROWTH AREAS.

SECTION 702 F. AN AGRICULTURAL PLAN ELEMENT WHICH SHALL SHOW PROPOSALS FOR THE MOST APPROPRIATE AND DESIRABLE PATTERNS FOR THE GENERAL LOCATION, CHARACTER, AND EXTENT OF PRIMARILY RURAL AND AGRICULTURAL AREAS AND SUPPORTING BUSINESSES AND FACILITIES. SUCH AGRICULTURAL PLAN SHALL INCLUDE, WITHOUT BEING LIMITED TO, AN ANALYSIS OF CHANGING TRENDS IN FARMING AND AGRICULTURE AND THE TYPES OF SUPPORTING BUSINESSES AND FACILITIES THAT ARE NEEDED FOR THE COUNTY TO REMAIN AN ATTRACTIVE LOCATION FOR AGRICULTURAL BUSINESSES.

SECTION 702 G. (previously section 702 (e) The plans may include, without being limited to, any additional elements such as community renewal, housing, flood control, pollution control, conservation, natural resources, the general location and the extent of public utilities and other programs which will further advance the purposes of these plans.

- 3). Additionally, Section 704 has a provision dealing with conflicts if one is a shareholder

in a corporation. However, the Board noted that this section makes specific reference to shareholders of the corporation but does not include members in business associations that have been authorized in Maryland since the adoption of the Charter in 1973.

The Board recommends changing the current language as follows:

Section 704 (a) Any application in a zoning case, and any amendment thereto, shall contain specific allegations setting forth the basis for the granting of the request. Any application must disclose the names and addresses of all persons having legal or equitable interest in the property which is the subject of the zoning case, including [shareholders] PERSONS OR ENTITIES HAVING LEGAL, EQUITABLE OR BENEFICIAL INTEREST OF [owning] more than five percent of the [stock in a corporation] OWNERSHIP INTEREST IN AN ENTITY having any interest in any land involved in the application, excepting those [corporations] ENTITIES which are listed and regularly traded on a recognized stock exchange.

4). Section 213 deals with the County Auditor, the Board recommends this change and an addition of Section 213.1 as listed below so that duties and procedures for the external auditor would be separated from the internal county auditor as provided below:

Section 213. County Auditor. (a) The Council [shall] MAY appoint a County Auditor who shall serve at the pleasure of the Council and shall receive such compensation as the Council may determine. The County Auditor shall be a certified public accountant licensed under the law of this state.

**SECTION 213.1. EXTERNAL INDEPENDENT AUDITOR;
FINANCIAL AUDIT**

**A FINANCIAL AUDIT FOR ALL OFFICES,
DEPARTMENTS, INSTITUTIONS, BOARDS, COMMISSIONS
AND OTHER AGENCIES OF THE COUNTY GOVERNMENT,
EXCEPT THOSE WHOSE ENTIRE RECORDS, ACCOUNTS
AND AFFAIRS ARE COMPLETELY AUDITED BY OTHER
INDEPENDENT AUDITORS, SHALL BE MADE WITHIN
FOUR MONTHS FOLLOWING THE CLOSE OF EACH
FISCAL YEAR OF THE COUNTY BY AN INDEPENDENT
FIRM OF CERTIFIED PUBLIC ACCOUNTANTS WHOSE
AUDITORS DOING BUSINESS WITH THE COUNTY ARE
LICENSED FOR THE PRACTICE OF THEIR PROFESSION
UNDER THE LAWS OF THIS STATE. THE SELECTION OF
SUCH FIRM AND ITS EMPLOYMENT BY CONTRACT
SHALL BE MADE BY THE COUNTY EXECUTIVE WITH
THE ADVICE AND CONSENT OF THE COUNTY COUNCIL.
ALL RECORDS OF THE COUNTY AUDITOR AND ALL
RECORDS AND FILES PERTAINING TO THE RECEIPT AND
EXPENDITURE OF COUNTY FUNDS BY ALL OFFICERS,
AGENTS AND EMPLOYEES OF THE COUNTY AND ALL
OFFICES, DEPARTMENTS, INSTITUTIONS, BOARDS,
COMMISSIONS, AND OTHER AGENCIES THEREOF SHALL
BE OPEN TO THE INSPECTION OF THE AUDITORS**

CONDUCTING THE AUDIT. THE COUNTY COUNCIL SHALL HAVE THE POWER TO IMPLEMENT THE PROVISIONS OF THIS SECTION BY LEGISLATIVE ACT NOT INCONSISTENT HEREWITH, AND TO REQUIRE SUCH ADDITIONAL INDEPENDENT AUDITS AS IT SHALL DEEM NECESSARY. THE COUNTY AUDITOR MAY ASSIST THE EXTERNAL INDEPENDENT AUDITOR IN CONDUCTING THE FINANCIAL AUDIT IF REQUESTED.

5). Currently Sections 208 & 306 provide for compensation for the County Executive and Council Members that is obsolete. The majority recommended that language providing for a specific salary amount be deleted from these sections as it is misleading to the public and could allow one to believe other provisions may also be out dated.

Section 208. COMPENSATION OF COUNCIL MEMBERS.

Council Members shall receive compensation [of five thousand dollars per annum]. The President of the Council shall receive compensation [of six thousand five hundred dollars per annum].

The compensation of the President of the Council and the other Council Members may be changed by law passed by an affirmative vote of at least five members of the Council. Any increase or decrease in compensation which becomes law during one term of office shall not become effective before the next term.

Section 306. COMPENSATION OF THE COUNTY

EXECUTIVE. The County Executive shall receive compensation

[of not less than twenty-seven thousand five hundred dollars per annum]. Compensation may be changed by law passed by an affirmative vote of at least five members of the Council. Any increase or decrease in compensation which becomes law during one term of office shall not become effective before the next term.

6). Section 206 – Term of Council Members. Currently there are no term limits. The Board recommends the following change due to the fact that term limits are consistent with the understanding that Council Members are intended to be part-time citizen legislators and the fact that the Office of the County Executive has a 2 consecutive term limit. Further, several other Maryland Counties have term limits.

A Council Member shall serve for a term beginning at noon on the first Monday in December next following election, and ending at noon on the first Monday in December in the fourth year thereafter. NO PERSON SHALL BE ELIGIBLE FOR ELECTION TO A THIRD CONSECUTIVE TERM AS A COUNCIL MEMBER REQUIRED TO RESIDE IN A COUNCIL DISTRICT, OR TO A THIRD CONSECUTIVE TERM AS COUNCIL PRESIDENT.

7). Section 209 – Vacancies in the County Council. The Charter currently provides that a person appointed to fill a vacancy on the County Council must be selected from a list provided by the Central Committee of the political party to which the former Council member belonged. If the former Council member had changed party affiliation after being elected, the current Charter requires the appointee to be a member of the former member's new party. The amendment recommended by the Board requires that the replacement be a member of the political party that

the former Council Member belonged to at the time of their election, ensuring that the replacement will be from the same party that the voters chose. The amendment also changes the term "Central Committee" to "governing body" to allow for the possibility of a Council member being a member of a third party, and simplifies the language of the section to make it easier to understand.

(a) A vacancy in the Council shall exist upon the death, [or] resignation, OR FORFEITURE OF OFFICE of a Council Member [, or upon the forfeiture of office by a Council Member]. When a vacancy occurs, a majority of the remaining members of the Council shall, within sixty calendar days thereafter, appoint a person QUALIFIED UNDER SECTION 207 OF THIS ARTICLE to fill the vacancy. IF THE COUNCIL HAS NOT ACTED WITHIN SIXTY CALENDAR DAYS, THE COUNTY EXECUTIVE SHALL APPOINT A PERSON TO FILL THE VACANCY WITHIN TEN CALENDAR DAYS THEREAFTER. If an appointee is to succeed a member of a political party, that individual shall be selected from a list of at least three names submitted to the Council AND THE COUNTY EXECUTIVE by the [Central Committee] GOVERNING BODY of the party to which to which the former Council Member belonged AT THE TIME OF HIS OR HER ELECTION. [If the Council has not acted within sixty calendar days, the County

Executive shall appoint a person to fill the vacancy within ten calendar days thereafter. If the Council Member who held the vacant position was a member of a political party at the time of election, the person appointed by the County Executive to fill the vacancy shall be selected from the same list that the Central Committee of that party has previously submitted to the Council.] Except as provided in subsection (b) of this section, an appointee shall serve for the unexpired term of the appointee's predecessor. [Any person appointed to fill a vacancy shall meet the same qualifications and residence requirements as the previous Council Member.]

- (b) If a vacancy filled by an appointment under subsection (a) of this section occurred more than ninety calendar days before the next Congressional primary election [following election of the original Council Member], AN ELECTION SHALL BE HELD SIMULTANEOUS TO THE CONGRESSIONAL ELECTION TO ELECT A NEW COUNCIL MEMBER TO FULFILL THE REMAINING TERM OF THE VACATED COUNCIL MEMBER. [the] THE appointed Council Member shall serve until [a successor] THE NEWLY ELECTED Council Member [, elected at the next Congressional election following the vacancy,] takes office[. The successor Council Member shall take office] at noon on the first Monday in December next following election[, and

shall serve the remainder of the original Council Member's term].

8). The Board recommended a substantive change to Section 307 Vacancy in the Office of the County Executive by providing that the vacancy be filled in the same manner as the vacancy would be filled for a council person. The Charter currently provides for an appointed successor to a County Executive to serve the rest of the full term, even if the vacancy occurred at the very beginning of the four-year term. The Board recommends an amendment that requires an appointed successor to be from the same political party as the former County Executive, and provides for election to fill the remainder of the term if the vacancy occurs early in the term, paralleling the procedure for filling vacancies in the County Council.

(a) A vacancy in the office of County Executive shall exist upon the death, resignation, [or] removal, OR FORFEITURE OF OFFICE of the County Executive [, or upon forfeiture of office. In the event of a vacancy, the Council shall, within thirty calendar days, appoint a County Executive for the remainder of the term. The appointment shall be made by an affirmative vote of at least four members of the Council]. WHEN A VACANCY OCCURS, A MAJORITY OF THE COUNTY COUNCIL SHALL, WITHIN THIRTY CALENDAR DAYS THEREAFTER, APPOINT A PERSON QUALIFIED UNDER SECTION 305 OF THIS ARTICLE TO FILL THE VACANCY. IF AN APPOINTEE IS TO SUCCEED A MEMBER OF A POLITICAL PARTY, THAT INDIVIDUAL SHALL BE SELECTED FROM A LIST OF AT

LEAST THREE NAMES SUBMITTED TO THE COUNCIL BY THE GOVERNING BODY OF THE PARTY TO WHICH THE FORMER COUNTY EXECUTIVE BELONGED AT THE TIME OF HIS OR HER ELECTION. EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN APPOINTEE SHALL SERVE FOR THE UNEXPIRED TERM OF THE APPOINTEE'S PREDECESSOR.

(b) IF A VACANCY FILLED BY AN APPOINTMENT

UNDER SUBSECTION (A) OF THIS SECTION OCCURRED MORE THAN NINETY CALENDAR DAYS BEFORE THE NEXT CONGRESSIONAL PRIMARY ELECTION, AN ELECTION SHALL BE HELD SIMULTANEOUS TO THE CONGRESSIONAL ELECTION TO ELECT A NEW COUNTY EXECUTIVE TO FULFILL THE REMAINING TERM. THE APPOINTED COUNTY EXECUTIVE SHALL SERVE UNTIL THE NEWLY ELECTED COUNTY EXECUTIVE TAKES OFFICE AT NOON ON THE FIRST MONDAY IN DECEMBER NEXT FOLLOWING ELECTION.

9). The Charter Review Board found inconsistencies in many sections in the Charter that dealt with publication in all aspects. The Board recommends an amendment to modernize public notice requirements to include publication on a county website accessible to the public over the Internet in addition to the public notice requirements in state law. The Charter contains six separate sections regarding public notice, all of which require publication in at least two newspapers. State law requires publication in at least one newspaper, and our county's charter is

the only one in the state that requires publication in at least two newspapers. The recommended amendment creates a new Section 812 on Public Notice that expands public notice requirements to include posting notices on an official Internet site and changes the six specific mentions of public notice in the Charter from “at least two newspapers” to “at least one newspaper”. Five of the requirements for publication in two newspapers are also in the county code, so passage of the recommended amendment would not reduce the requirement to one newspaper for those public notices unless the County Council later passes amendments to the county code. Reducing the publication requirement from two newspapers to one would save a considerable amount of tax dollars. Therefore, the group recommends that a new Section 812 Public Notice be added to the Charter under General Provisions to read as follows:

**PUBLIC NOTICE OF DOCUMENTS AND EVENTS SHALL
INCLUDE POSTING THE NOTICE AND ANY PERTINENT
DOCUMENTS PROMINENTLY ON AN OFFICIAL SITE
THAT IS ACCESSIBLE TO THE PUBLIC, AND OTHER
MEANS OF COMMUNICATION AS REQUIRED BY LAW.**

Section 213. County Auditor.

(b) The County Auditor shall, not later than four months after the close of each fiscal year, prepare and submit to the Council and to the County Executive, a complete financial audit for the preceding fiscal year of all agencies that receive or disburse County funds. The audit shall include a report together with such explanatory comments as the County Auditor may deem appropriate. The report and explanatory comments shall be published [in at least two newspapers published in the County] **IN ACCORDANCE WITH THE PROVISION OF SECTION 812**, and copies of the complete audit shall be open for inspection by the public. The Council may exempt on an annual basis those

agencies whose entire records, accounts, and affairs are completely audited each year by the state or federal government and may, for good cause, grant an extension to submit the financial audit.

Section 218. Enactment of legislation.

(c) Within twenty-four hours following the introduction of a bill, the Council shall schedule a public hearing on the bill, which hearing shall not be less than five days nor more than fourteen days after publication of the hearing notice. Public notice of hearings on bills shall be published [in at least two newspapers published in the County] IN ACCORDANCE WITH THE PROVISION OF SECTION 812. The public hearing on a bill may, but need not be, held on a legislative session day and may be adjourned from time to time.

Section 221. Publication of laws.

The Council shall cause all laws and all amendments to this Charter to be published [in accordance with the provisions of state law in at least two newspapers published in the County] IN ACCORDANCE WITH THE PROVISION OF SECTION 812. The first publication of a law shall take place within ten days of the date that the legislative act became law. Copies of the laws and the Charter amendments shall be available to the public upon request.

Section 511. Public budget hearings.

Upon receipt of the proposed County Budget, the Council Administrator shall cause to be published [in at least two newspapers published in the County,] IN ACCORDANCE WITH THE PROVISIONS OF SECTION 812, a notice of the place and time of at least two public hearings on the budget by the Council. The Council may hold such other preliminary hearings on the budget for the purpose of obtaining information as it may determine, but no action shall be taken by the Council on the budget except in public

session and after the public budget hearings prescribed in this section.

Section 704. Procedural requirements in zoning cases.

(b) Before any application in a zoning case may be granted, there shall be a public hearing held before the body or the officer having authority to decide the case. Notice of the public hearing shall be published [once a week for two consecutive weeks in at least two newspapers published in the County. The second public notice shall be published not less than 14 days before the hearing.] **IN ACCORDANCE WITH THE PROVISIONS OF SECTION 812.**

Section 905. Charter amendment.

Amendments to this Charter may be proposed by legislative act of the Council.

Amendments may also be proposed by petition filed with the President of the Council and signed by not less than twenty percent of the registered voters of the County, or 10,000 of such registered voters in case twenty percent of the number of registered voters is greater than 10,000. When so proposed, whether by legislative act of the Council or by petition, the question shall be submitted to the voters of the County at the next general or Congressional election occurring after the passage of said act or the filing of said petition. If at said election the majority of votes cast on the question shall be in favor of the proposed amendment, the amendment shall stand adopted from and after the thirtieth calendar day following said election. Any amendments to this Charter proposed in the manner aforesaid, shall be published by the President of the Council in at least [two newspapers] **ONE NEWSPAPER** published in the County for five successive weeks prior to the election at which the question shall be considered by the voters of the County.

10). The final suggestion involves the subject of redistricting as found in Section 205 of the Charter and provides for creation of a commission every ten years to prepare a plan for

redrawing County Council districts after the new U.S. census. The Charter currently provides two seats on the commission for each political party that polled at least 15% of the total vote cast for all candidates for the Council in the preceding election. In 2011 the Charter language resulted in a commission with members from only one party (the other major party did not achieve 15% of the total vote because it did not have a candidate for the county-wide office of Council President). To guarantee that the membership of future redistricting commissions will include broad representation, the Board recommends an amendment that will entitle a political party to two members on the commission on redistricting if the party either polled at least 15% of the votes at the previous election for County Council or had at least 15% of the registered voters at the time of that election. The amendment also includes a provision requested by the Harford County League of Women Voters by requiring that the additional member appointed to the commission be a Harford County registered voter who is an independent or a member of a political party not already represented on the commission. State law requires elected central committees only for the two parties that polled the most votes for governor, so the amendment changes the term "Central Committee" to "governing body" to allow for the possibility of a third party qualifying for membership on the commission.

Section 205. Redistricting procedure.

(a) The boundaries of Council districts shall be established in 1974 and reestablished in 1982 and every 10th year thereafter. Whenever district boundaries are to be established or re-established, the Council shall appoint, not later than February 15 of the year prior to the year in which redistricting is to be effective, a commission on redistricting, composed of two members from each political party chosen from a list of five names submitted by the [Central Committee] GOVERNING BODY of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the

immediately preceding regular election OR WHICH HAD AT LEAST FIFTEEN PERCENT OF THE REGISTERED VOTERS IN THE COUNTY ON THE DATE OF THAT ELECTION. The Council shall appoint one additional member of the Commission, WHO SHALL NOT BE A MEMBER OF ANY OF THE POLITICAL PARTIES ENTITLED TO TWO MEMBERS OF THE COMMISSION AND SHALL BE A REGISTERED VOTER IN HARFORD COUNTY. The Commission shall, at its first meeting, select one of its members to serve as chair. No person shall be eligible for appointment to the Commission if that person holds any elected office.

Additional Considerations

The full Board also considered a change to Section 207 to eliminate the two year waiting period before a council member could take a paid position with the County. The majority voted against said change. The Board also considered, and a majority rejected, any change to the current process of having the County Council sit as the Board of Appeals in zoning cases.

The Charter Review Board during consideration of the Charter realized that there are other changes that the County could make without amendments to the Charter that would assist the citizens in both understanding how the government operates and in having access to public documents. In the bullets below is a brief description of changes not requiring Charter amendments that the Board suggests that the County consider:

• Advance Public Notice of Amendments

To provide the public the opportunity to comment on proposed amendments, the Board recommends that advance notice of amendments be given, including posting the amendments on the Council website. Under exceptional circumstance requiring the vote of 5 Council Members, the Council could waive the requirement for public notice.

This change could be accomplished through a change to the Council Rules of Procedure.

• **Accessibility of Public Documents**

To provide greater availability of public documents in this electronic age, the Board recommends that the County continue and increase the number of public documents that are posted on the County's website in a downloadable format.

• **Online Availability of the Harford County Charter**

To provide greater public access to the Charter, the Board recommends that an online accessible and downloadable version of the County Charter be prominently posted on the County's website in a format where the text is searchable and a table of contents is provided with links to the particular sections of the Charter.

• **Revision Date of the Charter**

To provide the public easy and consistent reference to the Charter, the revision date of the Charter should be the date of the most recent amendment approved by the voters of Harford County. Inclusion of the revision date allows the citizen to know that they have the most recent version of the Charter. If the date the Charter is printed or bound is included, that date should be clearly identified as the date of printing.