



FREDERICK COUNTY CHARTER REVIEW COMMISSION

2020 FINAL REPORT & RECOMMENDATIONS

Submitted to the
Frederick County Council

February 28, 2020

Commission Members

- Stephen Slater, Chair
- John Daniels, Vice Chair
- Dylan Diggs
- Paul Gilligan
- Lisa Jarosinski
- Dr. April Miller
- Walter Olson

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FREDERICK COUNTY CHARTER REVIEW COMMISSION

February 28, 2020

The Honorable M.C. Keegan-Ayer
President, Frederick County Council
Winchester Hall
12 East Church Street
Frederick, Maryland 21701

Dear Council President Keegan-Ayer,

Enclosed please find the report of the Frederick County Charter Review Commission, as required by Frederick County Resolution No. 19-09, adopted by the County Council on May 28, 2019.

The Frederick County Charter Review Commission held seventeen public meetings between June of 2019 and February of 2020 to ensure that the Frederick County Charter is clear in meaning, addresses the needs of contemporary government, and remains a functional, working document that effectively outlines the framework for the efficient operation of County government. We completed a thorough review of each section of the Charter with the participation of Frederick County citizens, elected officials, and county staff at every level of deliberation. The Commission hereby submits the attached recommendations for review and consideration. These recommendations present thoughtful proposed changes to the Charter that are the result of a collaborative process of our Commission, with careful consideration of input from the public and the stakeholders within County government.

I would like to thank the members of the Commission who gave freely of their time and worked to create this document. Throughout the process, the Commission members remained thoughtful of our purpose, respectful to each other, and genuinely striving to improve the efficiency and operation of Frederick County government. It was an honor for us to serve the people of Frederick County in this capacity.

Sincerely,



Stephen G. Slater
Chair, Frederick County Charter Review Commission

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FREDERICK COUNTY CHARTER REVIEW COMMISSION

FINAL REPORT & RECOMMENDATIONS

Executive Summary

On November 6, 2012 the citizens of Frederick County approved the first Frederick County Charter. The first County Council and County Executive were elected by the voters of Frederick County in the General Election held on November 4, 2014 and took office on December 1, 2014, pursuant to the new Charter. The original charter called for a Charter Review Commission to be appointed in 2019 to “review the provisions of the Charter and make recommendations as to the necessity for deleting, adding, or amending its contents.” In May 2019, the Frederick County Council appointed a Charter Review Commission and charged them with presenting a comprehensive report and recommendations before February 28, 2020.

Shortly after its organizational meeting in July, the Commission established a three-step process that it would follow in its mission. At step one, the Commission compiled a list of all of the proposals for amendments, additions, and other changes to charter government received from the public and the various stakeholders that met with the Commission. At step two, the Commission would take a vote on which of these many proposals warranted further discussion, research, and deliberation in a “workshop.” At step three, after the workshop, the Commission would vote on the proposal as to whether it merited recommendation to the County Council in this Final Report.

All of the deliberations and discussion of the Commission took place in open meetings, with the constant input of the citizens of Frederick County. Many citizens voiced their concerns and comments by email, written comments, or in person at one of the Commission meetings. The Commission carefully considered all of this feedback during its deliberations.

After seventeen public meetings and extensive public hearings, research, and deliberation, the Frederick County Charter Review Commission makes eight (8) specific recommendations for amendments to the Frederick County Charter (presented in the order of appearance in which the relevant provisions currently appear in the Charter):

- Add a Table of Contents to future printings of the Charter
- Allow fringe benefits to be provided to the County Council
- Allow up to a 10% additional salary for the County Council President

- Make it easier for the County Council to issue subpoenas (5 votes instead of 6)
- Allow individual council members to request information from the executive branch
- Adjust the completion dates of the Redistricting Commission to compensate for presidential election years
- Require an appointed County Executive to be of the same party as the departing County Executive when he or she was elected and require the party central committees to nominate two individuals instead of one
- Reduce the permissible debt limits of the county

FREDERICK COUNTY CHARTER REVIEW COMMISSION

FINAL REPORT & RECOMMENDATIONS

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ASSISTING FREDERICK COUNTY GOVERNMENT STAFF

Ragen Cherney, County Council Chief of Staff

Lee Palmer Redmond, County Council Executive Assistant

John Mathias, County Attorney

Bryon Black, Assistant County Attorney

Rick Harcum, Chief Administrative Officer

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INTRODUCTION & BACKGROUND



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Introduction & Background

In 1914, the Maryland Constitution was amended with the addition of Article XI-A – Local Legislation, and was ratified by the citizens of Maryland on November 2, 1915. This amendment offered voters in Baltimore City and the various counties of Maryland to adopt a Home Rule Charter, which would operate as a local constitution. Frederick County was created in 1748 from parts of Prince George’s and Baltimore Counties of the province of Maryland. After Independence from Great Britain in 1776, Frederick County was divided into three parts with the westernmost portion becoming Washington County and the southernmost portion becoming Montgomery County. From 1776 through the adoption of charter home rule in 2014, Frederick County had been governed by various Boards of County Commissioners. Prior to 2011, there were several unsuccessful attempts by the citizens of Frederick County to adopt a home rule charter form of government.

On March 10, 2011, the Frederick County Board of County Commissioners appointed a nine-member Charter Writing Board to draft a Charter pursuant to Article XI-A of the Maryland Constitution. On August 7, 2012, after an extensive charter writing process with the input of Frederick County citizens, the Charter Writing Board submitted a proposed charter to the Frederick County Board of County Commissioners. This charter was approved by the citizens of Frederick County at the General Election on November 6, 2012 with the endorsement of 62,469 (62.57%) of the voters of Frederick County voting in the general election. This original charter abolished the Frederick County Board of County Commissioners and replaced them with an elected legislative branch consisting of a seven-member County Council and an executive branch consisting of a County Executive. The first County Council and County Executive were elected by the voters of Frederick County in the General Election held on November 4, 2014 and took office on December 1, 2014, pursuant to the new Charter.

The population of Frederick County has changed dramatically since its creation. In the first U.S. Census of 1790, the population of Frederick County was 30,791. One hundred years later, the population of Frederick County was 49,512 in 1890. By 1990, the population of Frederick County was 150,208 and has continued to increase dramatically. The current estimated population of Frederick County is 262,407. Frederick County has grown from a rural, agricultural community into an increasingly diverse, variegated economy with many citizens benefiting from the proximity to the Baltimore and Washington metropolitan areas while maintaining its rural and agricultural heritage. With vastly increased population, comes the increased need for an adaptive and responsive local government with separate legislative and executive functions.

The original charter called for a Charter Review Commission to be appointed no later than six months after the second election cycle of the County Council and County Executive in the General Election in November of 2018. On May 28, 2019, pursuant to

Section 703 of the Charter, the Frederick County Council adopted Resolution Number 19-09 that established a seven-member Charter Review Commission composed of seven appointed citizens of Frederick County charged to “review the provisions of the Charter and make recommendations as to the necessity for deleting, adding, or amending its contents.” This resolution also charged the Charter Review Commission to submit a “comprehensive written report of its findings and recommendations” on or before February 28, 2020 and present their final report and recommendations to the County Council on or before March 10, 2020.

PROCESS



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Process

Establishment

On June 26, 2019, an organizational meeting was held. The Commission members met and introduced themselves and were welcomed by County Executive Jan Gardner and County Council President M.C. Keegan-Ayer. They also received a legal briefing on the role of the Charter Review Commission and the requirements of the Maryland Open Meetings Act and the Maryland Public Information Act. At its first meeting, the Commission members elected Stephen G. Slater, Esq. as Chair and John Daniels as Vice-Chair pursuant to Section 703(a) of the Charter.

Gathering Information and Public Engagement Strategy

At subsequent meetings in July and August, the Commission established a process of receiving input from the public, elected officials, and other stakeholders and reaching out to the citizens of Frederick County to seek their input on the current Charter. Beginning in September of 2019, the Commission established regular meeting dates on the First and Third Thursdays of each month at 7:00 p.m. All of the Commission meetings were held on the third floor of Winchester Hall and were open to the public and televised on the county government cable channel. Members of the Commission were encouraged to speak at local activist groups on the role of the Charter Review Commission and encourage the citizens of Frederick County to participate in the process. At every meeting of the Commission, a period of public comment was held to allow Frederick County citizens to add their input into our process and deliberations and to offer their own proposals for charter amendments. The Commission carefully listened to all public comments and thoroughly considered every proposal for changes to the Frederick County Charter that was presented to the Commission. This civic engagement strategy was an important element of the work of the Charter Review Commission.

Early on, the Commission decided to invite the members of the original Charter Writing Board to get their feedback on the Charter they created and ask them how certain provisions came to be part of the Charter. On August 1, 2019, six former members of the original Charter Writing Board appeared at the meeting of the Charter Review Commission. Their input into our process and deliberations was invaluable.

One thing that arose from our meeting with the original Charter Writing Board was the civility pledge that was signed by all members of the original Charter Writing Board. The Commission unanimously approved the adoption and public signing of a similar pledge. This pledge stated the willingness of the Commission members 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.” It is this principle that guided the Commission in all of its

work and the collaborative and congenial process that resulted in this Final Report and Recommendations. A copy of the Pledge was posted on the Charter Review Commission website and a copy is attached in the appendix to this Final Report and Recommendations (Appendix A).

In addition to the original Charter Writing Board, the Charter Review Commission reached out to the primary stakeholders of the Charter, the members of the Frederick County Council and the County Executive. The Commission asked these important elected officials to provide written comments on the operation of the Charter and proposals for changes to its structure and content. The Commission also invited the County Council and County Executive to appear at our meetings and engage in a discussion with the Commission on their ideas for amendments to the Charter. All seven County Council members appeared over the course of our two meetings in September of 2019 and the County Executive appeared at our meeting on November 4, 2019. As the current composition of the legislative and executive branches of Frederick County government, their input into our deliberations was critical and we carefully considered each of their thoughtful proposals and comments.

We also reached out to former County Council members to receive their written comments and suggestions for changes to the Charter. Particularly thoughtful were the written comments received from former Council President Bud Otis. We also requested written comments from the Frederick County representatives in the Maryland House of Delegates and Maryland Senate (Appendix E).

In addition to the public and current and former elected officials, the Commission met with and received written comments from certain county staff. On October 17, 2019, the Commission met with the County Finance Director and on November 7, 2019, the Commission met with the County Budget Director. As many of the received proposals for amendments to the Charter concerned the county budget and finances, these meetings with these county staff members were very insightful.

On November 18, 2019, the Commission invited the Director of the Frederick County Board of Elections to appear. Several proposals concerned Frederick County elections and electoral districts, and Mr. Harvey's input into our discussions was very helpful.

Besides input from individuals, the Commission also relied on certain documents. The Commission carefully examined each provision and word of the current Frederick County Charter. The Commission also reviewed and considered the charters of all of the other charter counties in Maryland. As one of the more recently established charter governments, it was thought that particular insight might be gained from the more established charter counties. The Commission also reviewed the products of the charter review commissions and boards established in other counties. However, Frederick

County is unique, and certain provisions that may work in other counties may not be a good fit for Frederick County.

Also, almost every meeting of the Commission was attended by the County Attorney or someone from his office, the Chief Administrative Officer representing the County Executive, and the County Council Chief of Staff representing the County Council. While these members were not voting members of the Charter Review Commission, they participated at every level of discussion and deliberation and offered insightful comments and perspective of certain issues. Our work as a Charter Review Commission would not have been nearly as effective without their expertise and assistance.

Finally, the work of the Charter Review Commission was also greatly assisted by Lee Palmer Redmond, Executive Assistant to the County Council. Ms. Redmond took the minutes, composed the agendas, kept the website up to date, and performed all of the behind the scenes work that allowed the Commission to function. The work of the Charter Review Commission would not have been possible without her assistance.

Procedure

Though Section 703 of the Frederick County Charter establishes a Charter Review Commission, it does not give any guidance on how it should go about its work of reviewing the Charter, seeking input from the public and stakeholders, and deciding which suggestions it should formally make as recommendations to the County Council. Shortly after its organizational meeting in July, the Commission established a three-step process that it would follow in this regard. At step one, the Commission compiled a list of all of the proposals for amendments, additions, and other changes to charter government received from the public and the various stakeholders that met with the Commission. At step two, the Commission would take a vote on which of these many proposals warranted further discussion, research, and deliberation; we referred to this step as a “workshop.” At step three, after the workshop, the Commission would vote on the proposal as to whether it merited recommendation to the County Council in this Final Report.

Step One: Compiling the Proposals

As the Commission began to receive proposals for amendments to the Charter from the public, County Council Members, the County Executive and others, it quickly became apparent that an organized method of keeping track of these proposals would be necessary. The Commission decided to compile all of the proposals received from any source into a unified Microsoft Excel document (hereinafter referred to as the “Spreadsheet”). This Spreadsheet was also an important element of our public engagement strategy, as this document was made publicly available on the website and as a handout at each of our meetings to invite public comment of the proposals that the

Commission was considering. The Commission used this document to keep track of all of the forty-one (41) proposals received throughout the course of its work. Throughout this process, the Commission used the proposal numbers on this Spreadsheet to refer to specific proposals. A copy of the final version of the Spreadsheet is attached to this document (Appendix B).

Step Two: Workshopping the Proposals

Once we had received a number of proposals for changes to the Charter, the Commission decided that certain of these proposals required further deliberation and discussion and certain ones did not. Because of the narrow time deadlines to conduct the charter review process, it was necessary to develop this intermediary step of which proposals had enough preliminary support to warrant further discussion and investigation. The Commission decided early in the process that if a certain proposal had the support of at least three of seven members, that it would be moved to this “workshop” level of consideration and warrant further consideration. Most of these votes at this level of consideration were unanimous, with a few exceptions. If a proposal did not receive the votes of three members of the Commission to move forward, there was no further consideration of that specific proposal. All of these votes are recorded in our Minutes and the Spreadsheet contained in the Appendices to this Report (Appendices B and D). Of the forty-one (41) proposals considered by the Commission, fifteen (15) did not have enough support to make it to the workshop level and workshops were held on the remaining twenty-six (26) proposals.

Step Three: Final Recommendations

If a proposal received at least three votes of the Commission members, a volunteer “floor manager” was assigned to the proposal to lead further discussion. Most of the floor managers for the proposals that were moved to the workshop level presented written findings and recommendations on the specific proposal when the Commission considered it at this level. Any written documents presented to the Commission are attached to this report in the appendices (Appendix C). Some proposals were tabled until the Commission could obtain further information such as an opinion from the County Attorney or guidance from a county staff member with expertise in the issue such as the Budget Director or Finance Director.

At the conclusion of the “workshop,” a final vote on each proposal was taken. The Commission decided early in the process that if a certain proposal had the support of at least four of seven members, that it would be recommended to the County Council as an amendment to the Charter and made part of this Final Report and Recommendations. Of the twenty-six (26) proposals that made it to the workshop level, eight (8) of these

workshopped proposals received the support of a majority of the Commission to be passed onto the County Council as final recommendations.

All of the deliberations and discussion of the Commission took place in open meetings, with the constant input of the citizens of Frederick County. Many citizens voiced their concerns and comments by email, written comments, or in person at one of the Commission meetings. The Commission carefully considered all of this feedback during its deliberations.

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RECOMMENDATIONS



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Summary of Recommendations

After seventeen public meetings and extensive public hearings, research, and deliberation, the Frederick County Charter Review Commission makes eight (8) specific recommendations for amendments to the Frederick County Charter. They are summarized as follows (presented in the order that the relevant provisions appear in the Charter):

Recommendation 1: (Spreadsheet Item #34) Add a Table of Contents to the Charter (Note: This recommendation does not require an amendment to the Charter or a ballot provision.)

Recommendation 2: (Spreadsheet Item #7) Council Member Compensation (Article 2, Section 207) – Remove prohibition on providing fringe benefits for County Council Members as part of their compensation.

Recommendation 3: (Spreadsheet Item #9) Council President Additional Compensation (Article 2, Section 207) – Allow the Compensation Commission to recommend an additional salary for the County Council President above that of the other County Council Members.

Recommendation 4: (Spreadsheet Item #11) Investigations by the Council (Article 2, Section 211) – Change the number of required votes for the County Council to issue a subpoena to 5 votes instead of 6.

Recommendation 5: (Spreadsheet Item #13) Non-Interference (Article 2, Section 212 (b)) – Change the wording of the Council non-interference provision to allow County Council members to more easily make requests for information to the County Executive and executive branch staff.

Recommendation 6: (Spreadsheet Item #40) Redistricting Commission (Article 2, Section 214 (b)) – Adjust due date for Redistricting Commission recommendations from November 15 to October 15 to comply with earlier Primary Election date in presidential election years.

Recommendation 7: (Spreadsheet Item #21) Vacancies of the County Executive (Article 4, Section 408 (b) and (c)) – Add language to require that an appointed County Executive should be of the same party as the departing County Executive at the time of his or her election and increase the prospective list of nominees from the county central committee from one to two.

Recommendation 8: (Spreadsheet Item #30) Borrowing Limitations (Article 5, Section 508) – Change debt limits from 5% to 3% of real property and from 15% to 9% of personal property.

In the following pages containing proposed language, the ALL CAPS AND UNDERLINED words are the additional language. Any deletions are indicated by ~~strikethrough~~.

Recommendation 1: (Spreadsheet Item #34)**Add a Table of Contents to the Charter**

(Note: This recommendation does not require an amendment to the Charter or a ballot provision.)

Approved November 18, 2019

Vote 7-0

The Charter Review Commission recommends that future printings of the Frederick County Charter contain a Table of Contents. This will allow Frederick County citizens to more easily locate specific provisions of the Charter and make it a more user-friendly document.

This was a recommendation of several citizens of Frederick County who thought that a Table of Contents would make it easier to locate certain provisions of the Charter. Upon review of charters of other Maryland counties that had these reference guides, it was agreed that this addition would make the Frederick County Charter more accessible and useful to its citizens.

This provision received no opposition and was unanimously recommended by the Commission.

Recommendation 2: (Article 2, Section 207) - (Spreadsheet Item #7)**Council Member Compensation****Remove prohibition on providing fringe benefits for County Council Members as part of their compensation.**

Approved October 28, 2019

Vote 4-2 (with one abstention)

Proposed language - Article 2, Section 207:

207. Salary

For the performance of public duties under this Charter, each council member shall receive a Salary of \$ 22,500 per annum. IN ADDITION TO SALARY, THE COUNCIL MEMBERS MAY BE ENTITLED TO RECEIVE ALLOWANCES AND FRINGE BENEFITS AS THOSE TERMS ARE DEFINED IN THIS CHARTER. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary AND ANY ALLOWANCES AND FRINGE BENEFITS ALLOCATED IN THE BUDGET 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 AND BENEFITS 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.

The Charter Review Commission recommends removing the prohibition from allowing the County Council Members to receive allowances and fringe benefits if approved by the County Council as part of the County budget. This will allow the Compensation Review Commission to review the current compensation of the County Council and recommend a change in salary or the addition of benefits. Any salary increase or benefits would then have to be approved in the County budget.

The logic for providing benefits was to remove barriers to entry for those considering running for the County Council and provide more support to future members who may rely on these benefits to fulfill healthcare and other needs.

Those opposing this change believed that the County Council seats were designed as part-time positions and that these barriers maintained Council Members as citizen legislators who were not reliant on their salary or benefits for their participation on the Council, as well as the pursuant cost per Council Member that would occur as a result of providing benefits.

**Recommendation 3: (Article 2, Section 207) - (Spreadsheet Item #9)
Council President Additional Compensation**

Allow the Compensation Commission to recommend an additional salary for the County Council President above that of the other County Council Members.

Approved December 11, 2019

Vote 6-1

Proposed language – Article 2, Section 207:

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. THE COMPENSATION REVIEW COMMISSION MAY RECOMMEND AND THE COUNCIL MAY ESTABLISH THAT THE SALARY OF THE COUNTY COUNCIL PRESIDENT MAY BE UP TO TEN PERCENT (10%) HIGHER THAN THE SALARY OF THE OTHER COUNCIL MEMBERS DURING SUCH PERSON'S TIME AS PRESIDENT UNDER SECTION 210 OF THIS CHARTER.

The Charter Review Commission recommends allowing up to a ten percent (10%) additional pay for the County Council President to compensate for the additional time required to perform these functions. This will allow the Compensation Review Commission to recommend a slightly higher pay for the County Council President. Any salary increase or additional benefits would then have to be approved in the County budget.

The Commission recommends this change because it was believed that the additional time investment that was required of the County Council President deserved additional compensation. The Commission recommends that a percentage amount be used to preserve this pay differential in the event of future salary increases.

The Commission heard from several citizens that opposed any increase in compensation for the County Council President (or any other members of county government) due to the additional cost to the taxpayers of Frederick County.

Recommendation 4: (Article 2, Section 211) - (Spreadsheet Item #11)**Investigations by the Council**

Change the number of required votes for the County Council to issue a subpoena to 5 votes instead of 6.

Approved October 28, 2019

Vote 7-0

Proposed language - Article 2, Section 211:

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 the 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~~ FIVE council members.

The Charter Review Commission recommends reducing the requirements for a subpoena to be issued by the County Council from six to five votes to more easily enable the County Council to exercise its power of oversight and investigation.

Subpoenas by the County Council can serve as a powerful check against the County Executive and executive branch, but the current Charter requires a large supermajority for such action. This change would move Frederick County toward the practice in other counties, most of which require only a simple majority to issue such subpoenas.

The Commission weighed factors against this change such as that subpoenas are disruptive and could perhaps become politicized in the future hands of an oppositional County Council in the future. However, this amendment was a unanimous recommendation of the Commission.

Recommendation 5: (Article 2, Section 212 (b) - (Spreadsheet Item #13)**Non-Interference**

Change the wording of the Council non-interference provision to allow County Council members to more easily make requests for information to the County Executive and executive branch staff.

Approved December 11, 2019

Vote 5-2

Proposed language - Article 2, Section 212 (b):

212. Non-interference

(b) Notwithstanding subsection (a) of this section, it shall be the duty of the Executive to provide any information that is requested by the Council, OR ITS MEMBERS, in writing for the purpose of introducing and evaluating legislation or to engage in the review and monitoring of Government programs, activities, and policy implementation.

The Charter Review Commission recommends clarifying this section to allow individual members to request information from the County Executive and county staff without requiring action by the full County Council. This will allow the County Council greater flexibility in requesting and receiving information under this Section.

The Commission heard from many citizens and elected county officials regarding this proposal and held lengthy hearings as to how the current non-interference provision is being executed. After extensive discussions, a majority of the Commission believed that allowing individual Council Members to request and gather information without requiring a vote of the majority of the Council would allow greater response to citizen inquiries and legislative information gathering, especially if the Council Member was in the minority of the Council. It was also thought that this increased flexibility would not impose an unreasonable burden on the County Executive or County staff.

Those opposing this change believed that it may unduly burden the County Executive and executive branch from responding to unnecessary or frivolous requests that were not supported by a majority of the Council.

**Recommendation 6: (Article 2, Section 214 (b) - (Spreadsheet Item #40)
Redistricting Commission**

Adjust due date for Redistricting Commission recommendations from November 15 to October 15 to comply with earlier Primary Election date in presidential election years.

Approved December 11, 2019

Vote 7-0

Proposed language - Article 2, Section 214 (b):

214. Redistricting

(b) By ~~November~~ OCTOBER 15 of the year following each decennial census date, the Commission shall present to the Council a plan of Council Districts, together with a report explaining it. Within thirty days of receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If within ~~ninety~~ SIXTY days after submission of the plan no other legislation reestablishing the boundaries of the Council Districts has been enacted, the plan as submitted shall become law.

These changes were suggested by the Director of the Frederick County Board of Elections to allow time for the Board of Elections to comply with changes to the council electoral districts that may occur during Presidential Election years, when the Maryland Primary occurs earlier in the year.

This recommendation is a technical adjustment to the Charter to require the redistricting commission recommendations, after a decennial census, to change Council District's boundaries by October 15 instead of November 15. This change will allow, after public hearing, the adoption of District boundaries after a sixty-day window to become law. This change will accommodate early filing for primaries during a Presidential election year by setting Council District's boundaries as early as practical.

There was no opposition to this proposal and it passed upon unanimous recommendation of the Commission.

**Recommendation 7: (Article 4, Section 408 (b) and (c) - (Spreadsheet Item #21)
Vacancies of the County Executive**

Add language to require that an appointed County Executive should be of the same party as the departing County Executive at the time of his or her election and increasing the prospective list of nominees from the county central committee from one to two.

Approved December 11, 2019

Vote 7-0

Proposed language - Article 4, Section 408 (b)

408. Vacancy in the Office of County Executive

~~(b) An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party. If the county central committee fails to provide a nominee within the first thirty days of a vacancy, the Council shall appoint any person the Council deems qualified who is a member of the political party.~~

WHEN SUCCEEDING A COUNTY EXECUTIVE WHO WAS ELECTED AS A MEMBER OF A POLITICAL PARTY, THE APPOINTEE SHALL BE SELECTED FROM A QUALIFIED LIST OF TWO PERSONS SUBMITTED TO THE COUNCIL BY THE COUNTY CENTRAL COMMITTEE OF THE POLITICAL PARTY AFFILIATED WITH THE COUNTY EXECUTIVE VACATING OFFICE WAS IN THE MOST RECENT ELECTION FOR COUNTY EXECUTIVE, 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 COUNTY EXECUTIVE 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 A PERSON'S POLITICAL PARTY AFFILIATION, IF ANY, PROVIDED THE APPOINTEE MEETS THE QUALIFICATIONS AND RESIDENCY REQUIREMENTS PROVIDED IN SECTION 405 OF THIS CHARTER.

~~(c) If the Council has not made an appointment within the forty-five day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter: (1) the nominee of the County central committee of the political party, if any, of the person who vacated the office, provided that the political party nominee was provided to the Council within the first thirty days of a vacancy, as required by subsection (b) of this section; or (2) the Chief Administrative Officer, if the person who vacated office was not a member of a political party.~~

Redesignate subsection (d) as (c) after subsection (c) is deleted.

[Additional comments concerning Recommendation #7 appear on the following page]

These changes make the language of Section 408 (b) concerning the County Executive more similar to the language in Section 209 (c) concerning vacancies in the County Council. It also increases the list of nominees for vacancies of the County Executive received from the county party Central Committees from one to two.

The Commission felt that the Charter language concerning vacancies in the office of County Executive should be handled similarly to vacancies in the County Council. This change was necessary to rectify disparities between Section 209 (c) and 408 (b) of the Charter. It was felt that the language concerning the County Council was more fair-minded and deferential to the voters of Frederick County who elected a member of a certain party to serve as County Executive. It was also felt that by increasing the number of nominees from a party central committee to the County Council from one to two strengthened the role of the County Council in selecting the appointee to a vacancy in the County Executive, while still preserving the important role of the central committees in recommending appointees.

The Commission heard no opposition to this proposal and it passed by unanimous vote.

Recommendation 8: (Article 5, Section 508) - (Spreadsheet Item #30)
Borrowing Limitations

Change debt limits from 5% to 3% of real property and from 15% to 9% of personal property.

Approved November 18, 2019

Vote 7-0

Proposed language - Article 5, Section 508 (a):

508. Borrowing Limitations

(a) Except as otherwise provided by State law, the aggregate amount of bonds and other evidences of indebtedness outstanding at any one time that pledge the full faith and credit of the County may not exceed a total of ~~five~~ THREE percent of the assessable basis of real property of the County and ~~fifteen~~ NINE percent of the County's assessable basis of personal property and operating real property described in § 8-109(c) of the Tax - Property Article.

These changes were suggested by the Finance Director to prevent the County from being able to borrow an excessive amount that would endanger Frederick County's excellent credit and bond ratings, but allow it the flexibility to deal with financial emergencies.

Making the recommended changes will encourage the County to continue to be fiscally responsible, manage its debt well, and maintain its AAA bond rating as well as maintaining the flexibility for financial emergencies.

Allowing the borrowing limits to remain the same would allow significant potential for overspending and fiscal irresponsibility.

The Commission heard no opposition to this proposal and it passed by unanimous vote.

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PROPOSALS NOT RECOMMENDED



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Proposals Not Recommended

The commission considered but did not recommend thirty-four (34) proposals from elected officials and the public. The numbers appended indicate where on the Spreadsheet the proposal can be found (Appendix B).

Council Structure

Several proposals would have revamped the elected council structure by abolishing at-large seats on the council, staggering the terms of council members as is done with seats on the Board of Education, or adopting Harford County's model in which a council president is elected at-large and other seats are elected by district. (4, 3, 10) Opponents in each case warned that valuable features of the current structure might be lost and, in the case of the Harford model, that tensions might emerge between the council president and council majority. A proposal to do away with charter government and return to the Board of County Commissioners system did not win support. (28)

Qualifications of Interest and Conflicts of Interest

The commission considered a proposal to prohibit employees of the Board of Education from sitting on the county council, as does Baltimore County. Proponents warned the county's current standards on conflict of interest are inconsistent, given the exclusion of employees of contractors as well as of direct county employees. Opponents said the council's influence over the schools is at most indirect and that the experience with teachers on the current council has proved satisfactory to the public. (5)

A proposal to introduce penalties for a County Executive who does not devote full time to the job was dropped, one reason being that close cases might arise on what constitutes absence or distraction. (38) A proposal to align the language of Section 405(b) with Section 205(c), which prohibits the executive and council members respectively from holding any other office, was seen as unnecessary. (18) A proposal to forbid the county executive from promoting or assisting any business named in a lawsuit against the county was deemed unclear as well as entailing possible unfair or harmful consequences. (37)

Vacancies

Two proposals not adopted would have provided for special elections if vacancies occurred in the office of the county executive or county council early enough in the term to permit an election during the off-year (i.e. Presidential-year) election. (20, 8) Advocates said the change would improve democratic oversight, while critics said it could lead to unnecessary turnover in the positions in question and would at best reach only a fraction of vacancies.

A proposal to adopt a more open and transparent process for filling vacancies on the board of education (27) was left without action following testimony that the county executive's office had recently revamped policy in response to concerns, and that measures pending in Annapolis could also help address the issues.

Budget Process

The commission gave extensive consideration to proposals to give the council power to add or transfer money within the budget, perhaps with a supermajority requirement, rather than subtract only as at present. Advocates said this could be a powerful means of balancing the current strong executive system with a strong council counterweight. Critics said a new power to add budget moneys would make council members the target of extensive lobbying and greatly add to their duties, that overall spending might be higher than under the current system, and that the council can already use its negative powers to extract concessions from an executive in areas where it sees a need for spending. (25)

Other proposals that addressed the current budget process would have required additional public meetings, required the county executive to provide budget progress reports to the council on a weekly or other schedule, and extended the council's time to act on the budget. All were rejected as potentially causing new problems. It was observed that the current window during which many budget decisions must be made -- after the legislative session sets fiscal constraints, but before property tax bills are mailed out -- makes the process inherently a hurried one. (24, 23, 26).

A proposal to bring terminology on budget categories into line with practical usage was resolved without action when county staff concluded that current charter language was flexible enough to avoid practical problems for the foreseeable future. (39)

Council Staffing and Other Council Action

A proposal to prescribe the creation of budget officer and attorney positions reporting to the council was advocated as a means to building the council's capacity to counterbalance the executive as well as improving its expertise. Critics said that the council itself had not sought funding for such positions, that mandated positions would add to expense, and that the services of a budget officer would be concentrated in a few months with less to do at other times. (15)

A proposal to authorize the council to establish ongoing ad hoc committees to monitor implementation of recent enactments was allowed to drop when council leadership concluded that current charter powers were flexible enough to address the issue. (2) The commission declined to endorse proposals to give investigatory power to council

committees and to extend from 90 to 120 days the time allowed for enactment of a bill whose substance has been amended. (12, 32)

On the non-interference clause and its consequences, a proposal was rejected to add language authorizing individual council members to pose inquiries to county employees and requiring the county executive to provide timely information to the council and individual members in certain other ways. Advocates argued that council members should have the authority to obtain information needed to pursue their legislative and constituent duties, while opponents were concerned that the language was open-ended and could pose a burden to county staff. (14)

Relations with the Frederick County Sheriff's Office

Several proposals grew out of public controversy over relations between the county government and the sheriff's office. The Commission obtained an opinion from the County Attorney that the county government lacks power to direct or regulate the sheriff's office since the latter is an independent state office under the Maryland Constitution. The Commission declined to act on proposals to amend charter provisions relating to sheriff's office contracts and responsibilities, despite some interest in clarifying the language for future reference. (1, 17, 22) Separately, a proposal to create a county police department was left to the County Council, as this is already within their power to do so without any changes to the Charter. (29)

Miscellaneous Issues

A proposal to enable recall elections was set aside when the county attorney advised that state law and the Maryland Constitution does not allow this for county officials, even though it is an option permitted to municipalities. A proposal to make the county Board of Ethics an elected body rather than appointed also failed because state law governing these positions requires that they be appointive. (35, 36) A proposal to create a position of county ombudsman failed after it was noted that such a measure would likely call for extensive design and implementation better suited to a cooperative effort of the council and county executive, which currently have the power to create such a post without a change in charter language. (15A)

In redistricting, a proposal to more closely define "substantially equal in population" so as to reduce population disparities between districts was abandoned when no proposed language in pursuit of that objective commanded a consensus. (16)

On compensation matters, the commission recognized that existing charter language provides for a Compensation Review Commission to handle most such questions and so chose to act only on matters (fringe benefits, differential pay) in which current charter language might or would prevent that designated body from acting. (6, 19)

A proposal to clarify and make more open and transparent the appointment process for boards and commissions was deemed unclear and as possibly encroaching on the discretion of the County Executive. (33)

On possible revisions to the future charter review process, a proposal to add one or two new members to be appointed by the County Executive was rejected after it was pointed out that the nature of the Charter Review Commission is that of an advisory body to the Council, such bodies ordinarily having no executive appointees, and that future charter review commissions are likely to have every reason to listen closely to advice from the county administration, as the current one did. (31)

More information on these proposals may be found in the spreadsheet, minutes, and other documents assembled by the Commission during the course of its work (see Appendices B, C, D, E, and F).