

APPENDIX E

Recommendations from
Present & Past Public Officials

Council President M.C. Keegan-Ayer

July 26, 2019

Chairman Slater and other members of the Charter Review Commission,

Many thanks once again for stepping forward to serve on this board. The entire Council truly appreciates your willingness to assist us in the effort to review the various provisions of our Charter to determine their effectiveness. I am very pleased to see that you have immediately embraced the outreach portion of your mission by requesting input from the current County Council members. It is my understanding that you have reached out to the Council members on the previous board to receive their input as well, and I thank you for that. While we might not always agree on issues, I am sure we can all provide you with unique perspectives on what we think works or does not work with the Charter.

For the most part, I think the Charter is a well written and very concise document. It is written to allow for further modifications as the county grows and changes under this new form of government. It allows the two branches of government enough flexibility within their distinct areas of responsibility, to permit additional tweaking within that branch, based on the people who are serving at that time, without having to change the actual Charter itself. It does meet the standard for a living, working document. There are a few items that I think bear some additional scrutiny, whether you choose to bring them forward for change or not.

One such item is contained in the language of Section 203) Council to Act as a Body. I have no issue with the majority of this section, however, the phrase reading "It shall have no power to create standing committees" has proven somewhat limiting. We have on several occasions wanted to create a committee to examine an issue in order to write legislation, but also to continue to follow the issue to ensure that the legislation is actually having the legislative intent. Under the Charter as currently written, the only person with the authority to create a standing committee is the County Executive. This has proven to be hampering the Council in its ability to actually ensure the legislation that has been enacted is having the intended result, or if not, what can be done to rectify the problem.

Section 408(b) – should we not apply the same principles to the appointment of a new CE when a vacancy occurs as we do to the Council members? Meaning that we require the appointees for a CM position to be of the same political party as the vacating CM was when elected (as per a charter referendum from the last election). Why would we not want to apply the same requirement to appointees for the position of CE? Please look at this provision as well.

Section 506(a) – this is one you may hear about from several CMs. Under this provision, the Council has no authority to add to the budget, even if it does not change the overall bottom line and is approved by a vote of a super majority. While I understand the rationale for the Council not being able to add to the overall budget, if a super majority of the Council takes issue with the funding priorities in the CE's budget, they cannot make changes without going to the CE

and requesting those changes, even if they have already made the cuts elsewhere in the budget to balance the proposed increases. This hardly seems to give a true balance to the two branches of government from a budget perspective. For example, two years ago, the Council as a whole felt very strongly about providing additional funding for the Emergency Management 911 Call Center. We made cuts to the budget and wished to apply those savings (thereby not impacting the overall amount of the budget) to an additional amount for the 911 Center. Even if we had unanimously voted to approve that change, it would not be allowed under the Charter as currently written. I would encourage you to examine this provision in the Charter from this viewpoint. While I can appreciate one might not want the vote of just a simple majority to be able to add funding to a specific category, if a super majority of members (either 5 or even 6) support the higher level of funding, in my opinion, this would ensure more of a true balance.

These are the items that I believe have constrained the Council the most in the past four years, at least those that we have not already addressed through our previous Charter referendums. I would be honored to come and speak with you and provide additional information on these or any other potential revision efforts. Again, I want to thank you for your time and effort in this endeavor, and I wish you the best as you continue.

Sincerely,

M.C. Keegan-Ayer

President, County Council
District 3

Council Vice President Michael Blue



To: The Charter Review Commission

From: Council Vice President Michael Blue, District 2

Date: August 9, 2019

Re: Charter Observations and Input

Thank you for this opportunity to share my observations of the Frederick County Charter. My concerns about the Charter form around the issues of the balance of power between the executive and legislative branches in these three areas:

1. The inability of the Council to move, remove or add to items in the budget
2. The amount of time given to the Council to review and pass the budget
3. The lack of an open and transparent process to replace an elected Frederick County Board of Education member

Article 5, Section 506, of the Charter is titled, Action on the Budget by the Council. Currently the content of this section describes how tightly the hands of the council are tied in regard to having any influence over the County budget. I encourage the Charter Review Commission to adjust this section to allow the council to have the ability to move, remove or add to items in the budget.

The spring 2019-budget proceedings for the FY 2020 budget, was my first experience with the County budget process. I found that the amount of time allotted in the Charter for review, understanding, and deliberation of the entire budget was insufficient. I realize that changing the date the

council receives the budget and the date of approving the budget, April 15 and May 31, would not be prudent. Therefore, I propose language added to the Charter in Article 5, Section 503, to make it mandatory for the county executive to provide weekly budget progress reports to the council beginning January 1 of each year. This will allow the council to be informed about the budget prior to receiving the finalized version on April 15.

In January, there was controversy over a Frederick County Board of Education vacancy. As a result, I would like to see a section added to the Charter to address the process of filling vacancies on the Board of Education. This appointment process needs to be open and transparent. I would like to see a Charter Review Commission discussion on how to adjust this process, which should include allowing public hearings. A new process would aid in encouraging more diversity of thought and less political manipulation.

Thank you for your time and service to our County and I look forward to meeting with all of you in the near future.

Council Member Phil Dacey

August 1, 2019

Commission Members,

Thank you for soliciting our feedback. I wanted to provide three specific ideas that I believe are important to explore to improve the structure of the county government.

1. The Council staff, including Council attorney, should be hired by the County Council and report to the Council President. Structurally, to have the Council staff as executive branch employees could lead to the appearance of a conflict. At least the Council attorney should be subject to a public interview and hearing before being appointed by a vote of the Council and this provision should be built into the charter itself.

2. The Office of Council President should be elected at-large and there should be six individual Councilmanic Districts. The Council President should structurally represent the entire county. Having two at-large Council members can lead to confusion; having only one member elected at-large be the Council President allows the voters to have a say in the President role, and ensures the Council President represents the entire county.

3. The Council needs to have a better defined role in the budget process. The process should be better defined in the charter with required public hearings. Additionally, the Council should have the power to shift resources from one category to another without increasing overall spending. This is key to balancing the authority between the Council and the Executive. Voters expect that the Council will be able to make changes to the budget to express Council priorities, and currently there is no structural outlet to make those changes.

Thank you for your service. I appreciate your consideration of these views.

Phil Dacey
Council Member At Large

Council Member Jerry Donald

July 22, 2019

Dear Members of the Charter Review Commission:

Thank you for the opportunity to participate in the review process. I also want to take this opportunity to thank you for sacrificing time out of your lives to do this work.

Your first question asks what is working. Well, we've passed budgets every year (something the federal level of government has trouble doing). The County Executive handles the day-to-day operations and is the face of Frederick County when dealing with other governments and when trying to attract businesses (Kite Pharma being the latest success). We are one of 41 counties out of over 3000 in the USA to have AAA ratings from every major bond rating agency. I would have to say we are an attractive place to be, which is why so many people and businesses want to be here.

Your second and third question asks about what isn't working and what our challenges are. This is more complicated. The County Council has two big jobs – pass a budget, pass laws and make land use decisions. We do other things, but those are our biggest jobs.

To start with, I can think of no changes I would like to make to the land use process or the lawmaking process. Both go through appropriate channels and have adequate opportunities for public input.

The elephant in the room for the Charter Commission is one question – should the Charter be changed so that the Council can move money in the budget rather than only have the power to make cuts?

At this point I'd like to interject two facts that, at first glance, would appear to have nothing to do with this issue. One, I have well over 200 meetings a year, massive amounts of email, invitations to attend events or do things (like answer your inquiry). The Council President probably has three times the number of meetings that I have. Two, the job pays \$22,500 per year.

So, back to the budget. The Executive starts working on the budget in October. She, the budget director, the CAO, division heads, the Sheriff, etc., work on a budget without knowing the total revenue on which to base that budget until the State passes its own budget in early April. She deals with tens of millions of dollars in budget appeals, most of which she rejects. During the winter and early spring she invites Council Members to meet with her individually to go over their budget priorities (she does not have to do this, but she does in order to invite collaboration). The Council gets the budget in Mid-April and has to set the tax rate, make any cuts, and pass a final budget by the end of May.

After getting my copy of the budget (an enormous binder of papers), I go through it and email questions I have to our Chief of Staff, who then collects them from all the members and sends them out to the appropriate division heads. The Council meets with each division and the Sheriff to go over their budgets and have questions answered. This is an all-day process for anywhere from two days to four, depending on the year.

We have our public hearing on the tax rate, then we explore potential budget cuts.

Let me give you a rundown on one budget cut I considered this past year. I saw a BOE item for Portable Classrooms of \$600,000. I did some research and found they had not spent anywhere what they were allocated in 2019, which was less than \$600,000. I was concerned that it was being used as a placeholder for later budget transfers. I wrote an amendment for a cut to that item, but I also asked for more information from the BOE. After more research I found that it wasn't being used as a placeholder and that because it was in a capital budget money could be moved from year-to year with fewer restrictions. I can give you more details about the budgeting aspects of this cut, but I don't want to digress much further from the main point.

In other words, it was being used properly and I withdrew the amendment. That process took several hours over several days and many emails, and it was for a single budget cut that did not happen.

Now, consider if the Council could move money. Not only would it take hours of research for the cuts, it would take hours to decide where the money should go. Every division chief may want to meet to discuss why money should be moved into their budget. Members of the public and other groups (employee unions, etc.) would also want meeting time to discuss what cuts should be made so that their programs should be funded. My guess is that the number of meetings would go way up, and if you include meetings between council members to negotiate cuts and additions, there would probably be an extra one hundred meetings, all between April 15 and May 31, in addition to what is already held. Being a County Council member would be a full time job for six weeks and those of us with other employment – a majority – would need six weeks of leave, which, if it were granted, would probably be unpaid.

You could have a lazy Council that doesn't need to think about cuts and just blindly cuts or moves money for political reasons, but I don't think anyone wants that.

So my long point is if you give this power to the Council it will significantly change the job and could, realistically, impact who can afford to do the job. Additional staff will also be needed to write all of those cuts and transfers. We are currently a Council with five employees (with one opening at this time) and one assigned attorney who deals with us a one part of his job. If this change is made to the Charter we will need a budget director and probably a full-time attorney. If the attorney is hired independently by the Council it will run into another problem, the fact that the under the Charter the County Attorney represents both the Executive and Legislative branches under the Charter. John Mathias can better explain that issue.

Now this may be the right thing to do, which is your job to consider. Other counties have full time Council Members and much larger staffs. I am not advocating for that. I am simply telling you what I think will need to be done if you decide the Council is able to move money within the budget.

Your next question was asking what provisions of the Charter are problematic. I am concerned that the last Charter Amendment known as Question D may have a significant long term impact on our budget, but we will have to wait and see on that issue.

Thank you again for volunteering your time to helping Frederick County.

Sincerely,

Jerry Donald

Council Member Jessica Fitzwater

August 20, 2019

Commission Members:

1) I think some consideration should be given to the idea that the Council President receive an additional stipend above and beyond the Council Member salary. This position requires a good deal of extra work and coordination with no compensation. I believe several other counties do this, and even if it is just one or two thousand dollars, it would be something to recognize the extra commitment this position requires.

2) Many counties provide health insurance/benefits for their County Council Members. The low salary combined with no health insurance results in severely limiting the citizens who are able to run for these positions. There is obviously a cost factor here, but I think it is worth looking into the possibility of adding these benefits for Council Members.

3) I am torn on the idea of giving the Council a larger role in the budget process, i.e. allowing the Council to delete and add to the budget, as long as it stays balanced. Jerry already shared some concerns regarding the time commitment this would entail. While the current Charter does provide for a very limited role for the Council which can be frustrating, expanding this role would be very challenging considering that these are part time jobs and most Council Members work another full time job. However, I do think that if a majority of the Council agrees that a sum of money should be removed from one area and added to another, this is certainly something to consider. This one is challenging for me and I am curious to see where your discussions lead you.

4) Section 212(b) on "Non-interference" has often been a topic of discussion: "it shall be the duty of the Executive to provide any information that is requested by the Council 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 words "the Council" have sometimes been interpreted to mean a majority of the Council which means there have been times that in order to request information, ask questions, determine the viability of a piece of legislation, etc., we have to get a three other members to agree for us to make the request. This is time-consuming and unnecessary, in my opinion. Any Council Member should be able to request the information he/she needs to do his/her job, without of course directing Executive staff to create a new work product, which is prohibited by the Charter. To clarify this section, "the Council" could be amended to say "a Council Member."

These are my only comments for now. Thank you for asking for our feedback and I look forward to meeting with the CRC in the future. Thank you all for volunteering to serve in this capacity!

Jessica

Jessica Fitzwater

Frederick County Council, District 4

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Council Member Kai Hagen

September 3, 2019

Charter Review Commission Members:

Greetings. My apologies for not getting comments to you sooner.

First let me say that I agree with those who have noted that, generally speaking, we should be cautious in our approach to changing a charter that is so new still, and has only been in place for less than five years now.

That said, taking a cautious approach doesn't mean that the county should not consider, and possibly make, some changes, based on our initial experience.

As someone who served on a Board of County Commissioners, wherein five members were co-equal parts of the executive and legislative roles of local government, I fully understand and appreciate the general or overall nature of the separation of those functions in the charter. But I also appreciate that even within that general distinction or separation, there are a variety of models for how some elements of government are required to function, relative to each other and within each branch.

I do not assume that Frederick County's first crack at a new charter government got everything just right the first time.

My intention in this message is to identify some areas where I think it would be good or useful for the Charter Review Commission to examine the pros and cons of the current charter, evaluate whether they are working well (and/or as intended), and review other approaches and how they have worked in other places. I prefer not to offer you many specific examples of what I may think would be a good or better alternative, at this point in the process -- your process -- but I'm sure I'll include a few opinions!

That said, while there are areas where I have concerns and/or think we could make improvements, I do think charter government has, so far, functioned fairly well. But, of course, we have only had one county executive, so far, and are less than a year into our second council. Any form of government can or will be more or less functional, depending on the actual people who get elected, and it is not hard to imagine issues or challenges, with a different executive or council, that we have not experienced, yet, in our new charter. I hope all of us look at our charter review process with an appreciation of how certain situations might play out under the current charter, with a different mix of elected officials.

ROLE and AUTHORITY of the COUNTY COUNCIL in the annual BUDGET PROCESS

I'll start with this issue, since it seems to be the subject of more attention and discussion than others. This is a highly complicated matter, given what goes into the process, all the steps and information and people and moving pieces involved, the impact it does and can have on the county or any part of county government, and so on. It seems reasonable or safe to say that a number of council members and a diversity of other citizens/observers think that the process could be improved by increasing the role and authority of the council in the process. I agree with that.

But it is one thing to say there is some broad sentiment about that and agreeing about the best way to change the council's role and increase its authority in some manner.

The one thing that comes up the most on that score seems to be giving the council -- a majority of the council, of course -- the ability to make reductions or cuts (as it can now) AND reallocate all or some of those funds elsewhere. While I think the idea has enough merit to warrant examining, I'm not convinced that change would be a good idea if it was not constrained or limited in some manner. In other words, I can imagine modest uses of that authority that would be reasonable and, I would hope, beneficial, but it is also easy to see how it could be highly problematic, if not abused, by a four member majority of the council...that was, in essence, re-writing the budget in a major way, with potentially dramatic effects on county government (and the citizens of the county).

It's all about finding the sweet spot, as it were, when it comes to appropriate and effective checks and balances between the two branches...on the single most important thing that local government does (since how we invest tax revenues is a reflection of our values and priorities).

Frankly, under the current charter, and some other possible iterations, I can also see how abuse is possible by the county executive.

Of course, none of the problems that could arise would have been beyond what any three county commissioner could have done under the old system.

So, if and as you consider this range of possible changes in the role and authority of the council in the budget process, please look for examples of and/or otherwise consider how that might be done with clear and reasonable limits or restraints.

I do think there is room for improvement here, and I do assume that some sorts of improvements would include additional authority for the council.

OTHER BUDGET PROCESS ISSUES

As someone who has gone through the entire budget process four times as a county commissioner, part of a diverse group of five charged with what the county executive does -- or can do -- alone now (with as much or as little assistance from staff as they please), I will note that I found some aspects of the new process almost odd.

For example, when all the county council can do is set the tax rate and make cuts to the budget drafted by the county executive, it seems to me that the public hearings should include the county executive, not only the council. And/or that, with regard to the budget process, perhaps the county executive should be required to have more public hearings, and/or a later one, than the two (in December and March) that are required of the county executive in the current charter.

It has been my clear impression that the average voter thinks the council has considerably more authority with regard to the county budget than the charter provides. And, right now, a conscientious council member...or even just one that attends every related meeting/workshop...is doing a lot of reading and thinking, and a lot of discussion with constituents and other council members, etc., for someone who, in the end, can only cut something, if there are four votes to do it.

Also...I can't help but wonder if the charter should require a public meeting (or two, during the lengthy, complex and important budget process) between the full council and the county executive to discuss priorities, ask and answer questions, etc.?

COMMUNICATIONS between the COUNTY COUNCIL and the COUNTY EXECUTIVE and/or COUNTY STAFF

I absolutely agree with this (from the current charter)"

"Neither the Council nor any of its members shall appoint, dismiss, or give directions to any individual employee of the Executive Branch."

A version of that was necessary even with the commissioner form of government!

But without getting into the weeds on this, I would encourage you to carefully review the nature and range of communication between the council (and/or council staff) and the executive branch and staff.

The charter does read:

"Notwithstanding subsection (a) of this section, it shall be the duty of the Executive to provide any information that is requested by the Council 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."

I think there may be room for some additional specificity here, with regard to the timing and nature of a sufficient response. Not as simple a task as it sounds, no doubt.

Like many things, this requires a balancing act, of sorts. But I encourage you to think what the minimum necessary requirement would be if the county were to have an executive/administration that was not sufficiently responsive to such council requests for

information...and access to various resources...critical to drafting legislation (or drafting it well) and/or monitoring administration programs and activities.

I'll also note here that, based on discretionary executive policy (not the charter, one way or the other) a council member cannot even directly pass along constituent questions or issue to the relevant county staff.

FILLING VACANCIES on the COUNTY COUNCIL or of the COUNTY EXECUTIVE

I won't say much here now, except to say that I agree with Council member McKay that the current system for filling these vacancies ought to be on your radar screen as an issue to evaluate.

I know special elections that are not part of the two major national election cycles -- presidential and midterm elections -- add significant costs and have lower voter turnout. So that may not be the best solution for filling a vacancy. But any special election (to fill such a vacancy) that can fit that schedule (essentially, the presidential election, midway through the county terms) should be considered as a better alternative than, say, an appointed county executive serving for three or more years, if the elected executive had to step down for any reason early in the term.

COUNTY COUNCIL PRESIDENT

I would not have thought to weigh in on this, except for having read Council member Dacey's suggestion that the council president be the council member elected at-large (and that only one member of the council be elected at-large).

With all due respect, I think there are many compelling reasons why we should continue to let the members of each new council select/elect the president of the council.

And, honestly, just because someone runs and wins at-large, doesn't mean they have the time or the desire or the temperament (among other things) to serve a council president. The council is the council. There are seven equal members, no matter what district they ran in or how much they won their election, or anything. Seven diverse members, that ran and won individually, have to come together and work well together, for the benefit of the county. That is not an automatic thing, and can be a significant challenge for some or all involved. I think it is very important for those members, at the very least, to be able to select the council president (and be able to unselect and replace them, as well, if necessary).

COUNTY COUNCIL DISTRICTS

I remember watching all of the meetings of the original charter commission, and actively participating in some of the discussions, about the number of council members that we

should have in the charter, and how many should be elected by district or at-large. Those were some interesting discussion and debates. Personally, I supported other options than the one that finally won, in part because I thought, for instance, that...given a seven member council...if three were three members elected at-large and four by districts, any individual voter would have the opportunity to vote for a majority of the council. I am not suggesting we make that change now.

I'd like to see the people of the county -- the voters of the county -- get a longer and better opportunity to become familiar with our charter government, the district they are in, etc., before making any significant changes to the number of council districts, the number of council members elected at-large, or the number of council members elected overall.

That said...I would like to make one point...

The current charter requires that *"any Council District established in accordance with this section shall be compact, contiguous, substantially equal in population, and have common interests as a result of geography, occupation, history, or existing political boundaries."*

But, if you obtain and review the actual population numbers for each council district, you will see that *"substantially equal in population"* is not specific enough. I think most people would be surprised to learn about the degree of differences in the populations of our first/current council districts (as and when they were established).

I would ask the charter review commission to consider language that would require the districts to be as close in population as the current precincts would enable or allow. And I certainly hope that is something we apply more rigorously as part of the upcoming re-districting (which will change district lines to some degree, given uneven population growth in the county).

COUNTY COUNCIL SALARY

I understand and appreciate that there will be a Compensation Review Commission established every four years to review the Council's Salary. Nevertheless, I want to go on record as saying that the current council salaries are too low. I absolutely get that it was a goal of the original charter writing committee to have part-time citizen legislators, and I support that goal. But any realistic and fair-minded evaluation of the work load and responsibilities of the county members (at least of they are doing their homework, attending a reasonable number of commission meetings, events, etc., reading and responding to correspondence, and more) should suggest that the salary level ought to be at least modestly higher...if for no other reason than to improve the chances of meeting the goal of attracting and electing citizen legislators.

COUNCIL ATTORNEY

I noted that Council member Dacey said that "The Council staff, including Council attorney, should be hired by the County Council and report to the Council President."

Right now, the Charter reads:

"The Council may by resolution, at its discretion and subject to the provisions of its budget or supplementary appropriation, employ administrative employees or such legal, financial or other advisors as it deems necessary to perform its functions."

It seems clear that the council already has the ability to hire its own council, entirely separate from the county executive's administration. The real issue there may be a matter of the nature and size of the council's budget, which I would encourage you to review.

Hope some of this is helpful. I look forward to meeting with you soon.

kai

Kai Hagen
County Council, At-Large

Council Member Steve McKay

July 29, 2019

Commission Members

Thank you for taking on this very important task. Thank you also for reaching out for our opinion. Personally, with our Charter form of government being so new, I would not advocate for significant and/or broad-reaching changes. There will be time for that and perhaps it's best done incrementally over time.

My initial inkling was to launch right into what I want to see changed, but I hold back and walk through your initial questions first.

What is working and what is not working? I think, in general, the Charter struck a pretty good balance between the Executive and Legislative functions, when it divvied up the former BOCC roles and responsibilities. I don't have major disagreement on this issue, at least not as far as I observed over the first Council term, nor under my current experience this year. I would echo Council Member Donald's points about land use being one of our primary responsibilities and, in general, I think this is working OK. I would note one thing under the "what is not working well" category. Land use policy is one of our primary responsibilities, as noted, however we have very little visibility into proposed land use changes (i.e., zoning change requests) until rather late in the process. I don't know if this is germane to the Charter so much as a procedural change, but I think it imperative that the Council have earlier insight into proposed zoning changes. I have addressed this with the County Executive from a process perspective, but if you have any thoughts from a Charter perspective, I would welcome them.

Also under the "what is not working well" category is the general topic of communications with the Administration. This is a challenging one because the Council frequently needs information, but – under the Charter – cannot direct Staff. So we have a communication policy which directs questions through the Council Chief of Staff, to the Chief Administrative Officer, down the County staff, and back up through the chain for the response. This is far from efficient! Yet, I understand the challenges that can be created by County staff being frequently tasked by Council members. I don't have a good proposal to provide you. I agree with the general division in the Charter, which prohibits the Council from directing Staff. However, as a part-time Council member that is not interesting in doubling the Council staff, I think we need to be able to seek more direct and expeditious responses to our questions and data requests. Any thoughts you have on this topic, again, would be welcome.

On your next question about potential changes to the Charter, I have two that are prominent in the my thinking:

- 1) Council and the budget. With all due respect to Council Member Donald's letter to you, I do think that the Council should have a greater role in the budget. A proposal was put forward a few years ago to enable the Council to add money to the budget, as long as the "add" was balanced by an equal "subtract" from somewhere else. I think this is a reasonable change that would provide the Council with additional authority in the budget, while not allowing spending to get out of hand. I recognize the points made by Council Member Donald about the time and effort this could generate; however, I think we could manage this additional responsibility

without our staff budget getting out of hand. At least, I know that I can. Frankly, I think if we have the authority, it may still be difficult to exercise it. Nonetheless, I think this is the right thing to do, and will provide greater balance to the two elements of Frederick County government that should be balanced.

- 2) Filling vacancies in the County Council and County Executive positions. Under the current Charter, when a vacancy in either of these elected positions is created, we have an appointment-based process to fill the vacancy. I fundamentally disagree with that approach. I think it is our responsibility to provide the voters a role in this process. I state this, but I also recognize practical limits in how we would go about this. Specifically, I recommend that we revise the Charter to allow special elections – coincident with the Presidential election cycle – for any vacancy in this offices occurring in the first half of the term, in time to allow potential candidates to file for the General Election, if not also the Primary Election. I am happy to provide a more detailed presentation on this topic, and request the opportunity to do so, at your convenience. I have briefed the Council on this issue and would like to brief the Commission.

As for problematic elements of the Charter, I would echo Council Member Donald's concern about Question D. However, in consideration of the process that was observed and the resounding vote of the electorate in its favor – regardless of my thoughts on that vote – I would NOT recommend a move to restrict or rescind the amendment. I think we need to live with it as best we're able, at least until we see the results and their implications on our budget.

Please work with my Executive Assistant, Lee Redmond, to schedule a time where I can present these views to the Commission.

Regards,
Steve McKay
Council Member, District 2

Proposed Charter Amendment to Provide for Limited Special Elections to Fill Vacancies on the County Council and for the County Executive

Goal: A vacancy on the County Council or with the County Executive should be filled by a vote of Frederick County's residents.

What is the Current Process?

Vacancies on the County Council and with the County Executive are currently filled via an appointment-based process. For each position, the Central Committee of the vacating officer's party plays a pivotal role in the appointment.

- County Council. The Central Committee nominates three candidates to fill a vacancy on the Council. A majority of the Council is required to appoint the new Council Member from these three nominees. If the Council fails to reach a majority decision, then the County Executive has a role in making the appointment.
- County Executive. The Central Committee may nominate a single candidate to fill a vacancy in the County Executive position. The County Council **MUST** appoint that nominee. If the vacating County Executive was not a member of a party, then the Chief Administrative Officer must be appointed by the Council.

Appointments are a necessary component to fill a vacancy in either of these offices; however, it should not be the **ONLY** component. The Party Central Committees have a proper role in nominating individuals for appointment; however, a single Party Central Committee should not be the de facto appointing authority for a County Executive vacancy. My amendment includes a change to this process. The County Executive and County Council Members are elected officials with great authority and responsibility, particularly the County Executive. The voters should have a voice in this process.

What is being Proposed in this Amendment?

I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the County Council or with the County Executive. I am **NOT** proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the Presidential election which occurs mid-way through the terms of these elected County officials. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Presidential Primary registration deadline. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A "one-off" election has been estimated to cost \$250,000-\$300,000. Some counties allow for this option ... Montgomery, Prince Georges, and Dorchester. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

Are Special Elections Authorized in Maryland Law?

Yes. Maryland law authorizes Counties to hold special elections to fill vacancies for County Council and County Executive.

Do Other Charter Counties Authorize Special Elections?

Yes. Most Charter counties provide for special elections to fill vacancies for County Council and/or County Executive. In fact, only Frederick, Baltimore and Cecil Counties do NOT allow for these elections. Here is a summary of the Charter counties that allow special elections:

- Montgomery, Prince Georges, and Dorchester Counties allow for special elections for both offices, as needed;
- Anne Arundel, Harford, Talbot, and Wicomico allow for special elections for both offices, to be held coincident with the Presidential election cycle; and
- Howard County allows for special elections only for a County Council vacancy, to be held coincident with the Presidential election cycle.

In short, there is ample precedent for this proposed Charter amendment.

There is Still a Role for Appointments

Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating official's term.

The Appointment Process Should be Improved

An appointee to an elected office should be treated differently than an appointee to a Board or Commission. An elected office carries far more authority and responsibility, and appointees deserve more scrutiny. The appointment process should be well documented and transparent, with the nominees presented by the Party Central Committees made available to the public as soon as possible, along with their credentials. Further, the County Council should hold public interviews of these nominees, including the opportunity for public comment.

Lastly, and this is an additional element of this proposed Charter amendment, the relevant Party Central Committee MUST nominate three individuals to fill a County Executive vacancy. The current language allowing only a single nominee must be changed. The Party Central Committee should NOT have the authority to replace the most powerful elected official in the County.

Proposed Charter Amendment Language

Article II — County Council, Sec. 209. Vacancies

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

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve ~~the unexpired term of office]~~ FOR A PURSUANT TO SUBSECTION

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

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

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

(e) ALL PERSONS CONSIDERED BY THE COUNCIL OR COUNTY EXECUTIVE FOR APPOINTMENT UNDER EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY EITHER THE COUNCIL OR COUNTY EXECUTIVE, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT, PURSUANT TO EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE.

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(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW MEMBER SHALL BE NOMINATED AND ELECTED BY QUALIFIED VOTERS OF THE COUNCILMANIC DISTRICT IN WHICH THE VACANCY OCCURS, AT THE SAME TIME AS THE PRESIDENTIAL GENERAL ELECTION AND IN THE MANNER PROVIDED BY LAW. IN THE INTERIM, UNTIL A NEW MEMBER IS ELECTED, THE VACANCY SHALL BE TEMPORARILY FILLED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION. A MEMBER APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE COUNCIL SEAT SHALL ASSUME OFFICE AND SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.

(g) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, THE NEW MEMBER SHALL BE APPOINTED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, AND SERVE THE REMAINDER OF THE VACATING MEMBER'S TERM.

Article IV — Executive, Section 408. Vacancy in the Office of the County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of the office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy AND TO SERVE A TERM PURSUANT TO SUBSECTION (F) OR (G) OF THIS SECTION, AS APPLICABLE.

(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.]~~ **AN APPOINTEE, WHEN SUCCEEDING A PARTY MEMBER WHO WAS SUCCEEDING A PARTY MEMBER WHO WAS ELECTED AS A MEMBER OF A POLITICAL PARTY, SHALL BE SELECTED FROM A QUALIFIED LIST OF THREE PERSONS SUBMITTED TO THE COUNCIL BY THE COUNTY CENTRAL COMMITTEE OF THE POLITICAL PARTY AFFILIATED**

WITH THE 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 the County central

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(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

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~~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-],~~
THE CHIEF ADMINISTRATIVE OFFICER.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

(e) ALL PERSONS CONSIDERED BY THE COUNCIL FOR APPOINTMENT

UNDER EITHER SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY THE COUNCIL, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT.

(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW COUNTY EXECUTIVE SHALL BE NOMINATED AND ELECTED BY

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EXECUTIVE APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE EXECUTIVE POSITION SHALL ASSUME

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Redmond, Lee

From: Redmond, Lee on behalf of McKay, Steve
Sent: Tuesday, November 5, 2019 2:57 PM
To: Charter Review
Subject: FW: Information From CM McKay for CRC Meeting
Attachments: 19-09-19_Special Elections PDF Final.pdf; 19-11-03_Board of Education Special Elections.docx

From: McKay, Steve
Sent: Sunday, November 3, 2019 9:14 PM
To: April Miller <aprilmiller@comcast.net>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Paul Gilligan <pauljgilligan@comcast.net>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Cc: Redmond, Lee <LRedmond@FrederickCountyMD.gov>; Mathias, John <JMathias@FrederickCountyMD.gov>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>
Subject: RE: Information From CM McKay for CRC Meeting

All

As you prepare to workshop the proposals on election-related changes to the Charter, I wanted to resend my proposal. I know you get a lot of material and I wanted ensure that this was at the top of your pile. 😊

I also would note that in your spreadsheet, you describe the proposal as applying to vacancies occurring in the first two years of the term. As you'll find in my write-up, this isn't actually possible. Instead, the vacancy could only be in the first year of the term to trigger the special election process. You see, in order to have a special election, the potential candidates need to participate in the full electoral process. In my proposal, the vacancy couldn't occur any later than 30 days prior to the candidate registration deadline for the primary election. The registration deadline is in January, so the vacancy cut-off would be in December, just after the end of the first year of the vacating CE or Council member's term. Under my proposal, any vacancy after this would be filled by an appointee to serve the remainder of the term.

I also note that one of the items that you may review is a proposal to provide for more transparency in the process to fill a vacancy for the Board of Education. Personally, I don't believe this to be an issue for the Charter because all of the current law regarding electing and filling vacancies on the Board of Education is in State law, specifically, Title 3 of the Education Article. Rules for each county in Maryland are found in Title 3, with Subtitle 5B covering Frederick County. In fact, I have brought forward a proposal for the Frederick County Delegation on filling vacancies on the BOE that is similar to the one I have proposed for the Charter. I have attached a draft of this proposal, simply for informational purposes, This proposal will also seek a special election for a vacancy in the first term of a vacating School Board member. Any other proposed changes to our process of filling vacancies on the BOE are more properly made to the Delegation and are not a Charter issue, in my opinion.

In a matter related to my proposal, and reflective of Council Member Blue's comments to you, the Council will take up a change to our rules and procedures this January, which will specify that we hold a public interview of an appointee to the BOE, prior to our confirmation. I had initially proposed this as part of my revisions for Subtitle 5B but have agreed to make the change in our Council rules and procedures, instead. In our prior discussions of this idea, I found broad support on the Council to make such a change. This is the right place for this change – not the Charter, in my opinion.

Respectfully,

Steve McKay

From: Redmond, Lee <LRedmond@FrederickCountyMD.gov>

Sent: Wednesday, September 18, 2019 10:25 AM

To: April Miller <aprilmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond, Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>

Cc: McKay, Steve <SMcKay@FrederickCountyMD.gov>

Subject: Information From CM McKay for CRC Meeting

Hello,

Please see the attached document from Council Member Steve McKay for your review. I will print copies for the meeting on Thursday night.

Thank you,

Lee Redmond

Proposed Charter Amendment to Provide for Limited Special Elections to Fill Vacancies on the County Council and for the County Executive

Goal: A vacancy on the County Council or with the County Executive should be filled by a vote of Frederick County's residents.

What is the Current Process?

Vacancies on the County Council and with the County Executive are currently filled via an appointment-based process. For each position, the Central Committee of the vacating officer's party plays a pivotal role in the appointment.

- County Council. The Central Committee nominates three candidates to fill a vacancy on the Council. A majority of the Council is required to appoint the new Council Member from these three nominees. If the Council fails to reach a majority decision, then the County Executive has a role in making the appointment.
- County Executive. The Central Committee may nominate a single candidate to fill a vacancy in the County Executive position. The County Council **MUST** appoint that nominee. If the vacating County Executive was not a member of a party, then the Chief Administrative Officer must be appointed by the Council.

Appointments are a necessary component to fill a vacancy in either of these offices; however, it should not be the **ONLY** component. The Party Central Committees have a proper role in nominating individuals for appointment; however, a single Party Central Committee should not be the de facto appointing authority for a County Executive vacancy. My amendment includes a change to this process. The County Executive and County Council Members are elected officials with great authority and responsibility, particularly the County Executive. The voters should have a voice in this process.

What is being Proposed in this Amendment?

I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the County Council or with the County Executive. I am **NOT** proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the Presidential election which occurs mid-way through the terms of these elected County officials. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Presidential Primary registration deadline. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A "one-off" election has been estimated to cost \$250,000-\$300,000. Some counties allow for this option – Montgomery, Prince Georges, and Dorchester. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

Are Special Elections Authorized in Maryland Law?

Yes. Maryland law authorizes Counties to hold special elections to fill vacancies for County Council and County Executive.

Do Other Charter Counties Authorize Special Elections?

Yes. Most Charter counties provide for special elections to fill vacancies for County Council and/or County Executive. In fact, only Frederick, Baltimore and Cecil Counties do NOT allow for these elections. Here is a summary of the Charter counties that allow special elections:

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- Anne Arundel, Harford, Talbot, and Wicomico allow for special elections for both offices, to be held coincident with the Presidential election cycle; and
- Howard County allows for special elections only for a County Council vacancy, to be held coincident with the Presidential election cycle.

In short, there is ample precedent for this proposed Charter amendment.

There is Still a Role for Appointments

Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating official's term.

The Appointment Process Should be Improved

An appointee to an elected office should be treated differently than an appointee to a Board or Commission. An elected office carries far more authority and responsibility, and appointees deserve more scrutiny. The appointment process should be well documented and transparent, with the nominees presented by the Party Central Committees made available to the public as soon as possible, along with their credentials. Further, the County Council should hold public interviews of these nominees, including the opportunity for public comment.

Lastly, and this is an additional element of this proposed Charter amendment, the relevant Party Central Committee MUST nominate three individuals to fill a County Executive vacancy. The current language allowing only a single nominee must be changed. The Party Central Committee should NOT have the authority to replace the most powerful elected official in the County.

Proposed Charter Amendment Language

Article II – County Council, Sec. 209. Vacancies

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

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve [~~the unexpired term of office~~] **FOR A TERM PURSUANT TO SUBSECTION (F) OR (G), AS APPLICABLE.** The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the council member vacating office was in the most recent election for council member.

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

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

(e) ALL PERSONS CONSIDERED BY THE COUNCIL OR COUNTY EXECUTIVE FOR APPOINTMENT UNDER EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY EITHER THE COUNCIL OR COUNTY EXECUTIVE, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT, PURSUANT TO EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and ~~strikethrough~~] indicate matter deleted from the Charter.

(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW MEMBER SHALL BE NOMINATED AND ELECTED BY QUALIFIED VOTERS OF THE COUNCILMANIC DISTRICT IN WHICH THE VACANCY OCCURS, AT THE SAME TIME AS THE PRESIDENTIAL GENERAL ELECTION AND IN THE MANNER PROVIDED BY LAW. IN THE INTERIM, UNTIL A NEW MEMBER IS ELECTED, THE VACANCY SHALL BE TEMPORARILY FILLED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION. A MEMBER APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE COUNCIL SEAT SHALL ASSUME OFFICE AND SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.

(g) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, THE NEW MEMBER SHALL BE APPOINTED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, AND SERVE THE REMAINDER OF THE VACATING MEMBER'S TERM.

Article IV – Executive, Section 408. Vacancy in the Office of the County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of the office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy **AND TO SERVE A TERM PURSUANT TO SUBSECTION (F) OR (G) OF THIS SECTION, AS APPLICABLE.**

(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.]~~ **AN APPOINTEE, WHEN SUCCEEDING A PARTY MEMBER WHO WAS ELECTED AS A MEMBER OF A POLITICAL PARTY, SHALL BE SELECTED FROM A QUALIFIED LIST OF THREE PERSONS SUBMITTED TO THE COUNCIL BY THE COUNTY CENTRAL COMMITTEE OF THE POLITICAL PARTY AFFILIATED WITH THE 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 the County central committee fails to provide ~~[a nominee]~~ **A LIST OF THREE QUALIFIED NOMINEES** 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.

(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~~

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

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~~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.],~~
THE CHIEF ADMINISTRATIVE OFFICER.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

(e) ALL PERSONS CONSIDERED BY THE COUNCIL FOR APPOINTMENT UNDER EITHER SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY THE COUNCIL, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT.

(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW COUNTY EXECUTIVE SHALL BE NOMINATED AND ELECTED BY QUALIFIED VOTERS AT THE SAME TIME AS THE PRESIDENTIAL GENERAL ELECTION AND IN THE MANNER PROVIDED BY LAW. IN THE INTERIM, UNTIL AN EXECUTIVE IS ELECTED, THE VACANCY SHALL BE TEMPORARILY FILLED PURSUANT TO SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE. AN EXECUTIVE APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE EXECUTIVE POSITION SHALL ASSUME OFFICE AND SERVE FOR THE REMAINDER OF THE VACATING EXECUTIVE'S TERM.

(g) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, THE NEW EXECUTIVE SHALL BE APPOINTED PURSUANT TO SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE, AND SERVE THE REMAINDER OF THE VACATING EXECUTIVE'S TERM.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and strikethrough] indicate matter deleted from the Charter.

Proposed Amendment to Maryland State Law to Provide for Limited Special Elections to Fill Vacancies on the Frederick County Board of Education

Goal: A vacancy on the Board of Education should be filled by a vote of Frederick County's residents.

What is the Current Process?

Vacancies on the Board of Education are currently filled by an appointment-based process, whereby the County Executive appoints a replacement, and the County Council confirms the appointment. Appointments are a necessary component to fill a vacancy in this office; however, it should not be the ONLY component. The Board of Education is composed of elected officials with a tremendous amount of authority over both taxpayer funds and the education of our children. The voters should have a voice in this process.

What is being Proposed in this Amendment?

I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the Board of Education. I am NOT proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the fact that during the mid-term of every elected Member's term, there is an existing election – either Presidential or Gubernatorial – which can be utilized to fill the vacancy. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Primary registration deadline following the vacating Member's last election. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A "one-off" election has been estimated to cost \$250,000-\$300,000. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

UPDATE - How Would the Special Election be Conducted?

In response to a question during our initial Council review, consultations were held with the Frederick County Election Director and the State Board of Elections. Under current State election law, during a non-partisan primary such as the one held for the Board of Education, twice as many candidates as there are open seats are nominated from the Primary Election. Thus, whenever a special election is needed to fill an unexpired term, two additional nominees will come from the Primary. No changes are required in this part of the law.

For the General Election, the State Board of Elections concurred with the idea that the winner of the special election is the next highest vote getter, after the regular BOE openings have been filled. For example, if there are four full-term openings on the ballot and one partial term, then the fifth highest vote-getter receives the partial term. Language has been added to the bill to reflect this information.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

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Are Special Elections Authorized in Maryland Law?

Yes. Maryland law authorizes Counties to hold special elections conducted during regularly scheduled elections to fill vacancies for Board of Education. The State Education Article for Frederick County (Title 3, § 5B-01(d)(2), on the other hand, must be amended to provide this option here.

Do Other Charter Counties Authorize Special Elections?

Yes. As provided by Stuart Harvey (Frederick County Election Director, the term “special election” is actually a misnomer, but is used here to refer to the filling of a vacancy via the next scheduled election. The process for filling vacancies on the Boards of Education for Maryland’s charter counties varies greatly, including the following:

- Appointment Authority
 - Governor – Baltimore, Cecil, Harford (for appointed members only), Talbot
 - County Executive – Frederick, Howard, Prince Georges
 - County Council – Anne Arundel (effective 11/1/2020), Harford (for elected members only), Dorchester, Wicomico
 - Board of Education - Montgomery
- Nominating Commissions for Appointments – Anne Arundel, Baltimore, Wicomico
- Special Elections (next congressional election) – Howard, Talbot, Wicomico

As you may note, there is just as much precedent for vacancies to be filled by election, as there are for our current system of appointment by the County Executive.

There is Still a Role for Appointments

Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating member’s term.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and ~~strikethrough~~] indicate matter deleted from the Charter.

Proposed Amendment Language

2018 Maryland Code; Education; Division II –Elementary and Secondary Education; Title 3 – Establishment of County Boards of Education; Subtitle 5B – Frederick County; 3-5B-01. Membership

(d) Vacancies. --

(1) The terms of voting members are staggered as provided in subsection (c) of this section.

(2) Subject to confirmation of the County Council, the County Executive shall appoint a qualified individual to fill a vacancy on the county board [~~for the remainder of the term and until a successor is elected and qualifies~~].

(3) IF THE VACANCY OCCURS BEFORE 30 DAYS PRIOR TO THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THAN THE APPOINTEE SHALL ONLY SERVE UNTIL A NEW MEMBER SHALL BE ELECTED BY QUALIFIED VOTERS AT THE NEXT GENERAL ELECTION, AND IN THE MANNER PROVIDED BY LAW. THE NEW MEMBER ELECTED TO FILL THE VACANCY SHALL BE THE CANDIDATE WITH THE NEXT HIGHEST NUMBER OF VOTES, FOLLOWING THE ELECTION OF THE REGULARLY SCHEDULED FULL TERM MEMBERS.

(4) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THAN THE APPOINTEE SHALL SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and ~~strikethrough~~] indicate matter deleted from the Charter.

From: McKay, Steve
To: April Miller; Dylan Diggs; John Daniels; Lisa Jarosinski; Paul Gilligan; Stephen Slater; Walter Olson
Cc: Redmond, Lee; Mathias, John; Black, Bryon; Cherney, Ragen
Subject: A few additional thoughts on special elections
Date: Thursday, November 7, 2019 7:34:32 AM

All

Since sending my email to you, providing some additional information on my thoughts about special elections, I had the opportunity to hear County Executive Gardner's discussion with you from last Monday night. I have spoken with CE Gardner about my proposals and I understand her perspective, even though I disagree. In her testimony to you, she stated her support for the current language in the Charter concerning how we fill vacancies. Based on my conversations with her and from her statements to you, I believe her primary concern is continuity of government. I get that perspective. She cited a scenario whereby we could have four County Executives during a single four-year term, should we have a special election to fill a vacancy. To enumerate what that would involve, it would break down like this:

- 1) Original County Executive
- 2) Chief Administrative Officer (as acting CE for about 1 ½ - 2 months)
- 3) Appointed CE until the General Election
- 4) Newly elected CE for the remaining 2 years of the original term

She cited this possibility as one that would potentially be very disruptive to County government. What was not discussed, however, is the fact that under the current Charter (without special elections), we would still have three County Executives in this same span of time (i.e., the third and fourth individuals listed above would be the same person, as appointed by the Council). Personally, when all I hear is how disruptive four possible Executives in four years could be, I might nod my head and agree. However, when the comparison is between three and four Executives over that same time period, now the difference doesn't seem as significant.

Most importantly, whatever additional difference in continuity that may come by moving from a scenario of three CEs to four CEs, that difference will be the will of the voters who select the new CE to serve the remaining two years of the term. I strongly believe that providing that choice back to the voters – for the most powerful elected position in Frederick County – is far more important than whatever incremental disruption may arise from adding that fourth individual to the office. After all, if anything changes, it will be the voters' choice to make that change, and that is what our system is all about.

So when I think about our current Charter, in which a successor to the County Executive can be hand-picked by a Party Central Committee – and all that entails – and I evaluate my proposal to provide for special elections, even if only for a vacancy in the first year of the term, to me the choice is clear. I hope you feel the same.

Regards,
Steve McKay

From: [McKay, Steve](#)
To: [April Miller](#); [Dylan Diggs](#); [John Daniels](#); [Lisa Jarosinski](#); [Paul Gilligan](#); [Stephen Slater](#); [Walter Olson](#)
Cc: [Redmond, Lee](#); [Mathias, John](#); [Black, Bryon](#); [Cherney, Ragen](#)
Subject: RE: Information From CM McKay for CRC Meeting
Date: Sunday, November 3, 2019 9:13:00 PM
Attachments: [19-09-19 Special Elections PDF Final.pdf](#)
[19-11-03 Board of Education Special Elections.docx](#)

All

As you prepare to workshop the proposals on election-related changes to the Charter, I wanted to resend my proposal. I know you get a lot of material and I wanted ensure that this was at the top of your pile. ☺

I also would note that in your spreadsheet, you describe the proposal as applying to vacancies occurring in the first two years of the term. As you'll find in my write-up, this isn't actually possible. Instead, the vacancy could only be in the first year of the term to trigger the special election process. You see, in order to have a special election, the potential candidates need to participate in the full electoral process. In my proposal, the vacancy couldn't occur any later than 30 days prior to the candidate registration deadline for the primary election. The registration deadline is in January, so the vacancy cut-off would be in December, just after the end of the first year of the vacating CE or Council member's term. Under my proposal, any vacancy after this would be filled by an appointee to serve the remainder of the term.

I also note that one of the items that you may review is a proposal to provide for more transparency in the process to fill a vacancy for the Board of Education. Personally, I don't believe this to be an issue for the Charter because all of the current law regarding electing and filling vacancies on the Board of Education is in State law, specifically, Title 3 of the Education Article. Rules for each county in Maryland are found in Title 3, with Subtitle 5B covering Frederick County. In fact, I have brought forward a proposal for the Frederick County Delegation on filling vacancies on the BOE that is similar to the one I have proposed for the Charter. I have attached a draft of this proposal, simply for informational purposes. This proposal will also seek a special election for a vacancy in the first term of a vacating School Board member. Any other proposed changes to our process of filling vacancies on the BOE are more properly made to the Delegation and are not a Charter issue, in my opinion.

In a matter related to my proposal, and reflective of Council Member Blue's comments to you, the Council will take up a change to our rules and procedures this January, which will specify that we hold a public interview of an appointee to the BOE, prior to our confirmation. I had initially proposed this as part of my revisions for Subtitle 5B but have agreed to make the change in our Council rules and procedures, instead. In our prior discussions of this idea, I found broad support on the Council to make such a change. This is the right place for this change – not the Charter, in my opinion.

Respectfully,

Steve McKay

From: Redmond, Lee <LRedmond@FrederickCountyMD.gov>

Sent: Wednesday, September 18, 2019 10:25 AM

To: April Miller <aprilfmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond, Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>

Cc: McKay, Steve <SMcKay@FrederickCountyMD.gov>

Subject: Information From CM McKay for CRC Meeting

Hello,

Please see the attached document from Council Member Steve McKay for your review. I will print copies for the meeting on Thursday night.

Thank you,

Lee Redmond

Proposed Charter Amendment to Provide for Limited Special Elections to Fill Vacancies on the County Council and for the County Executive

Goal: A vacancy on the County Council or with the County Executive should be filled by a vote of Frederick County's residents.

What is the Current Process?

Vacancies on the County Council and with the County Executive are currently filled via an appointment-based process. For each position, the Central Committee of the vacating officer's party plays a pivotal role in the appointment.

- **County Council.** The Central Committee nominates three candidates to fill a vacancy on the Council. A majority of the Council is required to appoint the new Council Member from these three nominees. If the Council fails to reach a majority decision, then the County Executive has a role in making the appointment.
- **County Executive.** The Central Committee may nominate a single candidate to fill a vacancy in the County Executive position. The County Council **MUST** appoint that nominee. If the vacating County Executive was not a member of a party, then the Chief Administrative Officer must be appointed by the Council.

Appointments are a necessary component to fill a vacancy in either of these offices; however, it should not be the **ONLY** component. The Party Central Committees have a proper role in nominating individuals for appointment; however, a single Party Central Committee should not be the de facto appointing authority for a County Executive vacancy. My amendment includes a change to this process. The County Executive and County Council Members are elected officials with great authority and responsibility, particularly the County Executive. The voters should have a voice in this process.

What is being Proposed in this Amendment?

I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the County Council or with the County Executive. I am **NOT** proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the Presidential election which occurs mid-way through the terms of these elected County officials. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Presidential Primary registration deadline. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A "one-off" election has been estimated to cost \$250,000-\$300,000. Some counties allow for this option – Montgomery, Prince Georges, and Dorchester. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

Are Special Elections Authorized in Maryland Law?

Yes. Maryland law authorizes Counties to hold special elections to fill vacancies for County Council and County Executive.

Do Other Charter Counties Authorize Special Elections?

Yes. Most Charter counties provide for special elections to fill vacancies for County Council and/or County Executive. In fact, only Frederick, Baltimore and Cecil Counties do NOT allow for these elections. Here is a summary of the Charter counties that allow special elections:

- Montgomery, Prince Georges, and Dorchester Counties allow for special elections for both offices, as needed;
- Anne Arundel, Harford, Talbot, and Wicomico allow for special elections for both offices, to be held coincident with the Presidential election cycle; and
- Howard County allows for special elections only for a County Council vacancy, to be held coincident with the Presidential election cycle.

In short, there is ample precedent for this proposed Charter amendment.

There is Still a Role for Appointments

Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating official's term.

The Appointment Process Should be Improved

An appointee to an elected office should be treated differently than an appointee to a Board or Commission. An elected office carries far more authority and responsibility, and appointees deserve more scrutiny. The appointment process should be well documented and transparent, with the nominees presented by the Party Central Committees made available to the public as soon as possible, along with their credentials. Further, the County Council should hold public interviews of these nominees, including the opportunity for public comment.

Lastly, and this is an additional element of this proposed Charter amendment, the relevant Party Central Committee MUST nominate three individuals to fill a County Executive vacancy. The current language allowing only a single nominee must be changed. The Party Central Committee should NOT have the authority to replace the most powerful elected official in the County.

Proposed Charter Amendment Language

Article II – County Council, Sec. 209. Vacancies

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

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve [~~the unexpired term of office~~] **FOR A TERM PURSUANT TO SUBSECTION (F) OR (G), AS APPLICABLE.** The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the council member vacating office was in the most recent election for council member.

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

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

(e) ALL PERSONS CONSIDERED BY THE COUNCIL OR COUNTY EXECUTIVE FOR APPOINTMENT UNDER EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY EITHER THE COUNCIL OR COUNTY EXECUTIVE, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT, PURSUANT TO EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

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(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW MEMBER SHALL BE NOMINATED AND ELECTED BY QUALIFIED VOTERS OF THE COUNCILMANIC DISTRICT IN WHICH THE VACANCY OCCURS, AT THE SAME TIME AS THE PRESIDENTIAL GENERAL ELECTION AND IN THE MANNER PROVIDED BY LAW. IN THE INTERIM, UNTIL A NEW MEMBER IS ELECTED, THE VACANCY SHALL BE TEMPORARILY FILLED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION. A MEMBER APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE COUNCIL SEAT SHALL ASSUME OFFICE AND SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.

(g) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, THE NEW MEMBER SHALL BE APPOINTED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, AND SERVE THE REMAINDER OF THE VACATING MEMBER'S TERM.

Article IV – Executive, Section 408. Vacancy in the Office of the County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of the office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy **AND TO SERVE A TERM PURSUANT TO SUBSECTION (F) OR (G) OF THIS SECTION, AS APPLICABLE.**

(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.]~~ **AN APPOINTEE, WHEN SUCCEEDING A PARTY MEMBER WHO WAS ELECTED AS A MEMBER OF A POLITICAL PARTY, SHALL BE SELECTED FROM A QUALIFIED LIST OF THREE PERSONS SUBMITTED TO THE COUNCIL BY THE COUNTY CENTRAL COMMITTEE OF THE POLITICAL PARTY AFFILIATED WITH THE 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 the County central committee fails to provide ~~[a nominee]~~ **A LIST OF THREE QUALIFIED NOMINEES** 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.

(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~~

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~~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.],~~
THE CHIEF ADMINISTRATIVE OFFICER.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

(e) ALL PERSONS CONSIDERED BY THE COUNCIL FOR APPOINTMENT UNDER EITHER SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY THE COUNCIL, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT.

(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW COUNTY EXECUTIVE SHALL BE NOMINATED AND ELECTED BY QUALIFIED VOTERS AT THE SAME TIME AS THE PRESIDENTIAL GENERAL ELECTION AND IN THE MANNER PROVIDED BY LAW. IN THE INTERIM, UNTIL AN EXECUTIVE IS ELECTED, THE VACANCY SHALL BE TEMPORARILY FILLED PURSUANT TO SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE. AN EXECUTIVE APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE EXECUTIVE POSITION SHALL ASSUME OFFICE AND SERVE FOR THE REMAINDER OF THE VACATING EXECUTIVE'S TERM.

(g) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, THE NEW EXECUTIVE SHALL BE APPOINTED PURSUANT TO SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE, AND SERVE THE REMAINDER OF THE VACATING EXECUTIVE'S TERM.

EXPLANATION:

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Proposed Amendment to Maryland State Law to Provide for Limited Special Elections to Fill Vacancies on the Frederick County Board of Education

Goal: A vacancy on the Board of Education should be filled by a vote of Frederick County's residents.

What is the Current Process?

Vacancies on the Board of Education are currently filled by an appointment-based process, whereby the County Executive appoints a replacement, and the County Council confirms the appointment. Appointments are a necessary component to fill a vacancy in this office; however, it should not be the ONLY component. The Board of Education is composed of elected officials with a tremendous amount of authority over both taxpayer funds and the education of our children. The voters should have a voice in this process.

What is being Proposed in this Amendment?

I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the Board of Education. I am NOT proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the fact that during the mid-term of every elected Member's term, there is an existing election – either Presidential or Gubernatorial – which can be utilized to fill the vacancy. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Primary registration deadline following the vacating Member's last election. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A "one-off" election has been estimated to cost \$250,000-\$300,000. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

UPDATE - How Would the Special Election be Conducted?

In response to a question during our initial Council review, consultations were held with the Frederick County Election Director and the State Board of Elections. Under current State election law, during a non-partisan primary such as the one held for the Board of Education, twice as many candidates as there are open seats are nominated from the Primary Election. Thus, whenever a special election is needed to fill an unexpired term, two additional nominees will come from the Primary. No changes are required in this part of the law.

For the General Election, the State Board of Elections concurred with the idea that the winner of the special election is the next highest vote getter, after the regular BOE openings have been filled. For example, if there are four full-term openings on the ballot and one partial term, then the fifth highest vote-getter receives the partial term. Language has been added to the bill to reflect this information.

EXPLANATION:

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Are Special Elections Authorized in Maryland Law?

Yes. Maryland law authorizes Counties to hold special elections conducted during regularly scheduled elections to fill vacancies for Board of Education. The State Education Article for Frederick County (Title 3, § 5B-01(d)(2), on the other hand, must be amended to provide this option here.

Do Other Charter Counties Authorize Special Elections?

Yes. As provided by Stuart Harvey (Frederick County Election Director, the term “special election” is actually a misnomer, but is used here to refer to the filling of a vacancy via the next scheduled election. The process for filling vacancies on the Boards of Education for Maryland’s charter counties varies greatly, including the following:

- Appointment Authority
 - Governor – Baltimore, Cecil, Harford (for appointed members only), Talbot
 - County Executive – Frederick, Howard, Prince Georges
 - County Council – Anne Arundel (effective 11/1/2020), Harford (for elected members only), Dorchester, Wicomico
 - Board of Education - Montgomery
- Nominating Commissions for Appointments – Anne Arundel, Baltimore, Wicomico
- Special Elections (next congressional election) – Howard, Talbot, Wicomico

As you may note, there is just as much precedent for vacancies to be filled by election, as there are for our current system of appointment by the County Executive.

There is Still a Role for Appointments

Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating member’s term.

EXPLANATION:

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Proposed Amendment Language

2018 Maryland Code; Education; Division II –Elementary and Secondary Education; Title 3 – Establishment of County Boards of Education; Subtitle 5B – Frederick County; 3-5B-01. Membership

(d) Vacancies. --

(1) The terms of voting members are staggered as provided in subsection (c) of this section.

(2) Subject to confirmation of the County Council, the County Executive shall appoint a qualified individual to fill a vacancy on the county board~~[-for the remainder of the term and until a successor is elected and qualifies].~~

(3) IF THE VACANCY OCCURS BEFORE 30 DAYS PRIOR TO THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THAN THE APPOINTEE SHALL ONLY SERVE UNTIL A NEW MEMBER SHALL BE ELECTED BY QUALIFIED VOTERS AT THE NEXT GENERAL ELECTION, AND IN THE MANNER PROVIDED BY LAW. THE NEW MEMBER ELECTED TO FILL THE VACANCY SHALL BE THE CANDIDATE WITH THE NEXT HIGHEST NUMBER OF VOTES, FOLLOWING THE ELECTION OF THE REGULARLY SCHEDULED FULL TERM MEMBERS.

(4) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THAN THE APPOINTEE SHALL SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

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RONALD N. YOUNG
Legislative District 3
Frederick County

Education, Health, and
Environmental Affairs Committee

Chair, Executive Nominations Committee

Senate Chair, Joint Subcommittee on
Program Open Space/Agricultural Land
Preservation

Commission on Innovation and
Excellence in Education

Veterans Caucus



The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

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Annapolis, Maryland 21401
410-841-3575 · 301-858-3575
800-492-7122 Ext. 3575
Fax 410-841-3193 · 301-858-3193
Ronald.Young@senate.state.md.us

District Office
253 East Church Street, Suite 100
Frederick, Maryland 21701
301-662-8520
Fax 301-662-8521

First I would like to thank the Frederick County Charter Review Commission for giving me the opportunity to provide input as a member of the Frederick County Delegation.

I think it is worth looking at a County Police Department. Let the sheriff's department take care of Court House security and the jail.

Given the nature and importance of the job, including the time and tasks required, I would support an increase in salary for the county executive and members of the county council.

I think it would be good to have the county executive make appointments to the liquor commission. However, this will probably require state legislation.

In due time, I may forward other suggestions to the commission.

Best regards,

A handwritten signature in black ink that reads "Ronald N. Young".

Senator Ronald N. Young
District 3- Frederick County
Frederick 301-662-8520
Annapolis 410-841-3575



July 25, 2019

Mr. Ragen Cherney
Chief of Staff, Frederick County Council
12 East Church Street
Frederick, Maryland 21701

Dear Mr. Cherney

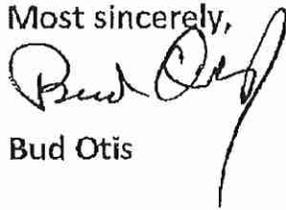
I am submitting the enclosed comments to assist the Charter Commission in their mission to review the current Charter for possible improvements. I submit them without prejudice to the County Commissioner form of government or the present charter government.

I love living in Frederick County and want only the best form of Government to service the wonderful citizens of this Great County. The current Charter improved our County form of government a lot. Can it be tweaked here and there, I think so; it is in that spirit that I pass these suggesting along.

I also think a study needs to take place to investigate the pay scale of the Council. I believe the Council Members are under paid for the time their job demands. I can say this now as I would not of brought the subject up a member of the Council. On behalf of the current members and future members I urge this subject to be reviewed. For the record no Current Member has asked me to state this!

I wish every success to the Charter Review Commission as they conduct this very important review of the current Charter.

Most sincerely,



Bud Otis

Frederick County Charter Review Commission

Current Charter provides a more balanced division of responsibilities

Executive Branch – one County Executive (CE)

Legislative Branch – seven Council Members (CM)

The previous form of government, Board of County Commissioners held all the “power” – both executive and legislative. This form provided less checks and balances as the one board made all the policy and enforcement of policy decisions.

The current Charter is heavy on the control from the CE side, less influence in the legislative arena.

Suggestion 1 – more collaboration on the budget process. (See Section 506, Action on the Budget by the Council) There is minimal input from the CMs if the CE is uninterested in listening. The CE needs a majority vote to pass the budget, and if the CMs disagree and won't authorize the budget, it is automatically approved as presented.

There may be a greater opportunity for CMs to weigh in on the departmental budgets if there is a change to the current Charter to allow the CMs to “add” to the budget with a corresponding “decrease” recommended. An idea would be to update the wording to include a percentage (perhaps 3%) of the overall budget which has allowances for changes. The bulk of the county budget is for the basic duties of the government – schools, roads, agencies to support the citizens, etc.

This would bring the CE and CMs together to discuss priorities more concretely and most likely more inclusively bring the citizens input into the picture.

Note: This percentage (whatever is ultimately recommended) may not unbalance the necessities to be funded.

Suggestion 2 – move timeline for Council's budget review up two weeks. See Section 506 (d) – change date from **May 31 to June 15**. This will allow for additional time for the Council Members to be able to thoroughly review the budget, ask questions and allow time for answers from the Administration. The current time frame (deadline May 15) is extremely tight. Note: The final budget is enacted on July 1 of each year. This extension for the Council still provides over two weeks for any changes.

Suggestion 3 – communication between the CE and CMs on constituent issues. (Refer to Section 212, Non-Interference) Currently the CE holds all the cards – the CMs and staff must go thru the Council's Chief of Staff to forward the concern to the Chief Administrative Officer in the CE's office for promulgation to the Division Directors. The Division Directors contact the responsible staffer and then back up the chain. This may sound small, but it is vital to communication and timing. The Council staff already maintains a group spreadsheet which keeps track of the constituent cases. A wording in the Charter may be updated to develop a more streamlined a way to open the lines of communication and allow for open dialog between CMs and their staff directly to the Division Directors in the Administration. This will afford the CMs with direct responses for their constituents instead of turning everything over to the administration's staff. Many times the Administration solved the issue, contacted the constituent, and let the CMs know the status after the fact.

The CMs and staff won't "give directions to any individual employee" – just requesting information and progress on constituent issues.

212. (b) – additional wording to include communication regarding constituent concerns. (Not restricted to being "legislative" in nature.)

Suggestion 4 – Investigations by the Council. See Section 211. Update the number of affirmative votes from 6 Council Members to 5 Council Members. Five CM votes constitutes a super majority and gives the Council more leeway if an investigation is warranted.

Submitted by Bud Otis, past President of the County Council

From: EARL ROBBINS JR [<mailto:ehobbins@comcast.net>]

Sent: Tuesday, July 30, 2019 2:21 PM

To: Cherney, Ragen <RCherney@FrederickCountyMD.gov>

Subject: Fwd: FW: Invitation to Address Frederick County Charter Review Commission - Thursday, August 1, 2019, at 7:00 pm

[EXTERNAL EMAIL]

Dear Ragen,

I will not be available to attend the meeting on Thursday. I will be out of town. Some of the timelines in the original charter might need to be adjusted. Otherwise, I don't have any suggestion for changes in the charter.

Earl Robbins

