

**MEMORANDUM**

TO: County Council

FROM: ~~ME~~ Michael Faden, Senior Legislative Attorney  
~~SE~~ Sonya E. Healy, Legislative Analyst

SUBJECT: **Action:** Resolutions to amend previously adopted Resolution 15-1556 regarding Proposed Amendment to the County Charter, and Resolution 15-1557 Qualification for Ballot of Petitioned Amendment to County Charter

On July 25, 2006, the Council approved Resolution 15-1556 placing two Charter amendments recommended by the Charter Review Commission on the ballot and approving ballot language for those two amendments and (conditionally) one petitioned amendment that has not qualified for the ballot (© 1-4). Under County law this resolution does not need the Executive's signature.

In addition, the Council approved Resolution 15-1557 confirming that one petition for a Charter amendment will qualify for the November ballot if sufficient signatures are submitted (© 8-10). As we interpret state law, the County Executive must approve this resolution.

**On August 7, 2006, Robin Ficker submitted a petition to the Council to amend the Charter that was different from the petition proposal that was conditionally approved by the Council on July 25. Both Resolution 15-1556 and Resolution 15-1557 must be amended to reflect this new language (© 5-7 & 11-13). If the petition filed on August 7 does not obtain sufficient voter signatures or otherwise does not qualify for the ballot, this part of both resolutions would not take effect.**

According to Mr. Ficker, the intent of this amendment is to require that the "County Council, when increasing County piggyback income tax revenues above 50% of the state income tax, decrease total County property tax revenues by an equivalent amount, while still allowing budget growth by adjustments for inflation and growth factors". The proposed property tax rate restrictions could be overridden only in an emergency and by a unanimous Council vote.

This petition is similar to one that Mr. Ficker submitted and the voters rejected in 1994. The text of this petition is not consistent with current state or County income tax rates. Before 1999, County residents calculated their County tax by multiplying the state tax by a percentage, which at that time was 60 percent. Beginning in 1999, the state required counties to set a tax rate

as a percentage of Maryland taxable income, which is now 3.2 percent for the County. Therefore, the reference to "income tax revenues in excess of 50%" is not relevant. However, if this amendment qualifies for the ballot and the voters approve it, the state courts will have to interpret the intent of this language and whether it would be effective under the current tax structure.

In addition, Mr. Ficker's proposed amendment purports to revise the second paragraph of Charter Section 305, which is no longer accurate based on the current Charter format. It appears that Mr. Ficker intended to revise paragraph four instead of paragraph two. The County Attorney's Office has raised concerns about this issue.

Council President Leventhal has sent a letter to the Board of Elections identifying these concerns (© 14-15), since the Board must make a determination as to whether the petition meets the requirements of Section 6-206 of the State Election Article.

**Council staff will circulate a supplemental memorandum, if any other petition with a sufficient number of signatures is filed by the August 14 state law deadline.**

<u>This packet contains:</u>	<u>© number</u>
Resolution 15-1556	1
Amendment for resolution 15-1556	5
Resolution 15-1557	8
Amendment for resolution 15-1557	11
Memorandum from Council President Leventhal, Aug. 9, 2006	14

Resolution No.: 15-1556  
Introduced: July 25, 2006  
Adopted: July 25, 2006

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

By: County Council

---

**SUBJECT:** Proposed Amendments to County Charter

**Background**

(1) Section 5 of Article XI-A of the Maryland Constitution, Section 7-102(c)(3)(i) of the Elections Article of the Maryland Code, and Section 16-14 of the Montgomery County Code provide that amendments to the Charter of Montgomery County may be proposed by a resolution of the County Council. Section 5 of Article XI-A of the Constitution also provides that amendments to the Charter may be proposed by a petition signed by at least 10,000 registered voters of the County and filed with the President of the County Council.

(2) Under Section 7-103(c)(3)(i) of the Elections Article of the Maryland Code, proposed Charter amendments must be certified to the County Board of Elections on or before the third Monday in August in the year of a general or Congressional election at which those Charter amendments will be submitted to the voters. Section 16-16 of the County Code provides that a ballot title or summary, prepared by the County Council, of all proposed Charter amendments must appear in print on the voting machine or ballot.

(3) The Council intends to submit to the County Board of Elections for inclusion on the 2006 general election ballot:  
Question A, Compensation of Councilmembers, which would amend §107 of the Charter; and  
Question B, Timing of Legislation, which would amend §208 of the Charter.

(4) A petition to amend Section 305 of the Charter has been circulated and may be filed with the County Board of Elections. The Board of Elections has not determined whether the petition would qualify for inclusion on the 2006 general election ballot.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

The following Charter amendments must be placed on the 2006 general election ballot:

**A**

**Compensation of Councilmembers**

The County Council proposes to amend Section 107 of the Charter of Montgomery County as follows:

**SECTION 107 Compensation**

The Council shall prescribe by law the compensation for its members. Membership on the Council shall be considered a full-time position for the purpose of determining compensation. No change in the compensation of members of the Council shall become effective during the term of office of the Council enacting the change.

*The ballot for this question must be designated and read as follows:*

**Question A**

**Charter amendment by act of County Council**

**Compensation of Councilmembers**

Amend Section 107 of the County Charter to specify that membership on the Council must be considered a full-time position for the purpose of setting Councilmembers' compensation.

**FOR                      AGAINST**

---

**B**

**Timing of Legislation**

The County Council proposes to amend Section 208 of the Charter of Montgomery County as follows:

**SECTION 208 Veto**

Upon the enactment of any legislation by the Council, [it] the Council President shall [be delivered] within three days deliver it to the County Executive, who within ten days [thereafter] after receiving it shall approve or disapprove it. If the [County] Executive disapproves such legislation [it] the Executive shall [be returned] return it to the Council within [three days after the Executive disapproves it] ten days after receiving it, with the reasons for the Executive's disapproval stated in writing. Not later than 60 days after receiving the Executive's message of disapproval, the Council may, by the affirmative vote of six members, enact legislation over the disapproval of the [County] Executive.

Any legislation which the Executive has [been] neither approved nor disapproved [by the County Executive] shall become law on the [fourteenth] eleventh day after [enactment] the Executive receives it. The Council may by law further specify how any period of time mentioned in this section is measured.

*The ballot for this question must be designated and read as follows:*

**Question B**

**Charter amendment by act of County Council**

**Timing of Legislation**

Amend Section 208 of the County Charter to clarify when the County Council must send enacted legislation to the County Executive and when the Executive must act on that legislation.

**FOR                      AGAINST**

---

**C**

**Charter amendment by petition**

**Property Tax Limit – Votes Needed to Override**

This section of this resolution is effective only if the petition containing the following Charter amendment qualifies for inclusion on the 2006 ballot. By petition the voters of Montgomery County propose to amend Section 305 of the Charter of Montgomery County as follows:

**SECTION 305            Approval of the Budget; Tax Levies**

The Council may add to, delete from, increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefore not later than June 1 of the year in which it is submitted.

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of nine, not seven, Councilmembers, the Council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section. This limit does not apply to revenue from: (1) newly constructed property, (2) newly rezoned property, (3) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year, (4) property that has undergone a change in use, and (5) any development district tax used to fund capital improvement projects.

*If the petition containing the preceding Charter amendment qualifies for inclusion on the 2006 ballot, the ballot for this question must be designated and read as follows:*

**Question C**

**Charter amendment by petition**

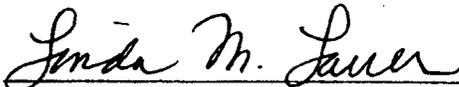
**Property Tax Limit – Votes Needed to Override**

Amend Section 305 of the County Charter to increase from 7 to 9 the number of Council members' votes needed to levy a tax on real property that will produce revenue that exceeds the annual property tax revenue limit set in Section 305.

**FOR                      AGAINST**

---

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

Resolution No: \_\_\_\_\_  
Introduced: August 15, 2006  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

By: County Council

---

**Subject: Proposed Amendments to County Charter**

**Background**

(1) Section 5 of Article XI-A of the Maryland Constitution, Section 7-102(c)(3)(i) of the Elections Article of the Maryland Code, and Section 16-14 of the Montgomery County Code provide that amendments to the Charter of Montgomery County may be proposed by a resolution of the County Council. Section 5 of Article XI-A of the Constitution also provides that amendments to the Charter may be proposed by a petition signed by at least 10,000 registered voters of the County and filed with the President of the County Council.

(2) Under Section 7-103(c)(3)(i) of the Elections Article of the Maryland Code, proposed Charter amendments must be certified to the County Board of Elections on or before the third Monday in August in the year of a general or Congressional election at which those Charter amendments will be submitted to the voters. Section 16-16 of the County Code provides that a ballot title or summary, prepared by the County Council, of all proposed Charter amendments must appear in print on the voting machine or ballot.

(3) On July 25, 2006, the County Council adopted Resolution 15-1556, which placed amendments to the County Charter, designated Questions A and B, and conditionally placed another amendment, designated Question C, on the 2006 general election ballot.

(4) A petition to amend Section 305 of the Charter has been filed with the County Board of Elections. The Board of Elections has not determined whether the petition would qualify for inclusion on the 2006 general election ballot.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

Council Resolution 15-1556 is amended by replacing Question C with the following Question C:

**C**

**Charter amendment by petition**

## Property Tax – Relation to Income Tax

This section of this resolution is effective only if the petition containing the following Charter amendment qualifies for inclusion on the 2006 ballot. By petition the voters of Montgomery County propose to amend Section 305 of the Charter of Montgomery County as follows:

### **SECTION 305            Approval of the Budget; Tax Levies**

The Council may add to, delete from, increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefore not later than June 1 of the year in which it is submitted.

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

[By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of seven Councilmembers, the Council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section. This limit does not apply to revenue from : (1) newly constructed property, (2) newly rezoned property, (3) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year, (4) property that has undergone a change in use, and (5) any development district tax used to fund capital improvement projects.]

Before June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. The council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year (Previous Year's Ad Valorem Tax)

(PYAVT). Plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section (Consumer Price Index Increase) (CPII). Plus any increases in revenue from (1) newly rezoned property, (2) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year and (3) property that has undergone a change in use (Property Change Increase) (PCI). Plus new revenues (1) from newly constructed property and (2) from any development district tax used to fund capital improvement projects (New Source Revenues) (NSR). Minus the previous year's county income tax revenues in excess of the 50% level of state income tax (Previous Year's Excess Piggyback Tax) (PYEPT). The formula for the county ad valorem tax levy shall thus be:  $PYAVT + CPII + PCI + NSR - PYEPT$ . The above provisions shall not be overridden except in the case of an emergency and then only upon the unanimous vote of all Council members.

*If the petition containing the preceding Charter amendment qualifies for inclusion on the 2006 ballot, the ballot for this question must be designated and read as follows:*

**Question C**

**Charter amendment by petition**

**Property Tax – Relation to Income Tax**

Amend Section 305 of the County Charter to:

-- require the County Council, when setting rates for the real property tax, to reduce the total revenue produced by that tax in any fiscal year by the amount of revenue received during the preceding fiscal year from the County income tax in excess of the revenue that would have been received if the income tax rate were 50% of the state income tax; and

-- allow property tax rate restrictions to be overridden only in an emergency and by a unanimous vote of all Councilmembers.

**FOR                      AGAINST**

---

This is a correct copy of Council action.

---

Elda M. Dodson, CMC  
Acting Clerk of the Council

Resolution No.: 15-1557  
Introduced: July 25, 2006  
Adopted: July 25, 2006

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

By: County Council

---

**SUBJECT: Qualification For Ballot Of Petitioned Amendment To County Charter**

**Background**

(1) Section 5 of Article XI-A of the Maryland Constitution provides that amendments to the Charter of Montgomery County may be proposed by a petition signed by at least 10,000 registered voters of the County and filed with the President of the County Council. Section 7-102(c)(3)(ii) of the Elections Article of the Maryland Code provides that an amendment to the Charter will qualify to be placed on the general election ballot if the governing body of the County determines that the petition that submitted the amendment has satisfied all requirements of law relating to petitions initiating Charter amendments.

(2) Although the Elections Article of the Maryland Code does not define the term "governing body", the County Council interprets that term, consistent with other state laws and court decisions interpreting them, to mean the County Council and County Executive acting jointly.

(3) Under Section 7-103(c)(3)(i) of the Elections Article of the Maryland Code, proposed Charter amendments must be certified to the County Board of Elections on or before the third Monday in August in the year of a general or Congressional election at which those Charter amendments will be submitted to the voters. Section 16-16 of the County Code provides that a ballot title or summary, prepared by the County Council, of all proposed Charter amendments must appear in print on the voting machine or ballot. A separate resolution, adopted by the County Council concurrently with this resolution, contains those ballot titles.

(4) A petition to amend Section 305 of the Charter has been circulated and may be filed with the County Board of Elections. The Board of Elections has not determined whether the petition qualifies for inclusion on the 2006 general election ballot.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

The County Council finds, as required by Section 7-102(c)(3)(ii) of the Elections Article of the Maryland Code, that the following amendment to the County Charter proposed by petition will have met all requirements of state law and thus qualify for inclusion on the 2006 general election ballot if the County Board of Elections finds that a sufficient number of valid petition signatures have been submitted and the petition otherwise appears to have satisfied all requirements of law:

**SECTION 305      Approval of the Budget; Tax Levies**

The Council may add to, delete from, increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefore not later than June 1 of the year in which it is submitted.

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of nine, not seven, Councilmembers, the Council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section. This limit does not apply to revenue from : (1) newly constructed property, (2) newly rezoned property, (3) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year, (4) property that has undergone a change in use, and (5) any development district tax used to fund capital improvement projects.

This is a correct copy of Council action.

---

Linda M. Lauer, Clerk of the Council

Approved:

---

Douglas M. Duncan, County Executive

Resolution No: \_\_\_\_\_

Introduced: August 15, 2006

Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

By: County Council

---

**Subject: Qualification for Ballot of Petitioned Amendment to County Charter**

**Background**

(1) Section 5 of Article XI-A of the Maryland Constitution provides that amendments to the Charter of Montgomery County may be proposed by a petition signed by at least 10,000 registered voters of the County and filed with the President of the County Council. Section 7-102(c)(3)(ii) of the Elections Article of the Maryland Code provides that an amendment to the Charter will qualify to be placed on the general election ballot if the governing body of the County determines that the petition that submitted the amendment has satisfied all requirements of law relating to petitions initiating Charter amendments.

(2) Although the Elections Article of the Maryland Code does not define the term "governing body", the County Council interprets that term, consistent with other state laws and court decisions interpreting them, to mean the County Council and County Executive acting jointly.

(3) Under Section 7-103(c)(3)(i) of the Elections Article of the Maryland Code, proposed Charter amendments must be certified to the County Board of Elections on or before the third Monday in August in the year of a general or Congressional election at which those Charter amendments will be submitted to the voters. Section 16-16 of the County Code provides that a ballot title or summary, prepared by the County Council, of all proposed Charter amendments must appear in print on the voting machine or ballot. A separate resolution, adopted by the County Council concurrently with this resolution, contains those ballot titles.

(4) A petition to amend Section 305 of the Charter has been filed with the County Board of Elections. The Board of Elections has not determined whether the petition qualifies for inclusion on the 2006 general election ballot.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

Council Resolution 15-1557 is amended by numbering the existing text as (1) and adding the following:

(2) The County Council finds, as required by Section 7-102(c)(3)(ii) of the Elections Article of the Maryland Code, that the following amendment to the County Charter proposed by petition will have met all requirements of state law and thus qualify for inclusion on the 2006 general election ballot if the County Board of Elections finds that a sufficient number of valid petition signatures have been submitted and the petition otherwise appears to have satisfied all requirements of law:

### **Property Tax Limit**

#### **SECTION 305 Approval of the Budget; Tax Levies**

The Council may add to, delete from, increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefore not later than June 1 of the year in which it is submitted.

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

[By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of seven Councilmembers, the Council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section. This limit does not apply to revenue from : (1) newly constructed property, (2) newly rezoned property, (3) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year, (4) property that has undergone a change in use, and (5) any development district tax used to fund capital improvement projects.]

Before June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. The council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year (Previous Year's Ad Valorem Tax) (PYAVT). Plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section (Consumer Price Index Increase) (CPII), Plus any increases in revenue from (1) newly rezoned property, (2) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year and (3) property that has undergone a change in use (Property Change Increase) (PCI), Plus new revenues (1) from newly constructed property and (2) from any development district tax used to fund capital improvement projects (New Source Revenues) (NSR), Minus the previous year's county income tax revenues in excess of the 50% level of state income tax (Previous Year's Excess Piggyback Tax) (PYEPT). The formula for the county ad valorem tax levy shall thus be:  $PVAVT + CPII + PCI + NSR - PYEPT$ . The above provisions shall not be overridden except in the case of an emergency and then only upon the unanimous vote of all Council members.

This is a correct copy of Council action.

---

Elda M. Dodson, CMC  
Acting Clerk of the Council

Approved:

---

Douglas M. Duncan, County Executive

F:\LAW\CHARTER\06 Amendments\2006 Qualification Res. Amendment - Prop Tax Formula.Doc



MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

OFFICE OF THE COUNCIL PRESIDENT

August 9, 2006

Ms. Nancy Dacek, President  
Montgomery County Board of Elections  
751 Twinbrook Parkway  
Rockville, Maryland 20851

Re: Charter Amendment - Petition

Dear Ms. Dacek: *NANCY,*

On August 7, 2006, a petition was filed with the Council Office to amend the Charter of Montgomery County, in accordance with Article XI-A, Section 5, of the Maryland Constitution. The petition proposes to amend Section 305 of the Montgomery County Charter to require the Council to decrease the total property tax revenues by an amount equivalent to an increase in the piggyback income tax revenues that exceeds 50 percent of state income tax. Also on August 7, pursuant to Section 6-205 of the State Elections Article, I forwarded the petition to the Montgomery County Board of Elections for processing as if it had been filed with the Board.

This petition is similar to one that Mr. Ficker submitted and the voters rejected in 1994. Since this time, the State has made changes to tax rate calculations. Before 1999, County residents calculated their County tax by multiplying the State tax by a percentage, which at that time was 60 percent. Beginning in 1999, the State required Counties to set a tax rate as a percentage of Maryland taxable income, which is now 3.2 percent for Montgomery County. Therefore, the reference to "income tax revenues in excess of 50%" is not relevant.

In addition, I want to point out that the proposed amendment purports to revise the second paragraph of Charter Section 305, which is also no longer accurate based on the current Charter format. It appears that Mr. Ficker intended to revise paragraph four instead of paragraph two. The County Attorney's Office has raised concerns about this issue.

I draw the Board's attention to these issues, because the Board must make a determination as to whether the petition meets the requirements of Section 6-206 of the Election Article.

Sincerely,



George L. Leventhal, President  
Montgomery County Council

c: Douglas M. Duncan, County Executive  
Charles W. Thompson, Jr., County Attorney  
Margaret Jurgensen, Elections Director

GL:sh

Enclosure