

CHARTER REVIEW COMMISSION
Wednesday, November 9, 2011 – 8:00 a.m.
6th Floor Conference Room
Council Office Building

Commission Members Present:

Molly Mahoney Matthews, Chair
Mark Feinroth, Vice-Chair
Jeannie Cho
Wendell Holloway
Guled Kassim
Thomas King
Pamela Mason
Jerry Pasternak
Albert Pearce

Commission Members Absent:

Diane Nash Dillon
Mariana Cordier

Staff:

Justina Ferber, County Council
Marc Hansen, County Attorney
Marie Jean-Paul, County Council
Amanda Mihill, County Council

Guests:

County Executive Isiah Leggett
Joseph Adler, Office of Human Resources
Kathleen Boucher, Office of the County
Executive
Bob Drummer, County Council
Tagg Hutchinson, Office of the County
Attorney
Joy Nurmi, Office of the County Executive

Commission Chair Molly Matthews called the meeting to order at 8:05 a.m.

I. Administrative Items

The Commission approved the minutes from the October 12 meeting. The minutes were approved unanimously among those present.

County Attorney Hansen discussed an issue brought to the Commission's attention at a prior meeting: whether the County Charter could be amended to include a provision to encourage the Board of Education to comply with the Maryland Open Meetings Act. Mr. Hansen opined that it could not for two primary reasons: first, the Board of Education is a state agency; and second, the topic of open meetings is controlled by state law and the Court of Appeals has said that local government cannot change the state open meetings law. In addition, Mr. Hansen stated that the issue may not even be Charter material.

II. Meeting with Joseph Adler

The Commission met with Joseph Adler, the Director of the Department of Human Resources to receive a briefing on the County's collective bargaining process. A copy of Mr. Adler's presentation will be made part of the minutes. Responding to Commissioner questions about trends in collective bargaining, Mr. Adler noted that since the economic downturn,

collective bargaining has become more adversarial, legalistic, and contentious, both in the County and nationally. Responding to Commissioner questions about outcomes in arbitration, Mr. Adler noted that arbitrator decisions favor labor over management at a ratio of about 2 to 1. Mr. Adler surmised that this outcome was due to several factors, including that the arbitrator panel tends to use the same arbitrators, the arbitrators must choose the last best offer as an entire package, and the arbitrator's use of affordability in their decision-making.

Commission members asked Mr. Adler how the bargaining process could be improved. Mr. Adler noted that the statutory timeline poses challenges during negotiations. Some Commissioner's questioned whether it would be beneficial to change the Charter budget deadlines to provide additional time for negotiations. Mr. Adler also explained that in the collective bargaining statutes, if the Council rejects a provision in the collective bargaining agreement, then the Council designates a representative to meet with the parties to present the Council's views. Mr. Adler noted that this process results in backdoor negotiations between the unions and the Councilmembers. Commission members noted that this particular concern was a statutory issue, not a Charter issue.

III. Meeting with County Executive Isiah Leggett

The Commissioners held a meeting with County Executive Leggett. In his initial remarks, Mr. Leggett provided a brief explanation of the capital and operating budgets and noted that the County is currently facing a \$100 million budget gap. Mr. Leggett noted that the number of signatures required to place an issue on the ballot is low and suggested that this is an area that should be looked at to determine if the number of signatures required is at the appropriate threshold.

Responding to Commissioner questions about whether the Commission should study the collective bargaining issue, Mr. Leggett stated that he is ok with the current language and does not want to undermine the authority for an Executive to submit a budget to the Council as the Executive deems necessary. Mr. Leggett noted that the Council has the authority to re-write the budget and can change whatever the Executive recommends. Mr. Leggett said that if the Court of Appeals interprets the law differently, then the Commission may want to look at the issue, but the Commission should wait until the Court rules.

Responding to Commissioner questions about the budget deadlines in the Charter, Mr. Leggett stated that the General Assembly acts after the March 15 deadline for the Executive to make recommendations and that this results in assumptions made in the budget that could significantly change after the Executive submits a recommended budget. Mr. Leggett encouraged the Commission to look at this issue.

Regarding Council structure, Mr. Leggett stated that 9 Councilmembers was an appropriate number. Mr. Leggett stated his support for a Council president that is elected by the citizens to a 4-year term. Specifically, Mr. Leggett suggested that citizens should elected 3 at large Councilmembers and 1 at large Council President. Mr. Leggett shared his belief that this would be a good government practice and would allow citizens to hold the Council President accountable.

Responding to additional questions, Mr. Leggett shared his strong support for a Charter amendment for a special hiring authority of people with disabilities and stated that he does not support removing the fire tax from the Charter limit. Mr. Leggett also stated that he does not support the suggestion to allow 6 Councilmembers to remove a Councilmember for a serious ethics law violation because it is too broad and unclear about what a serious violation would be.

Meeting adjourned at 9:39 a.m.

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Collective Bargaining Overview



Office of Human Resources



Montgomery County Government Mission Statement

- o **WE** pursue the common good by working *for* and *with* Montgomery County's diverse community members to provide:
 - A Responsive and Accountable County Government
 - Affordable Housing in an Inclusive Community
 - An Effective and Efficient Transportation Network
 - Children Prepared to Live and Learn
 - Healthy and Sustainable Communities
 - Safe Streets and Secure Neighborhoods
 - Strong and Vibrant Economy
 - Vital Living for All of Our Residents



Montgomery County Government Mission Statement

- o **AS** dedicated public servants, the employees of the Montgomery County government strive to embody in our work these essential values:
 - Collaboration
 - Competence
 - Fiscal Prudence
 - Inclusiveness
 - Innovation
 - Integrity
 - Knowledge
 - Respect for the Individual
 - Transparency

● ● ● **Collective Bargaining Mandate**

- It is the public policy of Montgomery County to promote a harmonious, peaceful, and cooperative relationship between the County government and its employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of county government and services.

● ● ● **Legal Authority**

- Collective bargaining is a process mandated by Montgomery County Code Chapter 33, Article V for Police employees, and Chapter 33, Article VII for general government employees (MCGEO). Bargaining for uniformed Fire and Rescue personnel is governed by Article X of Section 33.
- Volunteer fire and rescue staff engage in collective bargaining through their LFRD representatives under Section 21-6 of the Montgomery County Code.
- Each bargaining law has an "umpire" or "labor relations administrator" who determines the negotiability of topics and resolves charges of unfair labor practices (ULP).

● ● ● **Scope of Collective Bargaining**

- Wages, retirement, benefits (e.g., insurance, leave, holidays)
- Hours
- Working conditions
- Government and representative must collectively bargain in good faith



● ● ● | **Collective Bargaining Process**

1. Pre-bargaining Research
 - a. Survey of Managers and Supervisors
 - b. Department Head Focus Groups
 - c. Suggestions of Labor Relations

● ● ● | **Collective Bargaining Process continued...**

2. Chief negotiator analyzes research and input from County officials in order to provide input to County Executive.
 - Data on trends from other local jurisdictions is also collected.
 - Grievance trends are gathered and analyzed.
 - County and Union proposals from past negotiations are revisited.

● ● ● | **Collective Bargaining Process continued...**

3. Labor Relations Policy Committee (LRPC) meets to discuss suggested proposals. Members include:
 - a. County Executive
 - b. Chief Administrative Officer
 - c. Office of Human Resources Director
 - d. Office of Management and Budget Director
 - e. Finance Director
 - f. Assistant CAO
 - g. Other Department Heads as determined by the CAO

● ● ● ● | **Collective Bargaining Process continued...**

4. County Executive determines County's bargaining positions and priorities.
5. Authority to negotiate County's position granted to chief negotiator by the County Executive.

● ● ● ● | **Collective Bargaining Process continued...**

6. County bargaining team meets with Union bargaining team to attempt to reach mutual agreement on issues raised by either party.
 - Departments consulted on department specific matters.
 - County Executive and LRPC receive regular updates on the progress of negotiations.
 - County Executive relays any changes to County's position or priorities.



● ● ● ● | **Collective Bargaining Process continued...**

7. If statutory impasse date is reached before all issues are resolved, any outstanding issues are referred to impasse mediation.
8. Issues that are not resolved through mediation are referred to a third party arbitrator.
 - Parties present "final total packages" to arbitrator.
 - Arbitrator chooses one party's total package. This selection is binding on both parties.

● ● ● | **Collective Bargaining Process continued...**

9. A full agreement is compiled from tentative agreements and arbitration awards (if any) and is sent to Council for approval of all items requiring legislative action or appropriation of funds.

- Council has the ability to accept or reject any items which are subject to its approval on an item by item basis.

● ● ● | **Collective Bargaining Calendar**

- o June
 - Begin preparation for collective bargaining; task consultants; review issues and grievances which have arisen during the life of the last collective bargaining agreement.
- o July
 - Survey department management to identify issues and develop potential proposals; consultants begin to survey comparable jurisdictions.
- o August
 - Conduct focus groups with department management to identify issues and develop potential proposals; County Bargaining Committee (OHR, OMB, OCA, representative departments) established.

● ● ● | **Collective Bargaining Calendar**

- o September
 - Initial meeting of the Labor Relations Policy Committee (LRPC) [CE, CAO, ACAO, Directors of OMB, Finance, County Attorney, OHR, chief negotiator] to review preliminary issues and financial goals; LRPC provides recommendations to CE; CE determines authority for Bargaining Committee.
 - September 10th - Police, MCGEO, Fire, Volunteers Impasse neutrals jointly selected.

● ● 4 | **Collective Bargaining Calendar**

- October
 - Review and synthesis of research gathered in previous months to aid in drafting proposals, developing arguments, and adoption of strategy to accomplish priorities as set forth by the CE.
- November
 - November 1st - Police, MCGEO, Fire, Volunteers: Bargaining begins
- December
 - Bargaining continues

● ● 5 | **Collective Bargaining Calendar**

- January
 - January 15th - Fire, Volunteers – Bargaining ends, followed by mediation, and, if necessary, binding arbitration
 - January 20th - Police – Bargaining ends, followed by mediation, and, if necessary, binding interest arbitration

● ● 2 | **Collective Bargaining Calendar**

- February
 - February 1st –
 - Police, Fire, Volunteers: Arbitration award or agreement
 - MCGEO: Bargaining ends, followed by mediation, and, if necessary, binding interest arbitration
 - February 15th – MCGEO: Arbitration award or agreement

● ● ● | **Collective Bargaining Calendar**

- **March**
 - Prepare submissions to County Council
- **April**
 - **April 1st** - Police, MCGEO, Fire, Volunteers:
Submit agreement to Council

● ● ● | **Questions?**



Collective Bargaining Position Development and Approval Process

Collective Bargaining Mandate

Collective bargaining is a process mandated by Montgomery County Code Chapter 33, Article V for Police employees, and Chapter 33, Article VII for general government employees (MCGEO). It is the public policy of Montgomery County to promote a harmonious, peaceful, and cooperative relationship between the County government and its employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of county government and services. Since unresolved disputes in public service are harmful to the public and to employees, adequate means should be available for preventing disputes and for resolving them when they occur. To that end, it is in the public interest that employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment. It is also in the public interest that the County government and a representative of County employees bargain collectively in good faith without interference with the orderly process of government and that they implement any agreements reached through collective bargaining.

County Bargaining Authority Process

The County's initial proposals come from several sources: focus groups comprised of department heads, managers, and HR Liaisons; a collective bargaining survey distributed to all managers and supervisors; and recommendations from the OHR Labor Relations Team. The information generated from these sources is then analyzed by the chief negotiator in order to provide guidance to the County Executive as well as create draft proposals. These prospective proposals are then provided to the County Executive during a meeting of the Labor Relations Policy Committee (LRPC). This committee is made up of the County Executive, Chief Administrative Officer, Directors of OHR, OMB, FIN, the Assistant CAO, and other department heads as determined by the CAO. This group discusses the prospective proposals, but ultimately, the decision of bargaining positions and priorities lies with the County Executive. The Executive's positions and priorities are then relayed to the County's chief negotiator who represents the authority Executive at the bargaining table. The LRPC meets regularly throughout the bargaining process to ensure that the Executive is kept up to date on the proceedings and can relay any changes in position or priority to the chief negotiator. In the event that the Union and the County cannot reach an agreement, an arbitrator mutually agreed upon by the parties will choose from between the final proposals submitted by the parties. The ruling of the arbitrator is final and binding. Once all tentative agreements are in place, either by mutual agreement of the parties or by ruling of the arbitrator, any items requiring either legislative action or appropriation of funds are sent over to the County Council. Council has the ability to accept or reject any items that fall into this category on an item by item basis. In the event that Council rejects any item requiring either legislative action or appropriation of funds, and no compromise can be reached, the parties return to the bargaining table with a member of Council present in order to reach a new agreement.

COLLECTIVE BARGAINING POSITION DEVELOPMENT AND APPROVAL PROCESS

