



2020
Report of the
Charter Review Commission

June 2020
Montgomery County, Maryland

June 18, 2020

Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue, 5th Floor
Rockville, Maryland 20850

Dear Councilmembers:

On behalf of the Montgomery County Charter Review Commission, I am pleased to submit the 2020 Report of the Commission.

In summary, the Commission, after considering extensively but one issue this past year, is recommending that the structure and composition of the County Council remain as is. A minority report in opposition to this recommendation is attached herewith.

In transmitting this Report, we would be remiss if we did not acknowledge the tremendous support the Commission received throughout the year from Christine Wellons, Legislative Attorney; Ed Lattner, Chief of the Division of Government Operations, Office of the County Attorney; and Marie Jean-Paul, Legislative Services Coordinator. Our task was made far easier by their consummate professionalism.

Respectfully submitted,

A handwritten signature in black ink that reads "George Margolies". The signature is written in a cursive, slightly slanted style.

George Margolies, Chair
Charter Review Commission

CHARTER REVIEW COMMISSION

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Table of Contents

I.	INTRODUCTION	1
II.	SUMMARY OF ISSUES POTENTIALLY IDENTIFIED TO BE CONSIDERED	6
III.	ISSUE STUDIED: THE COMPOSITION AND STRUCTURE OF THE COUNTY COUNCIL	9
	A. Background	9
	B. Rationale of Recommendation	11
	C. Conclusion	17
IV.	APPENDICIES	
	Appendix A: Minority Report	
	Appendix B: Charter of Montgomery County	
	Appendix C: Information about Public Listening Sessions	
	Press Release on Public Listening Sessions	
	Handout for Public Listening Sessions	
	Link to Video of Listening Sessions:	
	https://www.montgomerycountymd.gov/crc/sessions.html	
	Appendix D: Written Comments from the Public	
	Appendix E: Commission Correspondence with Councilmembers	
	Appendix F: Commission Agendas and Meeting Minutes, June 2019 – May 2020	
	Appendix G: Information Provided by Council Staff at the Commission’s Request	

I. INTRODUCTION

The Constitution of Maryland, Article XI-A, enables counties to adopt charters to establish local governments. County charters are, in effect, constitutions for county governments because they establish the duties and responsibilities for the different branches of government.

The voters of Montgomery County adopted a charter form of government in 1948. In subsequent general elections, voters adopted several amendments to the original Charter. The current Charter was adopted in 1968 with subsequent amendments.

Charter §509, adopted by amendment in 1976, requires the quadrennial appointment of an eleven-member, multi-partisan Commission to study the Charter and make recommendations on potential Charter amendments. Commission members serve four-year terms, and no more than six of the eleven members may be from the same political party.

The Commission researches and evaluates Charter issues raised by its Commissioners, the County Executive, Councilmembers, other government officials, and the public. A report on the Commission's activities is to be submitted to the Council by May 1 of every even-numbered year (delayed this year due to the coronavirus crisis that precluded the Commission convening from mid-March until mid-May, at which time the Commission convened by teleconference). The biennial report outlines the issues that the Commission considered and recommends Charter amendments, if any, to include on the general election ballot. By the end of July, the Council determines which Charter questions, in addition to those raised by petition, will be placed on the ballot.

Since its last report of April 30, 2018, the Commission considered studying several issues related to the current Charter but, ultimately, decided at its October 2, 2019 meeting to

study but one: namely, Sections 102, 103, and 104 of the Charter insofar as they relate to the composition and structure of the County Council, without regard to whether such study would be completed for the 2020 or 2022 report. In this regard, the Commission held an unprecedented four public listening sessions throughout January, February, and March, 2020 to receive input as to this issue (a fifth listening session was cancelled due to the Covid-19 virus outbreak). Since the beginning of its term, the Commission also met with the County Executive, several Councilmembers, and relevant county staff. After due deliberation, the Commission (hereafter CRC), by majority vote of Commissioners present, is recommending that the composition and structure of the County Council remain as it is, namely five district seats and four at-large seats.

II. SUMMARY OF ISSUES POTENTIALLY IDENTIFIED TO BE CONSIDERED

At the July 10, 2019, CRC meeting, Commissioners individually suggested topics and issues for potential consideration by the full Commission, identifying the specific section of the Charter that would need to be amended or reviewed during the course of the past year. After the meeting concluded, staff (inclusive of legislative and county attorneys) researched these myriad topics with an eye toward: determining overlap among them, providing a brief analysis of each, identifying which of them had previously been studied by prior commissions, ascertaining whether there were relevant prior Charter amendments, and advising which topics might raise matters of State preemption or other legal issues.

With the foregoing in mind, the CRC met on September 11, 2019 and October 2, 2019, to brainstorm the topics that had been elicited on July 10th. Among them were:

- A proposal to amend Sections 102 and 103 of the Charter, to convert the four at-large seats to district seats.
- A proposal to review Section 206 of the Charter to provide that criminal activity would constitute a basis for removal of the County Executive.
- A proposal to review Sections 102 and 103 to consider whether to amend the Charter to provide for staggered terms of Councilmembers, so as to provide for continuity.
- A proposal to review Sections 510, 510A, and 511, regarding collective bargaining, to determine if they are too specific in their language.
- A proposal to amend Sections 102 and 103 to increase the number of Councilmembers, while maintaining the mix of district and at-large seats, to address the population growth in the county.
- A proposal to review Section 110 to provide for workforce housing and balanced growth throughout the county.
- A proposal to review Section 314 regarding competitive procurement to add more prescriptive language.
- A proposal to review Section 302 regarding the CIP to determine whether the language needs to be strengthened and amendments warranted.
- A proposal to review Section 410 to consider whether additional language is needed to provide explicit rights and protections for individuals who file ethics complaints.

- A proposal to review amending Section 203 to provide that an individual must reside in the county for—at least—more than one year (as now stipulated), in order to qualify as a candidate for County Executive.
- A proposal to review Section 104, as to the redistricting process, in tandem with any review of Sections 102 and 103 regarding the composition and structure of the County Council.
- A proposal to review Section 107 as to the determination of Councilmember compensation so as to consider alternatives for removing the action from the vote of Councilmembers.

In addition to the above proposals, Commissioners had before them the following:

- A proposal from Councilmember Riemer to amend Section 305 to provide for a health contingency in regard to the approval of the budget and assessment of tax levies.
- A proposal by the County Executive to amend Section 102 to increase the number of district seats on the County Council.
- Proposals from the County Executive, without specific reference to any Charter section or provision, recommending that the Montgomery County Public Schools be subject to the County's Inspector General; recommending that the Maryland-National Capital Park and Planning Commission be dissolved in favor of a county commission; and encouraging the CRC to study whether more county employee positions should be converted to non-merit.

III. ISSUE STUDIED: THE COMPOSITION AND STRUCTURE OF THE COUNTY COUNCIL

A. Background

Notwithstanding the variety of issues and topics whetting the interest of the Commissioners, once the CRC began to brainstorm them it readily became apparent that the composition and structure of the County Council held the most attention of the Commissioners, with several of the proposals overlapping. However, a prevalent concern among some was, not only that this issue had been studied many times before, but that another study of this singular topic would likely move to the side any study or analysis of additional topics that had been placed on the table.

In 1986, the CRC recommended that the Charter be amended to increase the size of the County Council (then comprised of seven members elected at-large, five of whom had to reside in different districts) to a nine-member body, with five members elected from separate districts and four members elected at-large. After being approved to be placed on the ballot, the voters overwhelming approved this Charter amendment, effective with the 1990 election.

In the 30 years since the current Council structure took effect, the CRC, time and time again, was called upon to review the composition and structure of the County Council to determine if the Charter was in need of another change. In 2002, 2004, 2006, 2008, 2016, and 2018, the CRC either considered and recommended against any change or deferred the topic for a future CRC to consider. Still, fourteen years after the current structure took effect—and sixteen years before now—a question **was** placed on the ballot by way of a petition, asking if the Charter should be amended to provide for a Council comprised of all nine Councilmembers elected by district. That ballot measure failed by a vote of 143,718 in favor and 221,235 against.

Yet, when the current CRC convened on September 11, 2019, the topic of the composition, structure, and election of the County Council—and issues attendant to it such as to the timing of redistricting—rose once again to the fore. After the CRC initially deadlocked 5-5 at its September meeting as to whether to study, this term, the matter of the Council composition and structure (and, in particular, the interrelated Sections 102, 103, and 104 of the Charter) the Commission voted, upon reconsideration, to do just that at its October 2, 2019

meeting. All other issues/topics were set aside, given the magnitude of this one.

With the benefit of insight of staff, input from several Councilmembers (having sent a series of questions to all Councilmembers at the outset) and the County Executive, a review of scholarly articles, and demographic information, the Commission also desired to hear from the public. Accordingly, with the able assistance of Council staff, the CRC scheduled five listening sessions throughout the county, one to be held in each of the five council districts over the course of January-March, 2020 to garner views and ideas that might inform the Commissioners' thinking. Four were held; the fifth, unfortunately, had to be cancelled due to the outbreak of the COVID-19 virus. The videos of all sessions have been uploaded to our website. Additional comments were received via e-mail.

All testimony and comments are appended to this report. The input received from the public was, in no way, monolithic. The sheer number of speakers who were prompted to attend is only a small window into the breadth of opinions received. Some spoke on behalf of, or in support of, the organized effort by the group known as "Nine Districts for Montgomery County", advocating for an all-district Council. The organization's chair, Kimblynn Persaud, testified twice and its treasurer, Mark Lautman, once, as did many of its supporters, including Matt Quinn, the president of the Greater Olney Civic Association and individuals dissatisfied with some of their at-large representatives. Most articulated the arguments set forth in the minority report.

On the other hand, those speaking in support of a hybrid council ranged from Gus Bauman, a former chair of the M-NCPPC, to Paul Bessel, a former CRC chair, to David Fishback, a long-time Olney resident who suggested one likely impact of a splintered, all-district Council is that it would be far more difficult to ever secure unanimity to increase the tax rate beyond inflation, if circumstances warranted doing so, potentially leading to paralysis.

After much deliberation and discussion of a range of views among the Commissioners, at the CRC's meeting of May 13, 2020, the Commissioners, by a 5-4 vote, voted to recommend to the County Council that the current structure and composition of the County Council be maintained. The rationale follows, as does a minority report.

B. Rationale of Recommendation

1. The ability to vote for a majority of Council

The overarching reason for maintaining the current composition of the County Council is that citizens and voters benefit from having the opportunity to cast ballots for five candidates to directly represent them on the Council—their district member and all four at-large members—a majority of the full Council. Citizens can take comfort in being able to approach any one of those Councilmembers who has been elected, whether on a constituent matter (no matter how intractable) or on a policy or legislative matter for which the citizen desires to advocate. Were the Council comprised completely of nine district seats, citizens would cast a ballot for only one Councilmember each, not five. Being able to vote for only one of nine Councilmembers rather than a majority of the Council would significantly diminish citizens' voices.

Some who testified at our listening sessions spoke to unresponsiveness on the part of certain at-large Councilmembers in the past. Suggestions that those past experiences support jettisoning all at-large seats in favor of an all-district Council are misplaced. If anything, those arguments support going to the polls to turn out of office any incumbent who deserves to be defeated by a better candidate. This is the nature of democracy. Were there to be an all-district council, a citizen may just as likely be dissatisfied with his or her Councilmember, while that citizen would not have any recourse to four other Councilmembers.

Although the minority report noted that Matt Quinn, President of GOCA, bemoaned that his group was being overlooked by Councilmembers who lived elsewhere, while 43.4% of his own membership voted in favor of a nine-district council, 52.82% voted for some variation of a hybrid council—whether it be the current composition, or a different mixture of at-large and district seats. (See the tally appended to his February 22nd testimony.) Thus, even a majority of GOCA's voting membership opted for a hybrid council, presumably recognizing the benefits thereof, irrespective of whether residents might wish to turn out of office individual members.

2. Importance of “big picture” perspective on critical issues

Another fundamental reason for maintaining the current hybrid structure of the County Council is that the structure ensures a proper balance of interests on critical issues affecting the

entire county, such as budget consideration. At-large members are elected to see a holistic picture and take into consideration the needs of the entire county, whereas district members—rightly so—are elected to look out for the parochial needs of the constituents in their respective districts. This is most acutely seen at the time that capital projects are in competition, or a controversial—or unwelcome yet necessary—project is to be funded and sited in the county. Community centers, affordable housing, libraries, waste treatment plants, school bus lots, transit infrastructure, and road projects, among others, readily come to mind. At-large members can and do see the larger picture while district members look out for their local interests. In this regard, Basile Whitaker of Sandy Spring, at the February 22, 2020 listening session, stated that, with a Council comprised of only smaller district seats, Councilmembers “are less likely to compromise, inclined to favor parochial issues.” This view was further advanced in the January 26th testimony of Richard Hoyer, a retired firefighter and former policy analyst for former Councilmember Duchy Trachtenberg. Mr. Hoyer spoke from his experience (citing the White Flint master plan) as to how at-large members can view the bigger picture

A Council comprised exclusively of district seats will undoubtedly lead to a more balkanized Council, with no one elected to look out for a countywide perspective. Dr. Daryl Thorne of Silver Spring, at the listening session on February 22nd, punctuated this point: “However, division (balkanizing) in the form of re-districting into 9 districts with no At-Large representation is not the way to accomplish equity. In fact, this has the great potential to give way to social and political disenfranchisement...”

3. The need to further address the matter of “responsiveness”

Many individuals who spoke in favor of nine district point to the population growth over the past decades as a reason for increasing the number of districts from five to nine. By doing so, the number of constituents per district will be fewer. Adherents to an entirely district-based council assert that reducing the number of constituents will permit the elected Councilmember to be more responsive.

It is indisputable that the county has grown over the decades. It is a non-sequitur to assert, particularly in bold print, as the minority report does, that the population growth “has diluted the bond between residents and their district member.” Nothing could be further than the truth. It is far from axiomatic that the current Councilmembers elected by district have

unmanageable districts. Nor does it follow that we need two county executives to manage a county that is far larger than the county that elected but one county executive when it was much smaller in population.

Marlene Michaelson, the Council's Executive Director, shared with the CRC that, while the County's population was growing by 30% over the past 25 years, the Council's central staff grew by only 3% and the Councilmembers' staff grew by only 10% during that same time. She and several Councilmembers advised the CRC that one way to improve Councilmember responsiveness is to increase staff support to Councilmembers to address the exponential increase in emails and social media inquiries, and multi-lingual demands rather than simply add more Councilmembers to reduce the size of one's district.

The minority report, without any evidence, makes the bold-face assertion that, given the population increase since 1986, "district-based members are unable to effectively represent their constituents." This does a disservice to the candor of earnest and hardworking Councilmembers who came forward to suggest that increasing demands on their time call for an increase in staffing, only for the minority to then bootstrap this into an argument for more single member districts (contrary to the views of the Councilmembers who addressed the CRC).

Moreover, what makes one think that a Councilmember is likely to be more responsive by reducing the number of constituents in his or her district, if he or she was not responsive before? Conversely, where is the evidence that a qualified Councilmember cannot faithfully represent a more populous district? The 8th Congressional District, represented by Congressman Jamie Raskin, is currently comprised of a population amounting to more than 760,000 spread over parts of Montgomery, Frederick, and Carroll counties—far in excess of the size of our council districts. Yet, with an appropriate modicum of staff, he provides constituent service and addresses policy and legislative matters. Not unlike our current Councilmembers who respond to and address a myriad of constituent matters, the Congressman and his staff navigate constituent concerns with numerous Federal agencies; assist with grant applications; intervene with difficult immigration cases; facilitate internships; conduct telephone town hall meetings on the coronavirus; assist veterans in obtaining benefits, among other services.

The minority raises false arguments to suggest that increasing staff to the Council exacerbates other problems. Of course, the Councilmembers cast the votes, not the staff. Why would anyone ever suggest staff is there to insulate Councilmembers? They are there to support

them and to assist constituents. The minority paints staffers as nefarious individuals who stand between the voters and elected officials, raising a “red herring” as an excuse for taking away the opportunity for citizens to vote for a majority of the Council.

Moreover, the minority’s suggestion that adding some additional professional staff to a Council will compete with the need for teachers or first responders in a \$5.8 billion operating budget (aside from a \$4.4 billion capital budget), rings quite hollow. Further, the school system, controlling approximately \$2.8 billion of the operating budget, can essentially determine how to allocate its portion of the budget.

4. Voters have untapped power within the current system

Many of those who testified at the listening sessions make much of the fact that the voters, in recent years, have disproportionately elected many Councilmembers from “down county.” They, therefore, argue that having an all-district Council will ensure increased representation from “underrepresented” parts of the county.

In fact, the voters decide from where the at-large Councilmembers hail. Just as at-large members have been elected in the past who have resided outside the Beltway, it is just as likely that others will be elected in the future. Perhaps more important is that the council districts we have today will be changing with the next redistricting to be proposed by the Commission on Redistricting in November, 2021. It is very likely that the shifting and increased population of the last decade will result in some of the five current districts pushing further “upcounty”, promoting increased representation beyond the Beltway. It should also be noted that this will be the first redistricting accomplished since the Redistricting Commission was reconstituted by a Charter amendment passed in 2018.

5. We have yet to realize the full impact of recent changes

Several individuals testified to the fact that it costs more to campaign for an at-large seat than it does for a district seat. While this fact is indisputable, it does not justify abolishing at-large seats. The 2018 election was the first time that public campaign financing was available, which helped ameliorate the cost of running for office. The impact of public financing in the next election remains to be seen. Even with the higher cost of running for an at-large seat, over

30 candidates sought the four at-large seats in 2018, making dubious the contention that cost is a deterrent to running at-large in the county.

The minority report takes note of the fact County Executive commented that campaign costs are prohibitive for candidates running for at-large positions. As previously acknowledged, it is indisputable that it costs more to run at-large. However, we would point out that Mr. Elrich ran successfully three times for an at-large seat on the County Council, all prior to the advent of public campaign financing, suggesting that it was not so prohibitive.

The minority's comments as to the role of special interest groups in campaigns is speculative and conclusory. They wildly assert that "someone donating to a race for any Council seat most likely is in the middle-to-upper-class" and by reducing the costs "more people would be able to compete without having to take money with strings attached."

In any event, the very purpose of public campaign financing is to equal the playing field. Still, to dismiss endorsements from organizations with a salutary interest in the well-being of our county is simply an effort to justify its argument for an all-district council. Yet, who is to say that these same interest groups will not seek to influence the voters of smaller populated districts, which will only leave those same constituents with fewer Councilmembers to turn to if their district member is unresponsive? To make one's argument by relying on the testimony of disgruntled unsuccessful candidates who did not receive such endorsements is illogical.

6. Both history and recent precedent support a hybrid system of governance

Our current rubric of a hybrid council is consistent with what the framers of the United States Constitution envisioned when they decided upon a Congress comprised of two senators representing the statewide interests of each of the states balanced by representatives serving smaller, discrete districts proportionately close to equal in population.

Whereas some have noted that Montgomery County is among the minority of counties in Maryland for having a hybrid county council, it is more instructive that two of our neighboring charter counties have seen the wisdom of following the lead of Montgomery County.

Frederick County is the newest charter county in Maryland, having adopted its charter

in 2012. At that time, the citizens wisely decided to establish a county council with five district members and two at-large members. Only earlier this year, the Frederick County Charter Review Commission unanimously rejected a proposal to eliminate the two at-large seats but, rather, voted to maintain its current hybrid structure.

Next door to the east, the voters of Prince George's County recently amended its charter so as to add two at-large seats to its previously all-district county council. As a result, 2018 witnessed Prince George's County emulating Montgomery County in electing a hybrid council.

Although the minority report correctly notes that the Howard County Charter Review Commission recommended that their district-only Council be increased from five to seven districts (one of nine recommendations in its Report), the minority neglects to speak to what occurred next. At the Howard County Council's meeting of June 1, 2020, at which its Councilmembers had to introduce any resolution calling for a charter amendment on which a public hearing was to be held on June 15th, this recommendation from its Charter Review Commission was noticeably missing. Rather, the County Council introduced 12 potential charter amendments (Resolutions CR 93-2020 to CR 104-2020), several—but not all—of which emanated from the Charter Review Commission. It remains to be seen which ones will advance to the ballot after the June 15th public hearing, but it certainly will not be the one cited by the minority report.

7. District membership is not necessary to ensure minority representation on the Council

The majority report argues that district membership is the most reliable method to ensure minority representation on the Council. It goes to length to cherry-pick decades-old Supreme Court cases, often citing dissenting opinions, that are irrelevant to the issue at hand, dealing with court-ordered reapportionment decrees and the matter of burden of proof under either the 14th Amendment or the original or amended Voting Rights Act. None address hybrid legislative bodies such as the Montgomery County Council, serving a heterogeneous population with a history of electing diverse candidates.

Of greater import is the March 12, 2001, Memorandum Opinion of Edward B. Lattner, then-Associate County Attorney, to the Redistricting Commission, addressing a host of legal issues pertinent to apportionment, equal protection, and voting rights (accessible via the website

of the Office of the County Attorney). Noteworthy is that Mr. Lattner wrote this Opinion after all but one of the cases cited had been adjudicated. He cites some of them in his Opinion, along with Maryland cases. Mr. Lattner covers the same turf as this part of the minority report—also not pertinent to the issue at hand. Yet, it is significant that, at no point, does Mr. Lattner opine that the courts have advised that a hybrid legislative body of at-large and district seats, such as our Council, is unconstitutional or, even suspect under the law.

The minority report concedes that there have been promising developments recently as to racial minority representation on the Council, but asserts that this may be negatively impacted by the structure. It should be noted that the progress that has been achieved is not only in the racial composition of the Council, but also in the ethnicity and sexual orientation of the Councilmembers. Although there is only one female Councilmember, it cannot be denied that she was only one of two female candidates on the general election ballot in 2018.

What cannot be challenged is that the Council, under the current structure, is the most diverse in history. As the demographics of the County continue to evolve, with its majority-minority populace countywide as well as in four of the five districts, there is every reason to expect future councils to be as diverse as the current one. Undoubtedly, the Redistricting Commission will be mindful of this as it goes about its work.

C. Conclusion

For all of the foregoing reasons, we are persuaded that it is well past the time to put to rest the years of debate as to whether to change the composition and structure of the Montgomery County Council. The hybrid makeup of five district and four at-large Councilmembers has served, and continues to serve, the citizens of our county well. To quote former MNCPPC Chair Gus Bauman, from his October 3, 2019, email to the CRC, to adopt an all-district council will mean the system we currently enjoy

“will be supplanted by inevitable parochialism writ large. The cascading effects on policies, budgets, and programs will invariably be expensive in every meaning of that word.”

Notwithstanding that the Charter Review Commission heard disparate views from those who testified at our listening sessions, it does not compel this issue being placed upon the ballot

as a plebiscite, any more than the plethora of issues debated in the public arena. As we continue to evaluate the impact of recent changes to the current system (e.g., term limits, redistricting, public financing), room exists to address concerns expressed during our listening sessions—whether by changes to council staffing or better organizing by candidates for office or attentiveness on the part of voters.

Respectfully submitted,

George Margolies, Chair

Laura Goddeeris, Vice Chair

David Hill, Commissioner

Perry Paylor, Commissioner

Ronald Stubblefield, Commissioner

APPENDIX A

MINORITY REPORT

Executive Summary

This Charter Review Commission did more than any other to understand the issue of Council structure, *i.e.*, districts and at-large representation. At the four Listening Sessions many citizens raised points regarding their view of the Council that are captured below. Even if some are not in agreement with these concerns, what is not in doubt is that **many County citizens would like to vote on the issue.**

After reviewing the current size of councilmanic districts, population growth since 1990, the ratio of residents to other similar districts locally and nationally, holding four public listening sessions and being advised by the highest local elected official to consider smaller councilmanic districts, it would be hard to believe that no change to the current Council structure would be recommended. That is, however, what this Commission decided.

The dissatisfaction that many County citizens have regarding local representation on the Council can be directly traced to the four at-large seats specified in the Charter. The concerns about the current Council structure that we heard from many citizens include, but are not limited to: 1) poor constituent service as a result of citizens being packed into Council districts where their voices cannot be heard over the political establishment; 2) the opportunity for special interest groups with lots of money to get involved in local elections in exchange for favors (*quid pro quo*); 3) the creation of an unfair or rigged system where citizens who do not live Down-County feel excluded; and 4) the barriers caused by at-large seats to having a continuous, diverse representation on the Council. Structural reform of the Council will solve these complaints.

The Commission serves an important function for the citizens by listening to concerns and making recommendations for systemic changes in the Charter. The Commission should have recommended placing the option of more, smaller districts on the ballot for the citizens to consider. **By voting to not recommend a ballot issue, the Commission has denied the voters the opportunity to decide.** This is an abdication of the Commission's duty.

Finally, even though the Commission voted 5-4 against recommending a ballot proposal on this issue, one Commission Member, Dr. Nichole Gibbs Thomas, who was absent for the Commission vote on May 13, 2020 due to certain circumstances stated that she would have voted with us. "When given the choice between recommending no changes to the Council structure or recommending that the Council place a proposed Charter amendment on the ballot for district-only representation, I vote recommending that the Council place a proposed Charter amendment on the ballot for district-only representation. If I had been present for the vote, this is how I would have voted." See Dr. Nichole Gibbs Thomas email to Commission, dated June 10, 2020.

We have set forth a more detailed explanation of the Minority Report below.

Introduction

At the outset, we would like to thank the County employees who assisted the Commission over the past year on the issue of the composition of the County Council. Ms. Christine Wellons, Ms. Marie Jean-Paul, and Mr. Ed Lattner were invaluable and are a credit to the County. In particular, we would like to thank Ms. Wellons for coordinating four listening sessions, handling communications to, from, and within the Commission, and supplying the Commission with all the necessary and requested information. We would also like to express our appreciation to all the Montgomery County citizens who participated in the listening sessions or submitted comments on this issue. We took all your opinions into account when voting. Finally, we would like to acknowledge the contributions, whether in person or by correspondence, from everyone associated with the Council and County Executive. Of note, County Executive Marc Elrich, Councilmember Evan Glass, Councilmember Gabe Albornoz, Councilmember Will Jawando, and Executive Director Marlene Michaelson were gracious enough to attend Commission meetings or listening sessions in person and respond to our questions.

Background

The current composition of the County Council is the result of a promising first step that has been fossilized over the years by special interests. Before 1986, the Council was composed of all at-large members. However, due to a change in the Constitution of the State of Maryland, county councils were able to establish districts from which members could be elected. *See* Maryland Const. Art. XI-A, Sec. 3A. In response to this Constitutional amendment, the Commission recommended a ballot proposal in 1986 establishing the current structure of the Council at five district-based members and four at-large members. Understandably, Montgomery County citizens were hesitant to go from all at-large representation to all district-based representation in 1986 and voted in favor of the proposal. Nevertheless, the reasons cited by the Commission in 1986 for the creation of district-based membership are still relevant to the issue of Council structure today: “(1) the great increase in the population in Montgomery County” and “(2) the difficulty and expense to run countywide for Council, discouraging minority candidates and interests[.]” *See* Sept. 24, 2019 Wellons Memo at 1 (Appendix G).¹

In addition to the above ever-present concerns, the Commission became aware of other considerations for structural reform of the Council through our interactions with County officials at Commission meetings, correspondence received from the public, and live presentations at four listening sessions. County Executive Marc Elrich spoke with the Commission at the September 11, 2019 meeting. Councilmember Evan Glass spoke at the Commission’s November 13, 2019 meeting. Executive Director, Office of the County Council, Marlene Michaelson spoke at the Commission’s February 12, 2020 meeting. Further, the Commission held four listening sessions in Bethesda, Burtonsville, Olney, and Rockville in order to solicit public opinion on the issue. (A fifth listening session in Germantown was cancelled due to virus precautions.) Councilmember Glass spoke at the listening sessions in Bethesda on January 26, 2020, and in Rockville on March

¹ The 1986 Commission listed a third reason (“each voter will be able to vote for a majority”) in support of its recommendation. Later in the Minority Report, we will explain why this concern has not withstood the test of time.

4, 2020. Councilmember Jawando spoke at the listening session in Burtonsville on February 18, 2020. Councilmember Alborno spoke at the listening session in Olney on February 22, 2020.

The turnout at the listening sessions was tremendous. Approximately twice as many residents spoke in favor of restructuring the Council as compared to residents who wanted to keep the status quo. At no time did we hear from anyone who wanted fewer districts or no district representation. Nor did we hear from anyone who wanted more at-large representation. To anyone listening it was obvious that there was a desire of citizens to vote on this issue. Further, a tally of the written communications received by the Commission from citizens on this issue shows that a majority are for structural reform of the Council.

We understand that past Commissions have looked into structural reform of the Council. However, not revisiting the issue again now that we have more information in hand would allow a 30-year old half-measure to remain in place without thoughtful analysis. Therefore, after taking into consideration all the facts, we conclude that **a Charter amendment should be placed on the ballot asking the voters whether the Council should be comprised of only nine district seats.**

I. The Population of Montgomery County Has Increased Since 1986 To Such An Extent That District-Based Members Are Unable To Effectively Represent Their Constituents

In 1990, when the current Council structure was installed, the County population was 757,027; each district was comprised of approximately 151,400 residents. Since then, the County population has increased by approximately 45% to approximately 1.1 million; each district now contains about 210,513 residents. Based on population, Montgomery County would be the 42nd largest state. **Commission Member Dr. Nichole Gibbs Thomas used this data to conduct an analysis of “councilmember to residents ratio.”** See Dec. 11, 2019 Commission Minutes; *see also* Attachment to Minority Report. In her analysis, Dr. Gibbs Thomas performed eleven calculations and presented the results to the Commission during its December 11, 2019 meeting. *Id.* According to Dr. Gibbs Thomas’ objective analysis of the data:

The results are that Montgomery County performs relatively poorly in 9 of 11 measures. Montgomery County ranks last, with the worst ratio of councilmember to residents ratio for 7 of 11 measures and second to last in 2 of 11 measures. For the remaining 2 measures, Montgomery County ratios were in the middle of the range.

Id. While Dr. Gibbs Thomas did not draw a conclusion as to the optimal ratio for councilmembers to residents, the analysis establishes that Montgomery County most likely has passed that threshold. This is corroborated by the anecdotal evidence gathered from residents at the listening sessions and through their correspondence. Thus, the main reason that Montgomery County created district seats on the Council in 1986 (“the great increase in the population in Montgomery County”) is still valid and supports the addition of more district seats.

Moreover, social media has multiplied the number of requests received by Councilmembers from their constituents as compared to 30 years ago when the only ways to contact Councilmembers were by mail or phone. “Councilmembers have experienced a

significant increase in resident correspondence and are expected to respond to them quickly on Twitter, Facebook, Instagram and other social media outlets.” Nov. 6, 2019 Letter from Councilmember Gabriel Albornoz to Charter Review Commission Chair George Margolis (*see* Appendix E). At the November 13, 2019 Commission meeting, Councilmember Evan Glass talked about the difficulty keeping up with constituent services—that there were more people, more challenges—that goes to staffing issues. He stated he wanted communications staffing to be “beefed up” to address the issue. In addition, Councilmember Navarro wrote, “My experience is that the advent of the internet and social media has had a major impact. In the past a constituent would write a letter or make a phone call that staff would research the issue and respond accordingly. Today, there is an expectation that answers must be in real time, 24/7 – this places a lot of pressure on staff and Councilmembers.” Councilmember Nancy Navarro’s comments (*see* Appendix E). In short, more residents expect more from their Councilmembers than at any time in the past. That pressure is not likely to abate.

The population explosion in the County over the last 30 years has diluted the bond between residents and their district member. “The growth in population and the diversity of the population places additional demands on constituent services,” said Councilmember Nancy Navarro (*see* Appendix E). County Executive Marc Elrich agreed that the number of people packed into the current five districts has caused the quality of their Council representation to deteriorate. During the listening sessions, there were complaints about district members not being responsive to their constituents. **However, these district members are being overwhelmed by constituent demands and the Charter is not putting them into a position to effectively represent their constituents.** At the November 13, 2019 Commission meeting, Councilmember Glass noted, “We only have so many hours in the day.”

Unfortunately, some Councilmembers view the voters’ dissatisfaction with the Council as a reason to increase staffing levels. In point of fact, the Council already voted themselves an increase in staffing in the FY 2021 budget and have the authority to increase staffing regardless of changes in the structure of the County Council. **Increasing Councilmember staff is not a solution and even exacerbates other problems.** Any staff will be following the lead of their Councilmember and not bring a fresh or independent perspective on how to solve problems presented to the Council. Let’s not forget that the Councilmembers are the ones who vote on the Council and are ultimately responsible for those decisions. Also, Councilmembers will still face increased demands on their time and, in this situation, staff members will further insulate Councilmembers from their constituents because the staff will act as the go-between. Increased staff does not necessarily ensure that Councilmembers hear the voters’ concerns any better or more often.

In fact, increased staffing levels at the Council may cause unintended negative consequences elsewhere in the County. For every staffer hired in Rockville, that means the County may not be able to hire another teacher, police officer, or firefighter who could serve anywhere in the County. Converting the four at-large seats to district seats would allow the Council to deploy existing resources throughout the County. The Councilmembers for the additional districts would be scattered throughout designated parts of the County and not based in Rockville (or Down-County where at-large members tend to reside). Further, nobody has explained why four different sets of at-large members and their staff are required for policy purposes. Exactly how much “policy” needs to be generated out of Rockville while the traffic

problems in Clarksburg still need to be fixed? During the September 11, 2019 Commission meeting, County Executive Elrich stated that at-large positions are attractive because a candidate could place fourth and still win a seat on the Council. County residents most likely would rather have their chosen local candidate looking out for their interests than relying on the second, third or fourth-best candidate who may live at the far end of the 500 square miles of Montgomery County.²

Creating more and smaller districts will restore some intimacy to the relationship between voters and their Councilmember who they can hold accountable. County Executive Elrich stated at the September 11, 2019 Commission meeting that “having more district seats would give residents better access to their elected officials.” *See* Sept. 11, 2019 Commission Minutes at 2 (Appendix F). “‘The county has grown so much that right now, each district council member represents around 200,000 people,’ Elrich said. ‘So if you had nine district seats, those districts are smaller, they’re more accessible, and they’re easier to represent, because each council member is focusing on fewer people.’” *See* Sept. 12, 2019 Bethesda Beat Article entitled “Elrich Suggests Expanding Montgomery County Council, Creating More District Seats” (by Kate Masters). Councilmember Glass, at the November 13, 2019 Commission meeting, also suggested that more districts may be warranted.³ As a result of the residents’ easier access to their Councilmember and the Councilmember’s interest in receiving the resident’s vote, there should be an improvement in the quality of their representation.

Finally, district members appear to be the first stop for residents for both local and countywide concerns. When there are too many people in a district, then district members cannot handle issues in-depth, thus short-changing the people they represent according to County Executive Elrich. On the other hand, at-large members can pick and choose what local issues to spend their time on while also pursuing their preferred policy goals. During the November 13, 2019 Commission meeting, Councilmember Glass stated that he tends to focus more on policy than constituent services. People tend to have lowered expectations when it comes to attracting at-large members to their issue, but hold their district members to a higher standard on all issues. Indeed, the citizens who did speak in favor of at-large members at the listening sessions seemed to view them as a Plan B when they could not get the attention of their district members. Enlarging the number of districts in the County would eliminate the need to use at-large members as a back-up to district members.

² The Report compares the size of a United States Congressional District to the size of a Montgomery County district seat in an attempt to show that the population within a County district seat is manageable. As the Commission is aware the duties and responsibilities of a U.S. Representative are very different from the ones for a County District Councilmember. This is not an apples-to-apples comparison and should not be taken seriously.

³ We note that County Executive Elrich and Councilmember Glass proposed to retain certain numbers of at-large seats on the Council.

II. The Difficulty And Expense In Running For An At-Large Seat Is Prohibitive For Anyone Who Is Not Connected To Special Interest Groups

A. The Campaign Costs for At-Large Seats Are Out of Control

There is no dispute that competing in an election for an at-large Council seat is expensive. At the September 11, 2019 Commission meeting, County Executive Elrich commented that campaign costs are prohibitive for candidates running for at-large positions. In fact, as the below chart shows the cost of running for an at-large seat is increasing:

2018 At-Large Campaign Expenditures for Winners	2014 At-Large Campaign Expenditures for Winners	2010 At-Large Campaign Expenditures for Winners
\$422,595	\$300,309	\$320,853
\$369,581	\$257,857	\$298,426
\$357,250	\$230,247	\$282,988
\$252,934	\$154,033	\$141,838

See Attachment, Nov. 13, 2019 Agenda (Appendix F). Further, we did not hear any evidence that these campaign costs will be decreasing so we can expect a successful campaign for an at-large seat to cost about half a million dollars in the foreseeable future.

The reason the campaigns for the at-large seats are so expensive is that the candidates attempt to reach everyone in the County. “I believe that both the growth and diversity of the electorate has influenced the cost of campaigning.” Councilmember Nancy Navarro’s comments (*see Appendix E*). At the November 13, 2019 meeting, Councilmember Evan Glass observed that campaigning is more expensive when more voters need to be reached. Because the County is so large and populous, candidates have to rely on political advertising to reach the majority of the population which in turn drives up the costs even more. County Executive Marc Elrich estimated that a round of direct mailings can run about \$40,000 to \$45,000 for an at-large seat. Councilmember Evan Glass gave the same estimate for this activity (\$40,000).

B. Special Interest Groups Contribute to Run-Away Campaign Costs

Given the high dollar amount attached to at-large seat campaigns, the money to fund them most likely is not coming from the average citizen (and campaign finance has big problems as shown later in this section). While we have not seen any studies on this topic, we find it difficult to believe that the majority of County residents are donating to an at-large campaign, much less to four at-large campaigns at the same time. Further, the socioeconomic profile of someone donating to a race for any Council seat most likely is in the middle- to upper-class. Thus, living in or near the wealthy zip codes in the County may give some candidates for at-large seats an advantage over other candidates living elsewhere. Further, due to the costs of the campaign, even these donations may not be enough to adequately fund a candidate’s war chest. Thus, we can expect special interest groups to bridge any gap between what a candidate can raise from the people and what that

candidate needs to wage their campaign successfully. In the September 11, 2019 meeting, County Executive Elrich said that special interest contributions or involvement comes with strings attached. He stated further that large amounts of money (special interests) can capture a majority of the Council by getting behind 4 at-large candidates and one district-based candidate. According to a former candidate for a countywide Board of Education race in 2014, “[U]nless you have unions to endorse you and help boost mailings at homes, it is quite difficult to reach people with your platform.” *See* Written Testimony of Laurie Halverson at #4 (Appendix D). Ed Amatetti, a 2018 candidate for District 2, stated, “At-large seats especially in a large county like this skews things towards the politically sophisticated, politically organized, and special interest groups.” *See* recorded testimony of Ed Amatetti, starting at marker 26:00, Listening Session #4. That special interest groups are attracted to expensive political campaigns is well established.

The best way to get the big money out of politics is to transform at-large Council seats into seats representing manageable districts. District campaigns are less expensive than at-large ones. County Executive Elrich estimated that a district campaign would incur only 20% of the mailing costs of an at-large campaign. Councilmember Glass gave a similar estimate. “There is a significant difference” in the expense of campaigning for an at-large seat versus a district seat. *See* Councilmember Nancy Navarro’s written comments (Appendix E). By reducing the costs of the political campaign for a Council seat, more people would be able to compete without having to take money with strings attached. A candidate for a district seat has an opportunity to run a successful grassroots campaign on a tight budget. Candidates for district office can focus their attention on local events, such as festivals, sporting events, and church gatherings, and meet with community groups and organizations to spread their ideas. They may already have name recognition in the community because they live there. They can personally convey their message to voters that is then carried forward by word of mouth. Only in this environment can community ties counterbalance organized special interests. Even so, the number of people currently residing in each district almost nullifies such an effort. In order to level the playing field between big-money candidates and hometown favorites, the districts need to be smaller and less populous than they are currently.

C. Campaign Finance Laws Multiply the Influence of Special Interest Groups

Unfortunately, a recent attempt to reign in County Council campaign costs has backfired, which makes our recommendation now more critical than ever. The new campaign finance laws are not the answer to this issue. First, these laws are completely voluntary, which is the exception that swallows the principle. *See* Montgomery County Code, Art. IV, Sec. 16-18. Moreover, these laws do not seem to prevent special interests from running a parallel campaign, *e.g.*, “Friends of Councilmember Candidate,” to assist their preferred candidate as long as they do not formally donate to the candidate’s campaign fund. This is another loophole that can be exploited. Further, even though campaign finance laws only allow contributions from County residents to be matched, there is no procedure in place to verify that contributors do reside in Montgomery County. *See* 2019 Report of Committee to Recommend Funding for the Public Election Fund at 1-2. Thus, County taxpayer money was most likely used to match campaign donations from people who don’t live here and don’t have the same values as County residents. Likewise, there are other methods that can be used by special interest groups to funnel money to candidates undetected by these laws which at the same time force the County to match these shady donations with taxpayer money. *See* Montgomery County Code, Art. IV, Sec. 16-23 (Distribution of Public Contribution).

Anyone who thinks that the campaign financing laws have been a “game-changer” in getting money out of Council elections is not looking at how costly the 2018 Council elections were. Those costs will only go up in future at-large campaigns. The unintended consequence of the campaign finance laws is that special interest groups can leverage laws passed for the voters’ benefit against them. Essentially, the campaign finance laws have proposed to extinguish the bonfire of Council campaign costs by pouring gasoline on it.

III. Fundamental Fairness Dictates That Councilmembers Reside In Different Parts Of The County

Another defect with the structure of the Council is the consistent lack of representational fairness for the majority of the County’s residents. Seven members of the Council live Down-County (south of Rockville and bordering the District of Columbia), representing 30% of the County’s population, while the other 70% is represented by only two councilmembers. Residents living outside of the Down-County “crescent” do not receive adequate representation. **The Down-County crescent gets one representative for about every 45,000 people whereas everyone else is allowed one representative for about every 368,000 people.** Even the County Executive lives in the Down-County crescent (Takoma Park). See Montgomery County Council Map at <http://www.ninedistrictsformoco.org>. The uneven distribution of Councilmembers is not a one-time fluke event but a chronic problem. The 2002 Commission noted the same issue, “At-large seats have not produced a wide dispersion in the geographic bases of successful candidates, leaving some sections of the County underrepresented or excluded from the political process.” See 2002 Commission Report at 11. The reason for this skewed representation is that Down-County residents only vote for at-large candidates who live there even when there were qualified candidates from other parts of the County. We expect that any analysis of voting patterns would show that Down-County residents vote overwhelmingly in favor of at-large candidates who live Down-County.

Citizens who participated in the listening sessions expressed their frustration with this unfairness. The following are just some of the complaints heard by the Commission. At the listening session in Burtonsville, several citizens shared their concerns that East-County was not being served by the current Council. Sharon Brown, a Colesville resident and member of the East-County Citizens Advisory Board, stated, “We were [East-County] not being represented in our communities. . . . I’m here and I know what I want. And I know what my neighbors want. And so there has to be somebody who is supposed to be speaking out for us, and it doesn’t seem like there is. So there may be some kind of compromise that needs to take place, but I do know that East-County deserves another representative.” See recorded testimony of Sharon Brown, starting at marker 53:00, Listening Session #2. Even though Peter Myokhin, a former chairman of the East-County Citizens Advisory Board, thought that the current Council structure was fine, he stated, “We’re just looking for a Council who looks at our side of the County, which has been neglected to some extent. And help us along.” See recorded testimony of Peter Myokhin, starting at marker 27:00, Listening Session #2. To that end, Mr. Myokhin approved of a possible conversion of one at-large seat to a district seat that is “just concentrated on East-County.” *Id.*

At the listening session in Olney, several citizens voiced frustration with the lack of an Up-County representative on the Council due to its structural defects. Paul Jarosinski, an Olney resident, stated that the Council’s structure has resulted in “poor and unbalanced representation for

the majority of the residents in the County,” especially Up-County residents. *See* recorded testimony of Paul Jarosinski, starting at marker 32:00, Listening Session #3. A retired Montgomery County public school teacher stated that the Council’s structure makes Up-County residents feel “disenfranchised.” *See* recorded testimony of Gary Frace, starting at marker 45:00, Listening Session #3. Matt Quinn, the president of the Greater Olney Civic Association, stated at Listening Session #3, that his 40,000-member group supports a district-only Council because the concerns of Olney, which sits in a “unique corner” of the County, were being overlooked by Councilmembers who live elsewhere. *See* Matt Quinn Written Testimony for Listening Session #3. At the listening session in Bethesda, Eva Guo, of Clarksburg, stated that Up-County residents were underrepresented on the Council. *See* Eva Guo Charter Review Commission Hearing Written Testimony.⁴

The Council will only be accepted if the citizens believe that their Councilmember knows their interests and governs accordingly. **The best way for councilmembers to gain this acceptance is by living with the voters.** Both Councilmembers and the people intuitively understand this bond. Councilmember Will Jawando appreciates this social contract: “I often say when I go Up-County, I say look I live in East-County, I’m at-large. I understand the chip you have on your shoulder Up-County because we feel the same way in East-County. That you don’t have representation.” *See* recorded testimony, starting at marker 1:02:00, Listening Session #2. During the February 12, 2020 meeting, Ms. Michaelson stated that “districts may have different needs.” Councilmember Glass remarked during the November 13, 2019 Commission meeting that Councilmembers need to know the community. An email from the Director of the Silver Spring Regional Center notes that “the dynamics of Silver Spring south of the Beltway are considerably different from those in Bethesda, Wheaton, and East County.” *See* Jan. 30, 2020 Email from Reemberto Rodriguez to the Charter Review Commission (Appendix D). All residents deserve to be represented fairly on the Council by someone who knows and understands the needs of their community.

Living side-by-side with the people you represent allows Councilmembers to get to know their constituents and the community’s needs, as it should be at this level of government. Jean Cavanaugh, a Silver Spring resident, described the embarrassment of political riches enjoyed by Down-County residents:

I am one of the lucky County residents who lives amongst most of the County’s elected officials. Councilmembers Evan Glass and Tom Hucker live in adjacent neighborhoods. I walk by their houses frequently. And I see them out running, shopping, or at the local YMCA. Marc Elrich, Hans Reimer, and previous Councilmember George Leventhal live within 2.5 miles of my house. I could walk to downtown Silver Spring where many County events are held . . . I feel like I could catch the ear and the attention of my elected officials pretty easily . . . I wish more County residents had the access I have to County-elected officials.

⁴ The one listening session that was cancelled due to the virus was set in Germantown. The Commission was looking forward to the event and we expect that it would have been well attended with residents sharing their concerns about underrepresentation. We hope that the cancellation was not taken by Up-County residents as salt on their wounds.

See recorded testimony of Jean Cavanaugh, starting at marker 1:15:00, Listening Session #3. In this environment, Councilmembers cannot help but know what is going in their community. Up-County residents do not have that kind of interaction with at-large Councilmembers. The United States Supreme Court found that at-large schemes can “make legislative representatives more remote from their constituents[.]” *Connor v. Finch*, 431 U.S. 407, 415 (1977). Due to the Council structure, at-large members are much more attuned to the Down-County concerns while having, at best, a passing knowledge of the concerns elsewhere.

The intimate knowledge that at-large Councilmembers have of their own surroundings matters because that knowledge is the basis for all their decisions. Over the years, the Council, with the at-large members leading the way, has favored Down-County interests in public services, transportation, housing and development. Because other parts of the County have been starved of these resources by the Council, businesses do not find those locations attractive. The Council, due to its lack of attention, has essentially hung a big “Closed for Business” sign on the other parts of the County where 70% of the residents live. For example, high density, high rise development near public transit stations has been given constant attention by the Council. On the other hand, the current Council opposed efforts by the State to relieve traffic congestion on Route 270 and the Beltway, which adds hours to the commute time of hundreds of thousands of residents, such as Clarksburg and Germantown commuters. The monopoly held by the political establishment over the County will only be broken when nine district Councilmembers are evenly distributed among the County’s residents where they will be better able to understand their constituents’ needs as a result of regular contact.

Moreover, at-large members facing the enormity of representing 1.1 million diverse constituents may be more attracted to already-packaged legislation from special interests, organized groups and lobbyists in order to show the voters that they are doing something, whatever that may be. **These special interest groups are always able to be heard above the voices of regular citizens who “merely” want Councilmembers to solve their individual problems.** Once this *quid pro quo* begins, then the Council becomes captured by the special interest groups. These pay-to-play schemes leave the folks from Up-County and East-County permanently on the outside looking in while they suffer from lack of basic services and needed economic and commercial development.

Finally, only having five districts in a county of this size and population has been an open invitation to gerrymandering of the Council seats. When Council district boundaries were last drawn in 2011, three of the five districts were drawn to have portions below the Beltway. Council District 1, which runs along the Potomac River from the District of Columbia line to the Frederick County line, is the most egregious. Apparently, the political establishment is not satisfied in having their friends selected as at-large members. They also wanted the district boundaries to be drawn in such a way so that they could fill as many seats as possible with more of their friends. That boundaries were gerrymandered down to the precinct level to ensure a certain result was discussed at one of the Commission meetings. As a result, the County government has been stagnating due to the lack of diverse viewpoints on the Council.⁵

⁵ Under the Charter, the Council appoints a commission on redistricting. See Section 104. We call on the Council to make opposition to gerrymandering a litmus test for appointment to this

IV. District Membership Is The Most Reliable Method To Ensure Minority Representation On The Council

The United States Supreme Court has held, “At-large voting schemes and multimember districts tend to minimize the voting strength of minority groups by permitting the political majority to elect all representatives of the district.” *Rogers v. Lodge*, 458 U.S. 613, 616 (1982). Other notable Supreme Court Justices across the conservative-liberal spectrum have reached the same conclusion. Justice Ruth Bader Ginsburg refers to at-large voting as a “second-generation barrier” that works to exclude minority representation on governing bodies. *Shelby County v. Holder*, 570 U.S. 529, 563 (2013) (Ginsburg J., dissenting). Justice Thurgood Marshall stated, “The Court does not dispute the proposition that multimember districting can have the effect of submerging electoral minorities and over-representing electoral majorities. It is for this reason that we developed a strong preference for single-member districting in court-ordered reapportionment plans.” *City of Mobile v. Bolden*, 446 U.S. 55, 105-06 (1980) (Marshall J., dissenting). Justice Sandra Day O’Conner found that “[t]he at-large or multimember district has an inherent tendency to submerge the votes of the minority.” *Thornburg v. Gingles*, 478 U.S. 30, 87 (1986) (O’Connor J., concurring). Justice Antonin Scalia opined, “We have, however, stated on many occasions that multimember districting plans, as well as at-large plans, generally pose greater threats to minority-voter participation in the political process than do single-member districts, which is why we have strongly preferred single-member districts for federal-court-ordered reapportionment[.]” *Grove v. Emison*, 507 U.S. 25, 40 (1993) (citations omitted).

While there have been promising developments recently concerning racial (but not necessarily gender) minority representation on the Council, academic analysis and practical experience suggest that this is not because of the at-large feature of the Council structure. **Rather, the Council’s structure may be negatively impacting further minority representation on the Council.** According to a recent study, Montgomery County contains four of the top ten most diverse cities in the United States. See WalletHub.com, “Most & Least Ethnically Diverse Cities in the U.S.” by Adam McCann, Feb. 11, 2020. Gaithersburg and Germantown are in 2nd and 3rd place. *Id.* Silver Spring is in 5th place and Rockville is in 7th place. *Id.* If these cities anchored their own district, then an all-district Council may result in diversity greater than current and past Councils because it will allow minority candidates to compete with the political establishment. Such competition will foster a more diverse set of candidates hopefully leading to an even more diverse Council. This structural reform will lock in increased competition and cause the resulting minority representation to be enduring.

Even now, residents in all parts of Montgomery County have shown an increasing willingness to vote for minority district Councilmembers. In 2018, Councilmember Craig Rice was elected by 71% of the voters in the 2nd District, which is entirely Up-County, and Councilmember Nancy Navarro was elected by the voters in the 4th District, which is mostly Mid- and Up-County. See Maryland State Government Elections Website (elections.maryland.gov).

commission. If a resident is not willing to make that commitment publicly during the appointment process, then the Council should not consider that person for the commission.

Seemingly, the only obstacle to more minority representation on the Council is the lack of more districts (or the lack of more districts in Up-County).

Also, during the September 11, 2019 Commission meeting, County Executive Elrich said that seats with greater populations tend to have fewer female representatives. A review of at-large Councilmembers since 2002 shows that there have been two different female at-large members and eight different male at-large members. Further, since 2002, males have served 15 at-large terms and females have served five at-large terms. At least on its face, this data sample shows that at-large representation appears to have a disparate impact on female candidates. Converting the at-large seats to district seats would give female candidates more political opportunities. *See also* Mark Lautman Written Testimony for Listening Session #4 (linking at-large voting to a discriminatory impact on LGBT candidates) (Appendix D).

Finally, term limits helped cause the diversity of the current Council. Due to the implementation of term limits prior to the last election, three of the four at-large member incumbents were required to step down clearing the way for a competition between a diverse slate of candidates. *See* 2019 Report of Committee to Recommend Funding for the Public Election Fund. “Those openings, and the advent of public financing, triggered record numbers of candidates and vigorous campaigns. In 2022, by contrast, although term limits will open another 3 offices, including one council-at-large seat, it seems reasonable to expect there will be fewer open seats, fewer candidates and smaller payouts than in 2018.” *Id.* at 1. The Minority Statement also connected term limits to increased competition: “[A]n open seat created by term limits is more of a driving force in getting candidates to run for that office, rather than any potential for public financing.” *Id.* at 3. In other words, the competition for seats without incumbents is what caused the current diverse Council not the existence of at-large seats. We expect district seats without incumbents to be even more competitive and diverse because those campaigns are not as costly.⁶

V. The Legitimacy Of The Council Derives From The Consent of County Residents

The Montgomery County Charter is a living document that can be amended when it no longer serves the needs of the citizens. **The majority of the residents at the listening sessions and through correspondence expressed their frustration with the effectiveness and structure of the Council.** In the United States, the method to resolve important issues is through voting. Thus, if voters deem the Council structure to be a mistake, then the way to repair that mistake is through a vote on the Council structure. The role of the Council is to serve the people. “With all due respect, these are [the people’s] chambers.” *See* recorded testimony of Gail Weiss, Bethesda resident, starting at marker 6:00, Listening Session #4.

Voting is the best way to resolve controversial issues because both sides have the opportunity to have their voices heard while making their case. Indeed, such a vote is necessary on the issue of Council structure because it is an absolute right for the people to be able to consent to their form of government. The ballot box provides the mechanism for giving that consent. Voters can disagree in good faith over their form of government, but there should be no

⁶ If some Commission members seek to ensure diversity on future Councils, then we are willing to consider reducing the number of terms Councilmembers may serve as an issue for the Commission’s next report.

disagreement about the right to vote on it. As Alexander Bush, a Rockville resident, noted in his testimony, if someone allows a policy disagreement on an issue to prevent a vote on it, then that person's "problem is with democracy." *See* recorded testimony starting at marker 47:00, Listening Session #1. Further, after a fair contest, the voters on the losing side are usually able to abide by the outcome because they were part of the process. **When there is no process, the tempers of such voters stay at a boiling point.**

The Report recognizes the importance of voting but denies citizens the opportunity to do so on the most basic issue of Council structure. **Rather, the Report encourages residents to keep voting for a selection of at-large candidates even though these same residents believe that these positions are irredeemably unsuited to their needs.** Voting for different candidates does not repair a broken process; at-large seats naturally limit candidates from outside the establishment due to the high campaign costs. Further, money from special interest groups works to limit voters' knowledge about non-traditional candidates for at-large seats. In voters' minds, there is no ready alternate for them to vote for in order to express their frustration with a rigged system. However, the ability to vote for a district-only Council does give voters a ready alternative to the status quo, *i.e.*, "None of the Above." A former Commission Chairman succinctly framed the issue: "Should the wishes of the voters be ignored? [The 2018 Commission] felt the answer was 'no.'" *See* Written Testimony of Paul M. Bessel at 1 (Appendix D). We agree that the rights of voters should be respected.

In the 30 years since the introduction of current Council structure, the Commission, time and time again, was called upon to review its effectiveness. The fact that this issue has been debated so frequently on the Commission is not evidence that the issue has been resolved, but rather that there is a true hunger by residents for change. However, the political establishment kills the issue by claiming to know what is best, rather than letting voters decide. By withholding this option from voters in the form of a recommendation to the Council, the Commission Report again acts to disenfranchise County residents.⁷

VI. The Proposed Benefits of At-Large Representation Do Not Outweigh Their Negative Impacts On Montgomery County Citizens

While we have already addressed most of the points raised in the Report, we wanted to comment on the remainder here. **First, the Report places great weight on their argument that the current Council structure allows up to five members to address any issue brought to them by a resident.** The Report assumes that at-large members and residents have unfettered

⁷ We are aware that in 2004 a proposed Charter amendment placed on the ballot for district-only representation on the Council failed to pass by approximately 80,000 votes. *See* Sept. 24, 2019 Wellons Memo at 2 (Appendix G). However, as shown above, the County has evolved tremendously over the past 16 years in terms of population, campaign costs, and the increased accountability demanded by residents of the Council. In fact, the most accurate indication we have concerning public opinion about the Council was the imposition of term limits which passed by a vote of 299,713 "For" versus 129,761 "Against" in 2016. This more recent gauge of public dissatisfaction with the Council along with changing circumstances leads us to the conclusion that this issue is ripe for reconsideration.

access to each other. **We heard disturbing testimony at a listening session that this is not the case.** Apparently, at-large members are required to get permission from district members before they can meet with constituents about matters within that district. *See* Written Statement by Kimblyn Persuad at 1-2 (Appendix D). When the Wheaton Coalition reached out to the Council about certain issues, they experienced the following:

The most enlightening calls I made was to Councilmember Hans Reimer, where I was told, he needed to get permission from Councilmember Navarro in order to take a tour, and he really did ask for permission, because he called me back to say, he could take the tour. Of course, still confused, I called Councilmember Leventhal to ask if it's true, they really needed permission to take our tour, and he confirmed, that they needed to let the District Representative know what they were doing. . . . The District Council member has the last word on anything concerning their district. Leaving us, the constituents with only one voice, not five potential voices.

Id. at 2-3. No doubt, some district councilmembers have denied such permission to their at-large colleagues to assist residents with their local needs. This pattern and practice at the Council, whether formalized or not, completely destroys the myth that the current Council structure always provides County residents with the assistance and resources of five members instead of one. Assigning districts to all Councilmembers will allow easier and unrestricted access between residents and their members.

Another argument raised in the Report is that the current Council structure allows for a countywide perspective that may be lacking if there were only district representatives. This argument assumes that district members are too “parochial” and are incapable of viewing issues from a countywide perspective. **It has been very clear that the current Council structure has NOT provided a proper balance for County residents. In fact, voting records indicate that district and at-large members vote overwhelmingly in a lockstep manner.** A review of the open data portal for Montgomery County (data.montgomerycounty.gov) shows that there have been 159 bills acted upon by the Council since 2016. Of this total, 150 bills (94.3%) have been passed by unanimous vote. Here is the breakdown for all Council activity on bills since 2016:

Council Vote Tally	Number Of Bills Passed By This Voting Tally	Percentage Of Bills Passed By This Voting Tally
Unanimous	150	94.3%
One Dissenting Vote	5	3.1%
Two Dissenting Votes	3	1.9%
Three Dissenting Votes	1	0.7%
Four Dissenting Votes	0	0
Bill Failed	0	0

Based on this record, there does not appear to be any difference in how district and at-large members view any issue, countywide or not. Thus, there should not be a loss of countywide perspective if the at-large positions are eliminated.

As for at-large members representing the interests of all County residents, Laurie Halverson, who spoke at the February 8, 2020 listening session said, “Let’s look at the issue of transportation for example. Last December, Councilmember Tom Hucker organized an event where 300 people rallied on a Monday evening to oppose Governor Hogan’s Traffic Relief Plan. Mr. Hucker organized the rally, convincing the leader of the Sierra Club, Marc Elrich and other elected officials to attend. Governor Hogan claims that 70% of Prince George and Montgomery County residents support his plan yet these 300 rally-goers get all the attention.” This begs the question, where were the four at-large Councilmembers who could have represented the voices of those County residents who have been begging for traffic congestion relief?

In addition, the Commission was never given any concrete examples of current or former district members who were considered too narrow-minded. This over-parochial district bogeyman, raised as a problem in the Report, is much like Bigfoot, much discussed but never seen. Indeed, district members have shown that they are capable of leading the Council on countywide initiatives. District 3 Councilmember Sidney Katz led the effort to ban smoking in certain outdoor serving areas. *See* Council Resolution No. 19-54. District 5 Councilmember Tom Hucker was responsible for the establishment of a limit on lead in school drinking water. *See* Council Resolution No. 19-91. District 2 Councilmember Craig Rice spearheaded the recognition by the County of the service of African-American women in WWII. *See* Council Resolution No. 19-296. District 5 Councilmember Tom Hucker is even running foreign policy out of the County Council. *See* Council Resolution No. 19-319 (opposing nuclear war).⁸ Necessarily, any countywide issue originates from some place. They do not materialize out of thin air so faintly that only an at-large member can discern them. Rather, these countywide issues come from citizens living in districts with members dedicated to their service. When asked at the November 13, 2019 Commission meeting, Councilmember Glass stated that district members are able to assess countywide issues through the lens of their district.

In the September 11, 2019 Commission meeting, County Executive Elrich stated that he does not foresee any budget issues if the Council is represented by district members only. He thought that the finite amount of available money in any future budget would act as a check on any district receiving too much funding or projects. Members would have to prioritize their district’s needs and justify them at the Council. We are sure that there will be trade-offs. This is

⁸ District 1 Councilmember Andrew Friedson, who abstained from the vote, stated, “I didn’t run for the County Council to take a stand on foreign policy or nuclear war. I think my focus has been on really getting back to the basics of county service and county government. Making sure we are really doing the nuts and bolts work that residents expect, and that really affects quality of life on a daily basis.” *See* Dec. 10, 2019 Bethesda Beat Article entitled “I Didn’t Run for the County Council To Take a Stand on Foreign Policy” (by Kate Masters). Councilmember Friedson had the right approach on this particular issue. We also agree with his general approach to Council issues, which can be applied across district boundaries.

called a compromise. To the extent that anyone thinks that this will lead to runaway budgets, let us suggest that the opportunity exists for these types of compromises now but on a countywide scale. For instance, at-large members could vote in favor of certain district projects in return for a favorable vote by the district member for a costly project promised by at-large members to their donors. Both these projects wanted by the district and at-large members may be beneficial to the County, but the costs most likely would be higher than if only district members were involved.⁹

Finally, without any analysis, the Report emphasizes that other nearby counties are adopting a hybrid structure so it must be good. However, the Howard County Charter Review Commission just recommended that their district-only Council be increased from five districts to seven districts in order to “bring members closer to their districts” and provide “better support for constituents and their needs.” *See* Howard County Charter Review Commission Final Report, dated April 30, 2020, at 5. Fairfax County, the county most comparable to Montgomery County, has nine district seats with only one at-large member who serves as a dedicated chairman (a position without equal in Montgomery County) on its Board of Supervisors (council-equivalent). Anne Arundel County has seven district-only seats on its council. A review of the council size and composition of other jurisdictions reveals a mix of district-only and hybrid (district and at-large) county and city governing authorities. *See* Appendix G. And, as pointed out earlier, none of these governing entities have districts as large and populous as Montgomery County. Further, any decisions regarding the best governing practices are intensely local. Thus, that a couple of counties changed their council structure recently should not be given any unduly proportional weight. *See* Mark Lautman Written Testimony for Listening Session #4 (noting that five “prominent progressive counties on the west coast” have no at-large representation on their governing bodies) (Appendix D). We find it ironic that the Commission holds out examples of other people voting on this issue as a reason to withhold that same right from Montgomery County citizens.

Conclusion and Recommendation

For all of the above reasons, **we recommend to the Council that a proposed Charter amendment be placed on the ballot regarding district-only representation.** However, because our proposal was narrowly defeated by a 5-4 margin during a Commission vote, the Charter Review Commission will be the only nine County residents voting on this issue in 2020. Until the

⁹ The Report asserts that the Council’s current structure is consistent with the organization of the United States Congress. However, this comparison does not withstand scrutiny. The United States Constitution sets forth distinct sizes, requirements, and roles for the House and Senate to ensure proper checks and balances in the federal government, and each body has its own voting. This was the result of an equitable arrangement between large and small states. *See Federalist Papers*, No. 62. The Montgomery County Charter does not make any distinction between district and at-large members, and they both vote in the Council. To make the Report’s comparison workable, the Charter would need to be amended to provide for a second legislative body comprised of at-large members assigned to distinct regions of the County.

entire County is able to vote on this suggested structural reform of the Council, we expect that it will continue to be a perennial item on future Commission agendas.

Submitted by:

Albert Lauer

Katherine Gugulis

Susan Miles

Christopher Danley

Dr. Nichole Gibbs Thomas¹⁰

¹⁰ Due to the death of her spouse, Dr. Nichole Gibbs Thomas was absent from the Commission meeting on May 13, 2020, at which the Commission voted to recommend no changes to the current size and structure of the Council. Dr. Gibbs Thomas requested to Council staff (Christine Wellons), via phone on June 16, 2020, that her name be added in support of this Minority Report.

ATTACHMENT TO MINORITY REPORT OF THE CHARTER REVIEW COMMISSION, JUNE 18, 2020

Notes for December 2019 Montgomery County Charter Review Commission Meeting

Prepared by Nichole Gibbs Thomas, Ph.D.

[Member CRC](#)

Montgomery County Charter Review Commissioner

Senior Research Scientist, AIRMSS LLC

Clinical Faculty, Seton Hall University

December 11, 2019

ABSTRACT

To determine the standing of Montgomery County in terms of councilmember to residents ratio relative to (1) other nearby counties and (2) jurisdictions with populations of 800,000 and 1.6 million, four research questions were posed. Data from the U.S. Census Population Estimates (Wellons, 2019) was analyzed. It was determined that a minimum of 11 calculations, including aggregate, district, and/or at-large ratios, were needed to fully answer each of the four research questions. Aggregate Ratio was operationalized as the ratio of all councilmembers, regardless of type, to residents. District Ratio was operationalized as the ratio of District council members only to residents. At-Large Ratio was operationalized as the ratio of at-large councilmembers only to residents. The results are that Montgomery County performs relatively poorly in 9 of 11 measures. Montgomery County ranks last, with the worst ratio of councilmember to residents ratio for 7 of 11 measures and second to last in 2 of 11 measures. For the remaining 2 measures, Montgomery County ratios were in the middle of the range. The results of all data analyses are presented in this document.

RESEARCH QUESTION #1:

HOW DOES MONTGOMERY COUNTY COMPARE TO NEARBY JURISDICTIONS THAT UTILIZE BOTH DISTRICT AND ATLARGE SEATS IN TERMS OF COUNCILMEMBER TO RESIDENTS RATIO?

1. Of the 10 nearby jurisdictions to Montgomery County, 3 nearby jurisdictions utilize district and at-large seats (not including a singular at-large president or at-large chair).

- A. Relative to these 4 jurisdictions utilizing both district and at-large seats (not including a singular at-large president or at-large chair), for [Aggregate Ratio](#) of Councilmember to Residents, Montgomery County comes in last.
 - 1. Frederick County: 1 member: 36,521 residents
 - 2. Washington, DC: 1 member: 54,035 residents
 - 3. PG County: 1 member: 82,664 residents
 - 4. Montgomery County: 1 member: 116,952 residents

ATTACHMENT TO MINORITY REPORT OF THE CHARTER REVIEW COMMISSION, JUNE 18, 2020

B. Relative to these 4 jurisdictions utilizing both district and at-large seats (not including a singular at-large president or at-large chair), for [District Ratio](#) of Councilmember to Residents, Montgomery County comes in last.

1. Frederick County: 1 member: 51,130 residents
2. Washington, DC: 1 member: 87,807 residents
3. PG County: 1 member: 101,034 residents
4. Montgomery County: 1 member: 210,513 residents

C. Relative to these 4 jurisdictions utilizing both district and at-large seats (not including a singular at-large president or at-large chair), for [At-Large Ratio](#) of Councilmember to Residents, Montgomery County comes in second to last, beating Prince Georges County, but lagging behind Frederick County and Washington, DC.

1. Frederick County: 1 member: 127,824 residents
2. Washington, DC: 1 member: 140,491 residents
3. Montgomery County: 1 member: 263,142 residents
4. PG County: 1 member: 454,654 residents

RESEARCH QUESTION #2:

HOW DOES MONTGOMERY COUNTY COMPARE TO NEARBY JURISDICTIONS THAT UTILIZE DISTRICT ONLY & DISTRICT AND AT-LARGE SEATS, IN TERMS OF COUNCILMEMBER TO RESIDENTS RATIO?

2. Of the 10 nearby jurisdictions to Montgomery County, 8 utilize district (district only and district & district and at-large) seats.

A. Relative to these 9 jurisdictions, for [Aggregate Ratio](#) of Councilmember to Residents, Montgomery County comes in last.

1. Frederick County: 1 member: 36,521 residents
2. Baltimore City: 1 member: 40,166 residents
3. Loudon County: 1 member: 45,206 residents
4. Washington, DC: 1 member: 54,035 residents
5. Howard County: 1 member: 64,639 residents
6. Anne Arundel County: 1 member: 82,290 residents
7. PG County: 1 member: 82,664 residents
8. Fairfax County: 1 member: 115,080 residents
9. Montgomery County: 1 member: 116,952 residents

ATTACHMENT TO MINORITY REPORT OF THE CHARTER REVIEW COMMISSION, JUNE 18, 2020

B. Relative to these 9 jurisdictions, for [District Ratio](#) of Councilmember to Residents, Montgomery County comes in last.

1. Baltimore City: 1 member: 43,035 residents
2. Loudon County: 1 member: 50,856 residents 3. Frederick County: 1 member: 51,130 residents 4. Howard County: 1 member: 64,639 residents
5. Anne Arundel County: 1 member: 82,290 residents
6. Washington, DC: 1 member: 87,807 residents
7. PG County: 1 member: 101,034 residents
8. Fairfax County: 1 member: 127,866 residents
9. Montgomery County: 1 member: 210,513 residents

C. Relative to all 11 nearby jurisdictions, for [Aggregate Ratio](#) of Councilmember to Residents, Montgomery County comes in last.

1. Alexandria, VA: 1 member: 22,933 residents
2. Frederick County: 1 member: 36,521 residents
3. Baltimore City: 1 member: 40,166 residents
4. Loudon County: 1 member: 45,206 residents
5. Arlington County: 1 member: 47,504 residents
6. Washington, DC: 1 member: 54,035 residents
7. Howard County: 1 member: 64,639 residents
8. Anne Arundel County: 1 member: 82,290 residents
9. PG County: 1 member: 82,664 residents
10. Fairfax County: 1 member: 115,080 residents
11. Montgomery County: 1 member: 116,952 residents

RESEARCH QUESTION #3:

HOW DOES MONTGOMERY COUNTY COMPARE TO LARGE CITIES WITH POPULATIONS BETWEEN 800,000 AND 1.6 MILLION THAT UTILIZE BOTH DISTRICT AND AT-LARGE SEATS?

3. Of the 11 large cities with populations between 800,00 and 1.6 million, 4 use both district and at-large seats.

A. Relative to these 4 cities utilizing both district and at-large seats, for [Aggregate Ratio](#) of Councilmember to Residents, Montgomery County comes in second to last.

**ATTACHMENT TO MINORITY REPORT OF THE CHARTER REVIEW COMMISSION,
JUNE 18, 2020**

1. Charlotte, NC: 1 member: 72,708 residents
 2. Philadelphia, PA: 1 member: 93,185 residents
 3. Mecklenburg County, NC: 1 member: 121,545 residents
 4. Montgomery County, MD: 1 member: 116,952 residents
 5. Salt Lake County, UT: 1 member: 128,070 residents
- B. Relative to these 4 cities utilizing both district and at-large seats, for [District Ratio](#) of Councilmember to Residents, Montgomery County comes in last.
1. Charlotte, NC: 1 member: 126,643 residents
 2. Philadelphia, PA: 1 member: 158,414 residents
 3. Mecklenburg County, NC: 1 member: 182,317 residents
 4. Salt Lake County, UT: 1 member: 192,106 residents
 5. Montgomery County, MD: 1 member: 210,513 residents
- C. Relative to these 4 cities utilizing both district and at-large seats, for [At-Large Ratio](#) of Councilmember to Residents, Montgomery County comes in third of five.
1. Charlotte, NC: 1 member: 174,500 residents
 2. Philadelphia, PA: 1 member: 226,305 residents
 3. Montgomery County, MD: 1 member: 263,142 residents
 4. Mecklenburg County, NC: 1 member: 364,634 residents
 5. Salt Lake County, UT: 1 member: 384,211 residents

RESEARCH QUESTION #4:

HOW DOES MONTGOMERY COUNTY COMPARE TO LARGE CITIES WITH POPULATIONS BETWEEN 800,000 AND 1.6 MILLION THAT UTILIZE DISTRICT ONLY & DISTRICT AND AT-LARGE SEATS IN TERMS OF COUNCILMEMBER TO RESIDENTS RATIO?

4. Of the 11 large cities with populations between 800,000 and 1.6 million, all utilize district (district only and district & district and at-large) seats.

- A. Relative to these cities, for [Aggregate Ratio](#) of Councilmember to Residents, Montgomery County comes in 7th of 12th.
1. Charlotte, NC: 1 member: 72,708 residents
 2. Dallas, TX: 1 member: 96,075 residents
 3. Austin, TX: 1 member: 96,425 residents
 4. San Jose, CA: 1 member: 103,012 residents

**ATTACHMENT TO MINORITY REPORT OF THE CHARTER REVIEW COMMISSION,
JUNE 18, 2020**

- | | |
|----------------------------|-----------------------------|
| 5. Honolulu County, HI: | 1 member: 108,898 residents |
| 6. Philadelphia, PA: | 1 member: 93,185 residents |
| 7. Montgomery County, MD: | 1 member: 116,952 residents |
| 8. Mecklenburg County, NC: | 1 member: 121,545 residents |
| 9. Salt Lake City, UT: | 1 member: 128,070 residents |
| 10. San Antonio, TX: | 1 member: 153,223 residents |
| 11. San Diego, CA: | 1 member: 158,442 residents |
| 12. Hennepin County, MN: | 1 member: 179,918 residents |
- B. Relative to these cities, for [District Ratio](#) of Councilmember to Residents, Montgomery County comes in last.
- | | |
|-----------------------------|-----------------------------|
| 1. Dallas, TX: | 1 member: 96,075 residents |
| 2. Austin, TX: | 1 member: 96,425 residents |
| 3. San Jose, CA: | 1 member: 103,012 residents |
| 4. Honolulu County, HI: | 1 member: 108,898 residents |
| 5. Charlotte, NC: | 1 member: 126,643 residents |
| 6. San Antonio, TX: | 1 member: 153,223 residents |
| 7. Philadelphia, PA: | 1 member: 158,414 residents |
| 8. San Diego, CA: | 1 member: 158,442 residents |
| 9. Hennepin, County, MN: | 1 member: 179,918 residents |
| 10. Mecklenburg County, NC: | 1 member: 182,317 residents |
| 11. Salt Lake City, UT: | 1 member: 192,106 residents |
| 12. Montgomery County, MD: | 1 member: 210,513 residents |

REFERENCE:

Wellons, C. (2019, December 11). *Council size and composition – other jurisdictions*. Data sheet presented at Montgomery County Charter Review Commission meeting. Rockville, MD.

APPENDIX B

Charter of Montgomery County, Maryland

Preamble

We, the people of Montgomery County, Maryland, a body corporate and politic, under the Constitution and general laws of the State of Maryland, do adopt this Charter as our instrument of government.

Article 1. Legislative Branch.

Sec. 101. County Council.

All legislative powers which may be exercised by Montgomery County under the Constitution and laws of Maryland, including all law making powers heretofore exercised by the General Assembly of Maryland but transferred to the people of the County by virtue of the adoption of this Charter, and the legislative powers vested in the County Commissioners as a District Council for the Montgomery County Suburban District, shall be vested in the County Council. The legislative power shall also include, but shall not be limited to, the power to enact public local laws for the County and repeal or amend local laws for the County heretofore enacted by the General Assembly upon the matters covered by Article 25A, Annotated Code of Maryland, 1957, as now in force or hereafter amended, and the power to legislate for the peace, good government, health, safety or welfare of the County. Nothing herein contained shall be construed to authorize or empower the County Council to enact laws or regulations for any incorporated town, village or municipality in said County on any matter covered by the powers granted to said town, village or municipality by the act incorporating it or any subsequent act or acts amendatory thereto.

Editor's note—The authorization of a road project is an executive rather than a legislative administrative act. *Eggert v. Montgomery County Council*, 263 Md. 243, 282 A.2d 474 (1971).

See County Attorney Opinion dated 3/12/09 explaining the Inspector General's authority to investigate an ongoing personnel matter as part of the goal of detecting and deterring fraud, waste and abuse. See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion 6/8/04-A describing the possible violation of separation of powers in a law authorizing the Council to set certain transportation fees without County Executive approval. See County Attorney Opinion dated 4/21/04 discussing the limited authority of the Commission on People With Disabilities and the role of the County Attorney as the legal advisor for the County. See County Attorney Opinion No. 97-1 dated 6/27/97 explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter.

Sec. 102. Composition and Election.

The Council shall be composed of nine members, each of whom shall be a qualified voter of Montgomery County. Four Councilmembers shall be nominated and elected by the qualified voters of the entire County. Each of the five other members of the Council shall, at the time of Nomination and election and throughout the member's term of office, reside in a different Council district, and shall be nominated and elected by the qualified voters of that district. Any change in the boundaries of a Council district after a member is elected shall not render the member ineligible to complete the term for which

the member was elected. No member of the Council shall hold any other office of profit in state, county or municipal government. No member of the Council shall be eligible for appointment during the member's term of office to any other office or position carrying compensation created by or under this Charter, except to County Executive in the event of a vacancy. (Election of 11-2-82; election of 11-4-86; election of 11-3-98; election of 11-4-14.)

Editor's note—See County Attorney Opinion No. 90.003 dated 3/30/90-A explaining that the County Charter requires a candidate for Council to reside in the councilmanic district that the person seeks to represent.

Sec. 103. Council Districts.

Montgomery County shall be divided into five Council districts for the purpose of nominating and electing five members of the Council. Each district shall be compact in form and be composed of adjoining territory. Populations of the Council districts shall be substantially equal. (Election of 11-3-98.)

Editor's note—See County Attorney Opinion dated 3/24/11 discussing the redistricting process. See County Attorney Opinion dated 3/20/91 explaining that the Redistricting Commission may consider and recognize natural and public municipal boundaries in creating new boundaries for councilmanic districts [updates 1981 analysis]. See County Attorney Opinion dated 3/20/91-A describing the impact of the Voting Rights Act on redistricting.

Sec. 104. Redistricting Procedure.

The boundaries of Council districts shall be reviewed in 1972 and every tenth year thereafter. Whenever district boundaries are to be reviewed, the Council shall appoint, not later than February 1 of the year before the year in which redistricting is to take effect, a commission on redistricting. The Commission shall be composed of eleven registered voters who reside in the County. The Commission shall include at least one but no more than four members of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the last preceding regular election. At least one member of the Commission shall reside in each Council district. The Commission shall, at its first meeting, select one of its members to serve as its chair. No person who holds any elected office shall be eligible for appointment to the Commission.

By November 15 of the year before the year in which redistricting is to take effect, the Commission shall present a plan of Council districts, together with a report explaining it, to the Council. Within thirty days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If within ninety days after presentation of the Commission's plan no other law reestablishing the boundaries of the Council districts has been enacted, then the plan, as submitted, shall become law. After any redistricting plan or any other law amending the boundaries of Council districts becomes law, the boundaries of the Council districts so established shall apply to the next regular election for Councilmembers and to any special election held or appointment made to fill a vacancy on the Council that occurs after those boundaries are established. (Election of 11-2-82; election of 11-3-98; election of 11-4-14; election of 11-6-18.)

Editor's note—See County Attorney Opinion No. 95.003 dated 12/6/95 explaining that the Council retains the authority to control whether the Commission on Redistricting plan becomes law, but the Council must take action within 90 days of receiving the plan. See County Attorney Opinion dated

1/9/92 explaining that not all meetings fall within the Open Meetings Act and, therefore, not all meetings need to be open to the public or included in public notice.

Sec. 105. Term of Office.

Members of the Council shall hold office for a term beginning at noon on the first Monday of December next following the regular election for the Council and ending at noon on the first Monday of December in the fourth year thereafter. In no case shall a Councilmember be permitted to serve more than three consecutive terms. Any member of Council who will have served three or more consecutive terms at noon on the first Monday of December 2018 shall be prohibited from commencing to serve a successive term of office at that time. For purposes of this Section, service of a term includes complete service of a full term and partial service of a full term. Partial service of a full term means service by a Councilmember of more than two years of a term. (Election of 11-8-16.)

Sec. 106. Vacancies.

A vacancy shall occur when any member of the Council shall, before the expiration of the term for which the member was elected, die, resign the office, become disqualified for membership on the Council, or be removed from office. Unless the Council has provided by law for filling a vacancy by special election, the following process for filling a vacancy shall apply. When a vacancy has occurred, a majority of the remaining members of the Council shall appoint a person to fill the vacancy within thirty days. An appointee to fill a vacancy, when succeeding a party member, shall be a member of the same political party as the person elected to such office at the time of election. If the Council has not acted within thirty days, the County Executive shall appoint a person to fill the vacancy within ten days thereafter. If a person having held the vacant position was a member of a political party at the time of election, the person appointed by the County Executive shall be the nominee of the County Central Committee of that party. An appointee shall serve for the unexpired term of the previous member. If the previous member was elected by the voters of a Council district, any person appointed to fill that vacancy shall reside in the district represented by the previous member as it exists when the vacancy occurs. (Election of 11-2-82; election of 11-8-88; election of 11-3-98; election of 11-4-14.)

Editor's note—See County Attorney Opinion dated 2/19/99 discussing filling an interim Council vacancy by temporary appointment pending a special election.

Sec. 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. (Election of 11-7-06.)

Sec. 108. Officers of the Council.

The Council shall elect, from among its members, a president of the Council, who shall preside over meetings of the Council. The Council may provide for the selection of such other officers or employees as it may deem desirable for the exercise of its powers. The Council may employ or retain special legal counsel to assist it in the exercise of its powers, and may provide by law for special legal counsel to assist, advise, or represent any office of the legislative branch in the exercise of its duties.

Any special legal counsel employed or retained under this section shall be subject to appropriation and is not subject to Section 213. (Election of 11-6-84; election of 11-5-02.)

Sec. 109. Sessions.

The first and third Tuesdays of each month, and such additional days as the Council may determine, are designated as days for the enactment of legislation, but the Council shall not sit for more than forty-five days in each year for the purpose of enacting legislation. When a first or third Tuesday is an official holiday, the next succeeding Tuesday business day shall be a day for the enactment of legislation. The Council may sit in nonlegislative sessions at such other times as it may determine. In nonlegislative sessions, the Council may adopt rules and regulations which implement or provide for the administration or execution of legislation under procedures and provisions for notice and hearing prescribed by law. The Council shall not take or discuss any action except in public session or in a closed session expressly allowed by the Council rules of procedure. The Council rules of procedure shall permit the same or greater public access to Council sessions as the state Open Meetings Act or any successor state law. The Council shall not make or confirm any appointment in a closed session. (Election of 11-4-80; election of 11-2-82; election of 11-5-02.)

Editor's note—In *Montgomery Citizens League v. Greenhalgh*, 253 Md. 151, 252 A.2d 242 (1969), it was held that the council need not designate an emergency extra session a legislative day separate and apart from the call of the session.

See County Attorney Opinion dated 7/14/00 discussing the need to modernize the Charter in relation to access to documents. See County Attorney Opinion dated 6/19/00 recommending an amendment to the Charter to conform with State law.

Sec. 110. Exercise of Zoning, Planning and Other Powers.

In the exercise of powers authorized by any act of the General Assembly or the Constitution of Maryland, other than the law making power vested in it by Article XI-A of the Constitution and the grant of express powers in Article 25A, Annotated Code of Maryland, 1957, the Council shall follow the procedure set forth in such law or section of the Constitution and the exercise thereof shall be effected in the manner prescribed therein. The powers relating to zoning, planning or subdividing shall be exercised as prescribed by law. (Election of 11-4-86; election of 11-8-88.)

Sec. 111. Enactment of Legislation.

The Council shall enact legislation only after public hearing upon reasonable notice. No legislation shall be enacted by the Council unless it receives the affirmative vote of five members of the Council. Legislation containing a section declaring that it is necessary for the immediate protection of the public health, safety, or interest, and enacted by the affirmative vote of at least six members of the Council, shall be expedited legislation. Expedited legislation, as defined in this section, is the emergency legislation referred to in Article XI-A, Section 3, of the Constitution of Maryland. Any vote cast by a member on any legislation shall be recorded in the journal of the Council. (Election of 11-4-86; election of 11-5-02.)

Editor's note—See County Attorney Opinion dated 1/13/09 discussing soliciting money as a form of free speech.

Sec. 112. Effective Date of Legislation.

All legislation, except expedited legislation, shall take effect ninety-one days after the date when it becomes law, unless a later effective date is prescribed in the legislation. Expedited legislation shall take effect on the date when it becomes law, unless a different effective date is prescribed in the legislation. (Election of 11-2-82; election of 11-5-02.)

Sec. 113. Publication of Legislation.

All legislation shall be published as required by the Constitution and laws of Maryland. In addition, a summary of any legislation, except expedited legislation, enacted by the Council shall be published before the date when it takes effect, in such manner as the Council shall prescribe by law. A summary of expedited legislation shall be published promptly after enactment. (Election of 11-5-02.)

Sec. 114. Referendum.

Any legislation enacted by the Council shall be submitted to a referendum of the voters upon petition of five percent of the registered voters of the County except legislation (1) appropriating money or imposing taxes, (2) prescribing Council districts, (3) authorizing the issuance of bonds or other financial obligations for a term of less than twelve months, and (4) authorizing obligations for public school sites, construction, remodeling, or public school buildings, whenever the total amount of such obligations authorized to be issued in any one year does not exceed one-fourth of one percent of the assessable base of the County. (Election of 11-7-78; election of 11-6-90; election of 11-4-14.)

Editor's note—Charter § 114 is cited in *Montgomery County Volunteer Fire-Rescue Association v. Montgomery County Board of Elections*, 418 M.463, 15 A.3d 798 (2011), and quoted in *Doe v. Montgomery County Board of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Sec. 115. Referendum Procedure.

Any petition to refer legislation to the voters of the County shall be filed with the Board of Elections within ninety days after the date when the legislation becomes law, provided that fifty percent of the required signatures accompanying the petition are filed within seventy-five days after the date when the legislation becomes law. When a referendum petition that contains the required signatures has been filed, the legislation to be referred shall not take effect until thirty days after its approval by a majority of the registered voters voting thereon. Expedited legislation shall remain in effect from the date it becomes law notwithstanding the filing of a petition for referendum, but shall be repealed thirty days after its rejection by a majority of the registered voters voting thereon. (Election of 11-7-78; election of 11-5-02.)

Editor's note—Charter § 115 is cited in *Montgomery County Volunteer Fire-Rescue Association v. Montgomery County Board of Elections*, 418 M.463, 15 A.3d 798 (2011), and in *Doe v. Montgomery County Board of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Sec. 116. Legislative Procedure.

Consistent with law and the provisions of this Charter, the Council shall, by resolution, prescribe its rules of procedure and provide for the publication of its proceedings.

Sec. 117. Limitations.

Neither the Council, nor any member thereof, shall appoint, dismiss, or give directions to any individual employee of the Executive Branch of the County Government.

Editor's note—See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants.

Sec. 118. Removal of Councilmembers.

A member of the County Council may be removed from office by the affirmative vote of not less than six members of the Council after a public hearing and upon a finding that the Councilmember is unable by reason of physical or mental disability to perform the duties of the office. The decision of the Council may be appealed by the removed Councilmember within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make de novo determinations of fact. A member of the County Council also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland. (Election of 11-2-82; election of 11-4-86.)

Article 2. Executive Branch.

Sec. 201. Executive Power.

The executive power vested in Montgomery County by the Constitution and laws of Maryland and by this Charter shall be vested in a County Executive who shall be the chief executive officer of Montgomery County and who shall faithfully execute the laws. In such capacity, the County Executive shall be the elected executive officer mentioned in Article XI-A, Section 3, of the Constitution of Maryland. The County Executive shall have no legislative power except the power to make rules and regulations expressly delegated by a law enacted by the Council or by this Charter. (Election of 11-2-82.)

Editor's note—The authorization of a road project is an executive rather than an administrative act, *Eggert v. Montgomery County Council*, 263 Md. 243, 282 A.2d 474 (1971).

See County Attorney Opinion dated 11/28/11-A regarding the constitutionality of permitting community benefits agreements. See County Attorney Opinion dated 3/12/09 explaining the Inspector General's authority to investigate an ongoing personnel matter as part of the goal of detecting and deferring fraud, waste and abuse. See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion dated 4/12/06, concerning development districts, which cites Charter Section 201. See County Attorney Opinion dated 6/8/04-A describing the possible violation of separation of powers in a law authorizing the Council to set certain transportation fees without County Executive approval. See County Attorney Opinion dated 4/21/04 discussing the limited authority of the Commission on People with Disabilities and the role of the County Attorney as the legal advisor for the County. See County Attorney Opinion dated 7/22/98 commenting on the means of requiring binding dispute resolution process. See County Attorney Opinion No. 97-1 dated 6/27/97 explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter.

Sec. 202. Election and Term of Office.

The County Executive shall be elected by the qualified voters of the entire County at the same time as the Council and shall serve for a term of office commencing at noon on the first Monday of December next following the election, and ending at noon on the first Monday of December in the fourth year thereafter, or until a successor shall have qualified. In no case shall a County Executive be permitted to serve more than three consecutive terms. Any County Executive who will have served three or more consecutive terms at noon on the first Monday of December 2018 shall be prohibited from commencing to serve a successive term of office at that time. For purposes of this Section, service of a term includes complete service of a full term and partial service of a full term. Partial service of a full term means service by a County Executive of more than two years of a term. (Election of 11-2-82; election of 11-8-16.)

Sec. 203. Qualifications.

The County Executive shall have been a resident of Montgomery County for the year preceding the election or appointment, shall be not less than thirty years of age, shall be a qualified voter of Montgomery County and shall not hold any other office of profit in federal, state, county or municipal government. The County Executive shall not, during the term of office, be eligible for appointment to any other County office or position carrying compensation. The County Executive shall devote full time to the duties of the office and shall not participate in any private occupation for compensation. (Election of 11-2-82.)

Editor's note—2000 L.M.C., ch. 4, § 1, added Section 1A-107, County Executive Residency Requirement, to Chapter 1A, Establishing the Structure of County Government, which states that the County Executive must have been a resident of the County for one year before the Executive is elected or appointed.

See County Attorney Opinion dated 11/26/01 explaining that the police department cannot void red-light citations issued based upon an automated traffic control signal, but the County Attorney may do so.

Sec. 204. Compensation.

The compensation of the County Executive shall be prescribed by the Council by law. The council shall not change the compensation of any County Executive during the term of office to which elected. (Election of 11-2-82.)

Editor's note—See County Attorney Opinion dated 2/19/97 explaining that the County Executive has the authority to establish a separate salary schedule for non-merit heads of departments and principal offices within the Executive Branch. [attachment]

Sec. 205. Vacancy.

A vacancy in the office of the County Executive shall exist upon the death, resignation, disqualification, or removal of the County Executive. Unless the Council has provided by law for filling a vacancy by special election, the following process for filling a vacancy shall apply. When a vacancy has occurred, the Council, by a vote of not less than five members, shall appoint a successor to fill the vacancy within forty-five days of the vacancy. An appointee to fill a vacancy, when succeeding a party member, shall be a member of the same political party as the person elected to such office at the time

of election. If the Council has not made an appointment within forty-five days, the Council shall appoint within fifteen days thereafter the nominee of the County Central Committee of the political party, if any, of the person elected to such office. The Chief Administrative Officer shall act as County Executive and perform all the duties of that office until such time as the vacancy has been filled. (Election of 11-2-82; election of 11-4-86; election of 11-8-16.)

Editor's note—See County Attorney Opinion dated 2/19/99 discussing filling an interim Council vacancy by temporary appointment pending a special election.

Sec. 206. Removal of the County Executive.

The County Executive may be removed from office by the affirmative vote of not less than six members of the Council after a public hearing and upon a finding that the County Executive is unable by reason of physical or mental disability to perform the duties of the office. The decision of the Council may be appealed by the County Executive within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make de novo determinations of fact. The County Executive also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland. (Election of 11-2-82; election of 11-4-86.)

Sec. 207. Temporary Absence or Disability.

In the event of the temporary absence or disability of the County Executive, the Chief Administrative Officer shall perform the duties of the County Executive, unless the County Executive shall designate in writing some other person in the Executive Branch.

Sec. 208. Veto.

Upon the enactment of any legislation by the Council, the Council President shall within three days deliver it to the County Executive, who within ten days after receiving it shall approve or disapprove it. If the Executive disapproves such legislation, the Executive shall return it to the Council within 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 Executive. Any legislation which the Executive has neither approved nor disapproved shall become law on the eleventh day after the Executive receives it. The Council may by law further specify how any period of time mentioned in this section is measured. (Election of 11-2-82; election of 11-4-86; election of 11-6-90; election of 11-7-06.)

Editor's note—See County Attorney Opinion dated 1/13/09 discussing soliciting money as a form of free speech. See County Attorney Opinion dated 6/8/04-A describing the possible violation of separation of powers in a law authorizing the Council to set certain transportation fees without County Executive approval.

Sec. 209. Information on Executive Branch.

The County Executive shall provide the Council with any information concerning the Executive Branch that the Council may require for the exercise of its powers.

Editor's note—Section 209 of the Montgomery County Charter was quoted in *Caffrey v. Montgomery County*, 370 Md. 272, 805 A.2d 268 (2002).

See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants.

Sec. 210. Chief Administrative Officer.

The County Executive shall appoint a Chief Administrative Officer subject to confirmation by the Council. The Chief Administrative Officer shall be a professionally qualified administrator who shall serve at the pleasure of the County Executive, with compensation determined by the County Executive subject to the approval of the Council. (Election of 11-2-82.)

Editor's note—See County Attorney Opinion dated 7/8/02 describing the extent to which quasi-judicial officials may engage in political activities. See County Attorney Opinion No. 97-1 dated 6/27/97 explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter. See County Attorney Opinion dated 2/19/97 explaining that the County Executive has the authority to establish a separate salary schedule for non-merit heads of departments and principal offices within the Executive Branch. [attachment]

Sec. 211. Duties of the Chief Administrative Officer.

The Chief Administrative Officer shall, subject to the direction of the County Executive, supervise all departments, offices, and agencies of the Executive Branch, advise the County Executive on all administrative matters and perform such other duties as may be assigned by the County Executive, or by this Charter. (Election of 11-2-82.)

Editor's note—See County Attorney Opinion dated 3/12/09 explaining the Inspector General's authority to investigate an ongoing personnel matter as part of the goal of detecting and deterring fraud, waste and abuse. See County Attorney Opinion dated 12/17/08 discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated 1/8/08 regarding collection of debts owed to the County. See County Attorney Opinion dated 4/10/06-A discussing the appointment and supervision of heads of departments and principal offices. See County Attorney Opinion dated 4/10/06, concerning the Chief Administrative Officer's authority to terminate an appointed office, which quotes Charter Section 211. See County Attorney Opinion dated 7/8/02 describing the extent to which quasi-judicial officials may engage in political activities. See County Attorney Opinion dated 4/13/99 (4/15/99 on cover memo) analyzing the Chief Administrative Officer's authority to make a sole-source contract in excess of \$25,000 without obtaining consent of the director of procurement or the contract review committee. See County Attorney Opinion No. 97-1 dated 6/27/97 explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter. See County Attorney Opinion dated 4/4/91 explaining that a special assistant to the County Executive may serve as the supervisor of the merit system employees assigned to work in the Office of Minority and Multicultural Affairs with no effect on the status and rights of the employees.

Sec. 212. Principal Departments.

In the Executive Branch there shall be an Office of the County Attorney, a Department of Finance and any departments, agencies, offices, or other bodies prescribed by this Charter, or by the Council by law.

Editor's note—See County Attorney Opinion No. 97-1 dated 6/27/97 explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter.

Sec. 213. County Attorney.

The County Executive shall appoint a County Attorney, subject to confirmation by the Council. The County Attorney shall be the chief legal officer of the County, conduct all the law business of the County, be a legal advisor to the Council, and be the legal advisor to the County Executive, all departments, and other instrumentalities of the County Government. The County Attorney shall represent the County in all actions in which the County is a party. The County Attorney and the staff of the office shall engage in no other law practice. The County Attorney may, with the approval of the Council, temporarily employ special legal counsel to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the County Attorney. The County Attorney shall serve at the pleasure of the County Executive but, upon request, shall be entitled to a public hearing before the Council prior to dismissal from office. (Election of 11-2-82; election of 11-6-84.)

Editor's note—See County Attorney opinion dated 12/17/08 discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated 1/8/08 regarding collection of debts owed to the County. See County Attorney Opinion dated 4/21/04 discussing the limited authority of the Commission on People with Disabilities and the role of the County Attorney as the legal advisor for the County. See County Attorney Opinion dated 4/26/99 explaining that a transfer of development rights easement continues to restrict development even when the underlying zoning of the property is changed. See County Attorney Opinion No. 97-1 dated 6/27/97 explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter. See County Attorney Opinion dated 4/18/91 explaining that it is inappropriate for the County Attorney's Office to respond to requests for legal advice from a source outside of the County government.

Sec. 214. Department of Finance.

The Department of Finance shall be the custodian of all County funds, securities and insurance policies; collect taxes, special assessments, license fees and other revenue; manage indebtedness, invest and disburse County funds; prepare an Annual Financial Report containing a detailed account of all monies received and paid out by the County and perform such other functions as shall be prescribed by law. (Election of 11-8-88.)

Editor's note—See County Attorney Opinion dated 6/3/08 discussing public purpose funds and non-public purpose funds. See County Attorney Opinion dated 1/8/08 regarding collection of debts owed to the County.

Sec. 215. Appointments.

The County Executive, after receiving the advice of the Chief Administrative Officer, shall appoint a single officer to head each department, principal office or agency of the Executive Branch, and an officer to fill any position in the Executive Branch designated by law as a non-merit position, all subject to the confirmation of the Council. Except for commissions appointed to advise the Council, the County Executive shall appoint, subject to the confirmation of the Council, all members of boards and commissions unless otherwise prescribed by state law or this Charter. (Election of 11-8-94.)

Editor's note—See County Attorney Opinion dated 11/28/11-A regarding the constitutionality of permitting community benefits agreements. See County Attorney Opinion dated 12/17/08 discussing the authority and role of the Merit System Protection board and the role of the County attorney as legal adviser. See County Attorney Opinion dated 4/10/06-A, discussing the appointment and supervision of heads of departments and principal offices. See County Attorney Opinion dated 1/27/03 explaining that the interagency coordinating board membership provision in the Code does not conflict with the Charter appointment provision or with the State enabling law. See County Attorney Opinion dated 2/19/99 discussing filling an interim Council vacancy by temporary appointment pending a special election. See County Attorney Opinion dated 5/22/98 explaining that a recreation area advisory board does not have the authority to elect representatives to the County Recreation Board; those representatives are appointed by the County Executive. See County Attorney Opinion No. 97-1 dated 6/27/97 explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter. See County Attorney Opinion dated 4/4/91 explaining that a special assistant to the County Executive may serve as the supervisor of the merit system employees assigned to work in the Office of Minority and Multicultural Affairs with no effect on the status and rights of the employees.

Sec. 216. Appointment of Other Employees of the Executive Branch.

All employees of the Executive Branch other than those specifically provided for in this Charter shall be appointed and removed and their salaries shall be fixed under the merit system by the heads of the several departments, offices and agencies of the County.

Editor's note—See County Attorney Opinion dated 12/17/08 discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated 11/12/97 indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion dated 4/4/91 explaining that a special assistant to the County Executive may serve as the supervisor of the merit system employees assigned to work in the Office of Minority and Multicultural Affairs with no effect on the status and rights of the employees.

Sec. 217. Reorganization of the Executive Branch.

The Council may prescribe by law the organization of the Executive Branch of County government. The County Executive may submit to the Council in writing, reorganization plans reallocating powers, functions or responsibilities of the various departments and agencies of the Executive Branch. A reorganization plan shall become law ninety days following its presentation to the Council, if by that time it has not been disapproved by a vote of five members of the Council. (Election of 11-4-86.)

Editor's note—See County Attorney Opinion No. 97-1 dated 6/27/97 explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter.

Sec. 218. Internal Audit.

The County Executive shall cause internal audits of all departments, offices and agencies of the Executive Branch, and other internal audits as prescribed by law, to be performed. (Election of 11-8-88.)

Article 3. Finance.

Sec. 301. Fiscal Year.

The fiscal year of the County shall commence on July 1 of each year and end on June 30 in the following year, unless otherwise prescribed by state law.

Editor's note—See County Attorney Opinion dated 4/7/99 clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

Sec. 302. Six-Year Programs for Public Services, Capital Improvements, and Fiscal Policy.

The County Executive shall submit to the Council, not later than January 15 of each even-numbered year, a comprehensive six-year program for capital improvements. The County Executive shall submit to the Council, not later than March 15 of each year, comprehensive six-year programs for public services and fiscal policy. The six-year programs shall require a vote of at least five Councilmembers for approval or modification. Final Council approval of the six-year programs shall occur at or about the date of budget approval.

The public services program shall include a statement of program objectives and recommend levels of public service by the County government, and shall provide an estimate of costs, a statement of revenue sources, and an estimate of the impact of the program on County revenues and the capital budget.

The capital improvements program shall include a statement of the objectives of capital programs and the relationship of capital programs to the County's long-range development plans; shall recommend capital projects and a construction schedule; and shall provide an estimate of costs, a statement of anticipated revenue sources, and an estimate of the impact of the program on County revenues and the operating budget. The capital improvements program shall, to the extent authorized by law, include all capital projects and programs of all agencies for which the County sets tax rates or approves budgets or programs. The Council may amend an approved capital improvements program at any time by an affirmative vote of six Councilmembers.

The fiscal program shall show projections of revenues and expenditures for all functions, recommend revenue and expenditure policies for the program period and analyze the impact of tax and expenditure patterns on public programs and the economy of the County.

The County Executive shall provide such other information relating to these programs as may be prescribed by law.

All capital improvement projects which are estimated to cost in excess of an amount to be established by law or which the County Council determines to possess unusual characteristics or to be of sufficient public importance shall be individually authorized by law; provided however, that any project declared by the County Council to be of an emergency nature necessary for the protection of the public health or safety shall not be subject to this requirement if the project is approved by the affirmative vote of six Councilmembers. Any project mandated by law, statutory or otherwise, interstate compact, or any project required by law to serve two or more jurisdictions shall, likewise, not be subject to this requirement. The County Council shall prescribe by law the methods and procedures for implementation of this provision. (Election of 11-7-78; election of 11-4-86; election of 11-3-92; election of 11-5-96.)

Editor's note—See County Attorney Opinion dated 4/7/99 clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations. See County Attorney Opinion dated 2/5/96 explaining that the budget must include recommended expenditures and revenue services for the Board of Education and including the legislative history of the section. See County Attorney Opinion No. 90.008 dated 11/20/90 discussing the use of consent calendars to consolidate capital improvement bills and proposed amendments to the County Code to permit more than one item on the consent calendar at a time. [attachment]

Sec. 303. Capital and Operating Budgets.

The County Executive shall submit to the Council, not later than January 15 and March 15, respectively of each year, proposed capital and operating budgets including recommended expenditures and revenue sources for the ensuing fiscal year and any other information in such form and detail as the County Executive shall determine and as may be prescribed by law. These budgets shall be consistent with the six-year programs. A summary shall be submitted with the budgets containing an analysis of the fiscal implications for the County of all available budgets of any agencies for which the Council sets tax rates, makes levies, approves programs or budgets. (Election of 11-6-84; election of 11-3-92.)

Editor's note—See County Attorney Opinion dated 5/5/09 regarding the County Executive's ability to impound appropriated funds. See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion dated 4/7/99 clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations. See County Attorney Opinion dated 6/9/98 addressing the creation of Department of Liquor Control by State law and the department's funding and expenditures. See County Attorney Opinion dated 5/8/98 explaining that State law created the Department of Liquor Control and gives the Council oversight over the department, but does not give the Council budget or appropriation authority. See County Attorney Opinion dated 2/5/96 explaining that the budget must include recommended expenditures and revenue services for the Board of Education and including the legislative history of the section.

Sec. 304. Budget Hearing.

The Council shall hold public hearings on the proposed budget and the six-year programs required by this Charter, commencing not earlier than twenty-one days following their receipt.

Sec. 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 therefor 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 all current 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. (Election of 11-7-78; election of 11-6-84; election of 11-6-90; election of 11-3-92; election of 11-8-94; election of 11-3-98; election of 11-4-08; election of 11-6-18.)

Editor's note—See County Attorney Opinion dated 5/5/09 regarding the County executive's ability to impound appropriated funds. See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion dated 6/20/06, concerning the Charter revenue limit, which interpreted Charter Section 305. See County Attorney Opinion dated 5/10/99 recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter. See County Attorney Opinion dated 4/7/99 clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations. See County Attorney Opinion dated 6/9/98 addressing the creation of Department of Liquor Control by State law and the department's funding and expenditures. See County Attorney Opinion dated 5/8/98 explaining that State law created the Department of Liquor Control and gives the Council oversight over the department, but does not give the Council budget or appropriation authority. See County Attorney Opinion dated 1/26/98 analyzing a petition to amend charter to require any increase in taxes to be approved by referendum. See County

Attorney Opinion dated 7/14/94 explaining that the Education Article allows Council to place restrictions on tuition and fees by the Board of Trustees of Montgomery College, and that a proposed amendment to Charter § 305 re approval of budget, appropriation of funds, and levying taxes does not appear to conflict with State law. See County Attorney Opinion dated 9/3/92 explaining flaws in § 305 based on a misleading petition and an amendment that conflicts with State law. See County Attorney Opinion dated 7/14/94 explaining flaws in § 305 based on a misleading petition and an amendment that conflicts with State law. See County Attorney Opinion dated 10/30/91-A describing the additions to Charter § 305 by Question F as not conflicting with the TRIM amendment.

Sec. 306. Item Veto or Reduction.

Upon approval of the budget, it shall be delivered within three days to the County Executive who within ten days thereafter may disapprove or reduce any item contained in it. If the County Executive disapproves or reduces any item in the budget, it shall be returned to the Council with the reasons for the disapproval or reduction in writing. The Council may, not later than June 30 of that year, reapprove any item over the disapproval or reduction of the County Executive by the affirmative vote of six members, except that the affirmative vote of five members shall be required in the case of the budgets of the Council, the Fire and Rescue Commission, the Fire Departments and Rescue Squads, the Housing Opportunities Commission and Montgomery College. (Election of 11-4-80; election of 11-2-82; election of 11-4-86; election of 11-8-88; election of 11-3-92.)

Editor's note—See County Attorney Opinion dated 5/5/09 regarding the County Executive's ability to impound appropriated funds. See County Attorney Opinion dated 4/7/99 clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

Sec. 307. Supplemental Appropriations.

Any supplemental appropriation shall be recommended by the County Executive, who shall specify the source of funds to finance it. The Council shall hold a public hearing on each proposed supplemental appropriation after at least one week's notice. A supplemental appropriation that would comply with, avail the County of, or put into effect a grant or a federal, state, or county law or regulation, or one that is approved after January 1 of any fiscal year, requires an affirmative vote of five Councilmembers. A supplemental appropriation for any other purpose that is approved before January 1 of any fiscal year requires an affirmative vote of six Councilmembers. The Council may, in a single action, approve more than one supplemental appropriation. The Executive may disapprove or reduce a supplemental appropriation, and the Council may reapprove the appropriation, as if it were an item in the annual budget. (Election of 11-7-2000.)

Editor's note—See County Attorney Opinion dated 5/5/09 regarding the County Executive's ability to impound appropriated funds. See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion dated 4/7/99-A clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

Sec. 308. Special Appropriations.

A special appropriation is an appropriation which states that it is necessary to meet an unforeseen disaster or other emergency, or to act without delay in the public interest. Each special

appropriation shall be approved by not less than six Councilmembers. The Council may approve a special appropriation at any time after public notice by news release. Each special appropriation shall specify the source of funds to finance it. (Election of 11-4-86; election of 11-7-2000.)

Editor's note—See County Attorney Opinion dated 5/5/09 regarding the County Executive's ability to impound appropriated funds. See County Attorney Opinion dated 4/7/99 clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

Sec. 309. Transfer of Funds.

The County Executive may at any time transfer an unencumbered appropriation balance within a division or between divisions of the same department. Transfers between departments, boards or commissions, or to any new account, shall be made only by the County Council upon the recommendation of the County Executive. The total cumulative transfers from any one appropriation shall not exceed ten percent of the original appropriation. No transfer shall be made between the operating and capital budget appropriation.

Sec. 310. Surplus.

The County may accumulate earned surplus in any enterprise fund or unappropriated surplus in any other fund. With respect to the General Fund, any unappropriated surplus shall not exceed five percent of the General Fund revenue for the preceding fiscal year. An unappropriated surplus may be used to fund any supplemental or special appropriations. (Election of 11-7-2000.)

Editor's note—See County Attorney Opinion dated 4/7/99 clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

Sec. 311. Limitations on Expenditures.

No expenditure of County funds shall be made or authorized in excess of the available unencumbered appropriations therefor.

Editor's note—See County Attorney Opinion dated 3/13/19 regarding inclusion of non-appropriation clauses in DLC leases, enabling termination of leases where adequate funds for rent are not appropriated. See County Attorney Opinion dated 2/18/19 explaining the County's ability to provide a landlord with either a general obligation note or a limited obligation revenue note to repay the landlord for the cost of tenant improvements. See County Attorney Opinion dated 10/28/10 comparing the limits on Council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County attorney Opinion dated 4/28/08 regarding collective bargaining negotiations of benefits for current employees and future retirees. See County Attorney Opinion dated 9/7/07 discussing methods of acquiring the construction of infrastructure for development districts. See County Attorney Opinion dated 5/3/00 clarifying that the County cannot enter into agreements until funds have been appropriated.

Editor's note—Former Sec. 311A, Limitations on Expenditures for Landfills in Residential Zones, adopted by the election of 11-7-08, was repealed by the election of 11-4-08. See *East v. Gilchrist*, 296 Md. 368, A.2d 285 (1983); holding section 311A cannot be given effect under circumstances involving an

order of the secretary of health and mental hygiene and requirement of local funding under public general law.

Editor's note—Former Sec. 311B, Limitations on Expenditures, Contract, and Permits for Burying or Trenching Sewage Sludge in Residential Zones, adopted by the election of 11-4-80, was repealed by the election of 11-4-08.

Sec. 312. Indebtedness.

The County may incur debt. No indebtedness for a term of more than one year shall be incurred by the County to meet current operating expenses. All County indebtedness for a term in excess of one year shall become due not later than thirty years after the date of issuance. If at any time the Council shall have failed to appropriate and to make available sufficient funds to provide for the timely payment of the interest and principal then due upon all County indebtedness, it shall be the duty of the Director of Finance to pay, or to make available for payment, to the holders of such indebtedness from the first revenues thereafter received applicable to the general funds of the County, a sum equal to such interest and principal. (Election of 11-6-90.)

Editor's note—See County Attorney Opinion dated 10/23/91 explaining that a loan guarantee to a non-profit corporation is comparable to that of the County making a loan under Ch. 23B. A loan guarantee would not constitute either an operating expense or a capital expense, and could not exceed 1 year.

Sec. 313. Purchasing.

The Council shall prescribe by law a centralized system of purchasing and contracting for all goods and services used by the County. The centralized purchasing system shall be administered under the professional supervision of the Chief Administrative Officer subject to the direction of the County Executive.

Editor's note—See County Attorney Opinion dated 4/13/99 (4/15/99 on cover memo) analyzing the Chief Administrative Officer's authority to make a sole-source contract in excess of \$25,000 without obtaining consent of the director of procurement or the contract review committee. See County Attorney Opinion dated 9/23/91 explaining that State law does not prohibit the Department of Liquor Control from entering into contracts with private entities to operate the liquor stores.

Editor's note—Former Sec. 313A, Purchasing, Contracting for Goods, Services with C&P Telephone Company, adopted by the election of 11-2-82, was repealed by the election of 11-4-08. In *Rowe, et al. v. The Chesapeake and Potomac Telephone Company of Maryland, et al.*, 65 Md. App. 527, 501 A.2d (1985), it was held that Charter section 313A could not be given effect because it conflicted with a state Public Service Commission Order.

Sec. 314. Competitive Procurement.

The Council shall prescribe by law for competitive procurement for purchases by or contracts with the County in excess of an amount or amounts established by law. (Election of 11-4-80; election of 11-6-90.)

Editor's note—See County Attorney Opinion dated 11/12/97 indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion dated 9/23/91 explaining that State law does not prohibit the Department of Liquor Control from entering into contracts with private entities to operate the liquor stores.

Sec. 315. Audit.

The Council shall contract with, or otherwise employ, a certified public accountant to make annually an independent post audit of all financial records and actions of the County, its officials and employees. The complete report of the audit shall be presented to the Council and copies of it shall be made available to the public.

Editor's note—Res. No. 10-457, introduced and adopted on Nov. 1, 1983, adopted procedures for the selection of the independent auditor.

Sec. 316. Public Access to Fiscal Documents.

All fiscal documents required by this Charter shall be public records, and copies shall be made available to the public. Any estimates, reports, or justifications on which they are based shall be open to public inspection subject to reasonable regulations.

Article 4. Merit System and Conflicts of Interest.

Sec. 401. Merit System.

The Council shall prescribe by law a merit system for all officers and employees of the County government except: (a) members of the Council, the County Executive, the Chief Administrative Officer, the County Attorney; (b) the heads of the departments, principal offices and agencies, as defined by law; (c) any officer holding any other position designated by law as a non-merit position; (d) one or more confidential aides for each member of the Council; (e) two senior professional staff members for the Council as a whole as the Council may designate from time to time; (f) three special assistants to the County Executive as the Executive may designate from time to time; (g) special legal counsel employed pursuant to this Charter; (h) members of boards and commissions; and (i) other officers authorized by law to serve in a quasi-judicial capacity.

Any law which creates a new department, principal office, or agency, or designates a position as a non-merit position, requires the affirmative vote of six Councilmembers for enactment. Any law which repeals the designation of a position as a non-merit position requires the affirmative vote of five Councilmembers for enactment.

Officers and employees subject to a collective bargaining agreement may be excluded from provisions of law governing the merit system only to the extent that the applicability of those provisions is made subject to collective bargaining by legislation enacted under Section 510, Section 510A, or Section 511 of this Charter.

The merit system shall provide the means to recruit, select, develop, and maintain an effective, non-partisan, and responsive work force with personnel actions based on demonstrated merit and

fitness. Salaries and wages of all classified employees in the merit system shall be determined pursuant to a uniform salary plan. The Council shall establish by law a system of retirement pay.

The Council by law may exempt probationary employees, temporary employees, and term employees from some or all of the provisions of law governing the merit system, but the law shall require these employees to be recruited, selected and promoted on the basis of demonstrated merit and fitness.

The Council by law may establish within the merit system a program to recruit and select qualified individuals with severe physical or mental disabilities on a noncompetitive basis. (Election of 11-4-80; election of 11-6-84; election of 11-8-94; election of 11-5-96; election of 11-3-98; election of 11-7-2000; election of 11-6-2012; election of 11-6-18.)

Editor's note—Section 401 of the Montgomery County Charter was cited in *Montgomery County, Maryland v. Jamsa*, 153 Md. App. 346, 836 A. 2d 745 (2003) and interpreted in *Anastasi v. Montgomery County*, 123 Md. App. 472, 719 A.2d 980 (1998).

See County Attorney Opinion dated 10/28/10 comparing the limits on Council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated 3/12/09 explaining the Inspector General's authority to investigate an ongoing personnel matter as part of the goal of detecting and deterring fraud, waste and abuse. See County Attorney Opinion dated 12/17/08 discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated 11/26/01-A explaining that police sergeants are considered FLSA exempt, even though certain duty assignments may render them eligible for overtime pay. See County Attorney Opinion dated 5/10/99 recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter. See County Attorney Opinion dated 2/19/97 explaining that the County Executive has the authority to establish a separate salary schedule for non-merit heads of departments and principal offices within the Executive Branch. [attachment] See County Attorney Opinion dated 11/12/97 indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion No. 95.002 dated 5/17/95 explaining that a member of retirement plan who retires under the retirement incentive plan may participate in a County contract awarded under the procurement process. See County Attorney Opinion No. 90.007 dated 7/24/90 explaining that the County Council may amend the uniform salary plan only through legislation and not by resolution.

Sec. 402. Personnel Administration.

The County Executive shall be responsible for adopting personnel regulations for the administration and implementation of the merit system law. These regulations shall be adopted in the manner provided for by law. The Chief Administrative Officer, under the direction of the County Executive and subject to merit system laws and regulations, shall be responsible for administering the County's merit system. (Election of 11-4-80.)

Editor's note—See County Attorney Opinion dated 12/17/08 discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated 5/10/99 recognizing that authorized reimbursement for college tuition, training

and/or education costs made to County employees do not violate the Charter. See County Attorney Opinion dated 4/13/99 (4/15/99 on cover memo) analyzing the Chief Administrative Officer's authority to make a sole-source contract in excess of \$25,000 without obtaining consent of the director of procurement or the contract review committee. See County Attorney Opinion dated 11/12/97 indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion No. 90.007 dated 7/24/90 explaining that the County Council may amend the uniform salary plan only through legislation and not by resolution.

Sec. 403. Merit System Protection Board.

There is established a Merit System Protection Board composed of three members who are qualified voters of the County appointed by the Council. One member shall be appointed each year for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed only for the remainder of that term. Appointment shall be made so that not more than two members of the Board shall be members of the same political party. No member shall hold political office or participate in any campaign for any political or public office during the member's term of office. Members of the Board shall be compensated as prescribed by law. (Election of 11-4-80.)

Editor's note—Section 403 of the Montgomery County Charter was cited in *Montgomery County, Maryland v. Jamsa*, 153 Md. App. 346, 836 A. 2d 745 (2003)

See County Attorney Opinion dated 12/17/08 discussing the authority and role of the Merit System Protection Board and the role of the County attorney as legal adviser. See County Attorney Opinion dated 7/8/02 describing the extent to which quasi-judicial officials may engage in political activities. See County Attorney Opinion dated 5/10/99 recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter.

Sec. 404. Duties of the Merit System Protection Board.

Any employee under the merit system who is removed, demoted, or suspended shall have, as a matter of right, an opportunity for a hearing before the Merit System Protection Board, which may assign the matter to a hearing examiner to conduct a hearing and provide the Board with a report and recommendations. The charges against the employee shall be stated in writing, in such form as the Board shall require. If the Board assigns the matter to a hearing examiner, any party to the proceeding shall have, as a matter of right, an opportunity to present an oral argument on the record before the Board prior to a final decision. The Board shall establish procedures consistent with law for the conduct of its hearings. The decisions of the Board in such appeals shall not be subject to review except by a court of competent jurisdiction. The Council shall provide by law for the investigation and resolution of formal grievances filed under the merit system and any additional duties or responsibilities of the Board. The Board shall conduct on a periodic basis special studies and audits of the administration of the merit and retirement pay systems and file written reports of its findings and recommendations with the Executive and the Council. The Board shall comment on any proposed changes in the merit system law or regulations in a timely manner as provided by law. (Election of 11-4-80.)

Editor's note—Section 404 of the Montgomery County Charter was cited in *Montgomery County, Maryland v. Jamsa*, 153 Md. App. 346, 836 A. 2d 745 (2003)

See County Attorney Opinion dated 12/17/08 discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated 5/10/99 recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter.

Sec. 405. Political Activity.

No officer or employee of the County shall be prohibited from participating in politics or political campaigns; however, the Council may by law restrict political activities by County officers and employees (including members of boards and commissions) who serve in a quasi-judicial capacity. No County officer or employee shall be obligated to contribute to a political campaign or to render political service. (Election of 11-2-82; election of 11-3-98.)

Editor's note—See County Attorney Opinion dated 7/8/02 describing the extent to which quasi-judicial officials may engage in political activities. See Attorney General Opinion No. 98-003 (unpublished) dated 1/27/98 explaining that the State election laws preempt the County from regulating the solicitation of political contributions. See County Attorney Opinion dated 12/10/97 explaining that the County may prohibit members of its quasi-judicial boards and commissions from soliciting funds for partisan political campaigns or restricting other political activities that conflict with a compelling County interest.

Sec. 406. Prohibition Against Private Use of Public Employees.

No member of the Council, the County Executive, or any officer or employee of the County shall detail or cause any officer or employee of the County to do or perform any service or work outside of the officer's or employee's public office or employment. (Election of 11-2-82.)

Editor's note—See County Attorney Opinion dated 8/11/00 indicating that an elected official running for office must devote "official" time to official duties.

Sec. 407. Prohibition Against Additional Compensation.

No member of the Council and no officer or employee of the County whose salary is fixed, in whole or in part, by this Charter, the laws of the County, or its personnel regulations, shall be entitled, directly or indirectly, to any other salary, expenses, or compensation from the County for performance of public duties except expenses for travel and subsistence incident to the performance of official duties as prescribed by law. (Election of 11-2-82.)

Editor's note—See County Attorney Opinion dated 9/2/03 analyzing that, although permitted under personnel and collective bargaining principles, a grant program to cover closing costs for public safety employees would be taxable income to the employees receiving the benefit. See County Attorney Opinion dated 5/10/99 recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter. See County Attorney Opinion No. 90.002 dated 3/30/90 explaining that a County employee may receive two paychecks (one as a full-time County employee and one as a paid member of a committee) within certain parameters.

Sec. 408. Work During Official Hours.

All officers and employees of the Executive or Legislative Branches who receive compensation paid in whole or in part from County funds shall devote their entire time during their official working hours to the performance of their official duties.

Editor's note—See County Attorney Opinion dated 8/11/00 indicating that an elected official running for office must devote "official" time to official duties.

Sec. 409. Corrupt Practices.

No person whose salary or expenses are paid in whole or in part from County funds shall invite, accept, offer, give or promise to give any money or any valuable thing in consideration of appointment or employment by the County. Any person violating this Section shall be removed from any public office or employment held and be subject to such other penalties as may be prescribed by law. (Election of 11-2-82.)

Sec. 410. Code of Ethics.

The Council shall adopt by law a code of ethics applicable to all public employees. In this section, public employee includes each County employee, elected officer, and appointed officer, including a member of a board or commission, and any other person designated by law.

The code of ethics shall at a minimum regulate: (a) conflicts of interest; (b) solicitation and receipt of gifts; (c) other employment of present and former public employees; (d) lobbying; (e) financial disclosure by public employees; (f) the use of County property and County insignia; and (g) the use of the prestige of office.

The code of ethics shall:

- a) provide that each public employee owes a fiduciary responsibility to the County, which the public employee shall not breach by any public or private action;
- b) prohibit a public employee from obtaining an economic benefit as a result of public employment if the economic benefit is received on terms more favorable than those available to persons who are not public employees;
- c) allow waivers from restrictions and requirements of the code if a waiver is in the best interest of the County and all pertinent facts are disclosed to the public;
- d) authorize enforcement of the code and impose penalties for violations; and
- e) include any other provisions required by State law or that the Council finds serve the purposes of this section.

The Council by law shall prohibit corrupt practices by any individual or organization that attempts to obtain or is a party to a contract with the County, including kickbacks in the award of County contracts and using confidential information obtained in performing a contract with the County for personal gain or the gain of another without the approval of the County.

The Council may by law establish a commission to enforce and interpret the code of ethics and related law. The Council by law may allow an ethics commission to retain legal counsel with the approval

of the Council, subject to appropriation, and may exempt legal counsel for the commission from Section 213. (Election of 11-2-82; election of 11-5-96.)

Editor's note—See County Attorney Opinion dated 8/23/02 describing the elements required for a complaint to the Ethics Commission to initiate an investigation. See County Attorney Opinion dated 9/8/98 explaining that County law limiting contractors from seeking or obtaining an economic benefit in addition to payment does not extend to sub-contractors unless the Office of Procurement requires its contractors to extend the prohibition to sub-contractors.

Sec. 411. Reserved.

Editor's note—Section 411, related to prohibited activities and derived from Char. Res. No. 8-935, § 3 as amended by an election of 11-2-82, was repealed by an amendment of 11-5-96.

Article 5. General Provisions.

Sec. 501. Disaster—Continuity of Government During Emergencies.

In order to ensure continuity of government during an emergency caused by a disaster or enemy attack, the Council shall prescribe by law for the temporary suspension of specific provisions of this Charter and for temporary succession to the powers and duties of public offices whether filled by election or appointment.

Sec. 502. Annual Report.

The County Executive shall prepare and provide to the Council and the public, within sixty days after the end of each fiscal year, an annual report setting forth the activities and accomplishments of the County government.

Sec. 503. Annual Compilation of Laws.

As soon as practicable each year, the County Attorney shall have published a compilation or a cumulative supplement to the County Code, with index, which shall include all legislation and regulations of a general or permanent nature adopted or approved by the Council or County Executive during the preceding year. (Election of 11-6-90.)

Sec. 504. County Code.

Unless the Council shall provide for more frequent publication by law, each ten years there shall be compiled under the direction of the County Attorney an annotated code of all public local laws, County legislation, and regulations then having the force and effect of law, and this Charter. The Council may, by legislation, legalize this code and shall cause it to be published in an indexed volume. (Char. Res. No. 7-711; election of 11-6-90.)

Sec. 505. Right to Information.

Any person shall have the right to inspect any document held by County government, except confidential police records, personnel records, records of a confidential nature as defined by law, or records that are or may be exempted from disclosure under the state Public Information Act or other applicable state or federal law. The Council may adopt reasonable regulations for such inspection. A certified copy of any such document shall be furnished upon payment of a reasonable fee established by

such regulations. This section shall not apply to a document or other material obtained or prepared in anticipation of litigation or for use in legal proceedings to which the County is a party. (Election of 11-5-02.)

Editor's note—Former Section 505 of the Montgomery County Charter was quoted and interpreted in *Caffrey v. Montgomery County*, 370 Md. 272, 805 A.2d 268 (2002), where it was held that former Section 505 waived executive privilege and attorney-client privilege in relation to public information requests. At the 2002 general election, the voters approved an amendment to Montgomery County Charter Section 505 making the section consistent with State public information protections.

See County Attorney Opinion dated 7/14/00 discussing the need to modernize the Charter in relation to access to documents. See County Attorney Opinion dated 6/19/00 recommending an amendment to the Charter to conform with State law.

Sec. 506. Separability.

If any article, section, or provision of this Charter shall be held unconstitutional, invalid, or inapplicable to any person or circumstance by the final decision of a court of competent jurisdiction, all other articles, sections, or provisions of this Charter and their application to all other persons and circumstances shall be separable and shall not be affected by such decision.

Editor's note—Charter amendment that conflicts with public general law may not be submitted to votes for approval. *Montgomery County v. Bd. of Supervisors of Elections*, 311 Md. 512, 536 A.2d 641 (1988).

Sec. 507. Amendment.

This Charter may be amended in the manner provided in Section 5 of Article XI-A of the Constitution of Maryland.

Sec. 508. Effective Date.

This amended Charter shall become effective from and after the thirtieth day after its adoption.

Sec. 509. Charter Review Commission.

There shall be a Charter Review Commission appointed by the County Council every four years, within six months after the Council assumes office, for the purpose of studying the Charter. The Commission shall be composed of eleven members who shall be residents of the County, five of whom shall be appointed from a list of names submitted by the County Executive. Not more than six members shall be of the same political party. The chairperson shall be designated by the Council and the vice-chairperson shall be designated by the County Executive. The Commission shall report at least once to the Council on the Commission's activities within one year after appointment of the Commission. Commission reports shall be submitted not later than May 1 of every even-numbered year. The reports shall contain recommendations concerning proposed Charter amendments, if any. (Char. Res. No. 8-935, § 1.)

Sec. 510. Collective Bargaining.

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County police officers. Any law so enacted shall prohibit strikes or work stoppages by police officers. (Election of 11-4-80.)

Editor's note—Charter Sec. 510 is cited in *Mayor and City Council for Ocean City v. Bunting* 168 Ms. App. 134,895 A.2d 1068 (2006).

See County Attorney Opinion dated 10/28/10 comparing the limits on Council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated 7/22/10 regarding the steps in the out-of-cycle collective bargaining process. See County Attorney Opinion dated 5/4/09 regarding the steps in the collective bargaining process. See County Attorney Opinion dated 7/22/98 commenting on the means of requiring binding dispute resolution process.

Sec. 510A. Collective Bargaining—Fire Fighters.

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County career fire fighters. Any law so enacted shall prohibit strikes or work stoppages by career fire fighters. (Election of 11-8-94.)

Editor's note—See County Attorney Opinion dated 10/28/10 comparing the limits on Council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated 7/22/10 regarding the steps in the out-of-cycle collective bargaining process. See County Attorney Opinion dated 5/4/09 regarding the steps in the collective bargaining process. See County Attorney Opinion dated 7/22/98 commenting on the means of requiring binding dispute resolution process.

Sec. 511. Collective Bargaining—County Employees.

The Montgomery County Council may provide by law for collective bargaining, with arbitration or other impasse resolution procedures, with authorized representatives of officers and employees of the County government not covered by either Section 510 or Section 510A of this Charter. Any law so enacted shall prohibit strikes or work stoppages for such officers and employees. (Election of 11-6-84; election of 11-8-94.)

Editor's note—See County Attorney Opinion dated 10/28/10 comparing the limits on council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated 7/22/10 regarding the steps in the out-of-cycle collective bargaining process. See County Attorney Opinion dated 5/4/09 regarding the steps in the collective bargaining process. See County Attorney Opinion dated 7/22/98 commenting on the means of requiring binding dispute resolution process.

Sec. 512. Hearing Examiners.

Hearing examiners authorized by law to conduct hearings and render written reports and recommendations may preside over matters referred to them at the request of executive branch agencies, the Merit System Protection Board, and the County Board of Appeals under procedures provided by law, in addition to any matters assigned to them by the Council in the exercise of its powers as provided by law. (Election of 11-4-86.)

Sec. 513. Effect of Certain Amendments.

The taking effect of this Charter, or any amendment to this Charter, shall not of itself affect the tenure, term, status, or compensation of any appointed officer or employee of the County then holding office, except as directly provided in this Charter. Any amendment to this Charter that increases or decreases the number of members of the County Council, or alters the provisions for election of the members of the Council, shall initially apply to the members of the Council elected at the next election after the adoption of the Charter amendment. (Election of 11-4-86; election of 11-3-98.)

Editor's note—Charter amendments approved at the election held on November 3, 1998, repealed the heading ("Schedule of Transitional Provisions"), subheadings ("General" and "Merit System"), and opening paragraph of "Schedule of Transitional Provisions"; renumbered section 1 under "General" to section 513; and repealed section 2 under "Merit System." Section 3 was repealed by Charter amendment approved at the election held on November 6, 1990. Previously, Charter amendments approved at the election held on November 2, 1982, revised "Schedule of Transition Provisions" by repealing former sections 2—16 and enacting new sections 2 (formerly section 16) and 3 (formerly section 17).

APPENDIX C

Montgomery County Charter Review Commission to hold public listening sessions on County Council size and representation

For Immediate Release: Monday, January 13, 2020

CANCELLATION: The Charter Review Listening Session scheduled for March 23, 2020 in Germantown has been canceled. The Commission asks members of the public to submit their comments in writing at charterreview.commission@montgomerycountymd.gov.

ROCKVILLE, Md., Jan. 13, 2020—The Montgomery County Charter Review Commission will hold five listening sessions with residents between January and March to discuss the structure of the Montgomery County Council. These sessions will address whether the size of the Council (currently nine members) and its make-up (five district Councilmembers and four at-large Councilmembers) should be changed or remain the same.

The Montgomery County Charter is the constitution of the Montgomery County government. As provided in the Charter, the Charter Review Commission is an eleven-member, multiparty group of County residents that is appointed by the Council every four years to study and recommend changes to the charter. The Charter Review Commission must report to the Council in May of every even-numbered year with recommendations for possible charter revisions. These recommendations may lead to proposed charter amendments that are voted on by the electorate.

The listening sessions will be held at the following times and locations:

1. Bethesda: Sunday, Jan. 26, 2020, 2:30 p.m. – 4 p.m.; Bethesda-Chevy Chase Regional Services Center, Conference Room West-A, 4805 Edgemoor Lane, Bethesda
2. Burtonsville: Saturday, Feb. 8, 2020, 3:30 p.m. – 5 p.m.; Marilyn J. Praisner Branch Library, Medium Room #2, 14910 Old Columbia Pike, Burtonsville
3. Olney: Saturday, Feb. 22, 2020, 2:30 p.m. – 4 p.m.; Olney Community Library, Medium Room #2, 3500 Olney-Laytonsville Road, Olney
4. Rockville: Wednesday, March 4, 2020, 6:30 p.m. – 8 p.m.; Council Office Building, 3rd Floor Hearing Room, 100 Maryland Ave., Rockville
5. Germantown: Monday, March 23, 2020, 7:00 p.m. – 8:30 p.m.; Upcounty Regional Services Center, Conference Room A, 12900 Middlebrook Road, Germantown

If you would like to pre-register to testify, please sign up [here](#). If you have a prepared statement, which is not necessary for testimony at these sessions, then please bring a courtesy copy to share with the Commission.

Members of the public also are encouraged to submit any comments to the Charter Review Commission in writing at charterreview.commission@montgomerycountymd.gov.

If a listening session is canceled due to weather, please submit your written comments to the email address above. Emergency closure information is available at <https://www.montgomerycountymd.gov/cupf/info-cupf/emergency.html>.

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Release ID: 20-009

Media Contact: Nicholas Triolo 240-777-7832

**Handout for Residents Attending the Montgomery County
Charter Review Commission's Listening Session**

Welcome to a Listening Session of the Montgomery County (MoCo) Charter Review Commission (CRC). Here is some information that may be helpful to you:

What is the Montgomery County Charter? It's the constitution of Montgomery County, similar to the Constitutions of the United States and the State of Maryland. The MoCo Charter describes who will make and enforce the laws of our county, how they will be elected or selected, how our budget is set and how taxes are determined, and other information about the structure of our county's government.

What is the Charter Review Commission (CRC)? The MoCo Charter includes a provision that says every four years a Commission will be appointed to look at the Charter and suggest any changes that might improve it for the citizens of our county. There are 11 members of the CRC, 6 selected by the County Council, including the Chairperson, and 5 selected by the County Executive, including the Vice Chair. No more than 6 members of the CRC can be members of the same political party. The names of the CRC members are below.

What is the purpose of today's Listening Session? The CRC has already done a lot of work studying ways to improve the County Charter and will do more. The main item we are now working on is to study whether any changes should be recommended to the size of the County Council (currently 9 members), and whether any changes should be recommended to the make-up of the Council (currently 4 at-large members and 5 district members). (Please see the other side of this handout for the text of Sections 102 and 103 of the Charter, which determine the size and make-up of the Council.)

What will happen after today's Listening Session? The CRC will carefully consider all the comments made at the Listening Session. The CRC will continue to meet every month on the 2 Wednesday at 8am in the Council building and will prepare a report to the County Council by May 1 with its recommendations for amendments to the Charter. If the Council agrees with the CRC's recommendation(s), the proposed Charter amendment(s) will be on the ballot on November 3, 2020, and the voters will have the final say on whether the amendments are adopted or not.

Where can I find more information about the Charter and the CRC? The CRC's official webpage is at <https://www.montgomerycountymd.gov/crc/>.

We hope you will enjoy your participation in the Listening Session of the MoCo Charter Review Commission.

Email questions or comments to: charterreview.commission@montgomerycountymd.gov

Members of the CRC:

George Margolies, Chair Laura Goddeeris, Vice Chair David Hill Perry Paylor A. Lawrence Lauer Nichole Thomas	Courtney Walker Susan Miles Ronald Stubblefield Christopher Danley Katherine Gugulis
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Current provisions of the Montgomery County Charter concerning the size and make-up of the County Council

Sec. 102. Composition and Election.

The Council shall be composed of nine members, each of whom shall be a qualified voter of Montgomery County. Four Councilmembers shall be nominated and elected by the qualified voters of the entire County. Each of the five other members of the Council shall, at the time of Nomination and election and throughout the member's term of office, reside in a different Council district, and shall be nominated and elected by the qualified voters of that district. Any change in the boundaries of a Council district after a member is elected shall not render the member ineligible to complete the term for which the member was elected. No member of the Council shall hold any other office of profit in state, county or municipal government. No member of the Council shall be eligible for appointment during the member's term of office to any other office or position carrying compensation created by or under this Charter, except to County Executive in the event of a vacancy.

Sec. 103. Council Districts.

Montgomery County shall be divided into five Council districts for the purpose of nominating and electing five members of the Council. Each district shall be compact in form and be composed of adjoining territory. Populations of the Council districts shall be substantially equal.

APPENDIX D

January 26, 2020

Hessie L. Harris

TESTIMONY BEFORE CHARTER REVIEW COMMISSION IN SUPPORT OF 9D

I support 9D for the following reasons among others which consideration of time constraints prevent my going into. The members of the County Council are elected not anointed. Yet they conduct themselves like monarchs ruling under the Divine Right of Kings instead of elected public servants subject to the will of the people.

They issue self-serving decrees instead of passing laws that benefit and are in accordance with the will of the people.

The constituents are treated like medieval serfs instead of citizens. The Council robs the citizens of their assets and real property through shameless excessive redistribution policies and taxes.

The people need Council members who act for and are not indifferent to the will of the people.

There is historical precedent for this view. For the history challenged and uninformed, I quote as follows.

We hold these truths self-evident that all men are created equal, that all men are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. From the "Declaration of Independence", written by Thomas Jefferson In 1776)

The existing framework is fine here but an alteration is necessary so that to paraphrase, President Lincoln, “government of the people, by the people, and for the people” shall return to Montgomery County Maryland. The needed alteration is 9D. Thank you.

Charter Review Commission Hearing Testimony

Eva Guo

Email: [REDACTED]

January 26, 2020

Good afternoon everyone! My name is Eva Guo. First of all, thank you for this great opportunity for me to raise my voice and concerns about our County Council structure. My husband and I and our two children live in Clarksburg, Maryland. We have lived in Montgomery County for the past 19 years. Like many others in our community, we spend most of our time on work, family, and kids, and have few opportunities to engage in county politics. We are learning about the County Council and the county government. To be honest, I have never met a Montgomery County Council member in person so far, but I know that there are 9 of them, including 4 who are elected to serve all residents in the county. I understand the County Council is responsible for a \$5.8 million annual budget; however, I am wondering how they can make decisions on fair expenditures when they do not know all the areas of the county and all the communities' needs?

We need Council representatives who take the time to get to know us and discuss our concerns. I personally do not think the current "at large" County Council members have the time to represent everyone especially those of us who live in up-county while most of them live in down-county Silver Spring. I see no value in having "at large" Council members who do not live in our communities. And I feel strongly that our up-county has been under represented. The County Council districts are too large with too many people. To fix this, "at large" seats should be discarded, and lines should be drawn to create local seats with local representation.

The current structure was put in place 30 years ago when most residents lived in down-county. There were fewer residents up-county back then. It was before much of the residential and business development up-county. County Council members who live in down-county can not represent all of us especially up-county residents. In recent years, the population has been increased dramatically in up-county especially in Clarksburg area. We do need to be able to elect a Council representative from our area of the county to represent our concerns and raise our voice. In my and many others' opinion, we should have 9 equal Council districts and no "at-large" seats on our County Council. We are for fair representation for all so that our taxpayers' dollars are spent in benefit all residents of the county. Thank you very much for your consideration!

**Statement by Kimblyn Persaud
Chair, Nine Districts for MoCo**

Good afternoon, I thank the Charter Review Commission for holding public hearings on the structure of the Montgomery County Council and I ask that my full written statement be included in the record and made available on-line through the Commission's website.

My name is Kimblyn Persaud. Eight years ago, I brought together several neighboring civic associations to form the Wheaton Coalition to address the inequalities impacting our quality of life in Wheaton: Illegal accessory apartments, unregistered rooming houses, overcrowded homes, makeshift mechanic shops in driveways and yards; all of which contributed to enormous amounts of garbage leading to an infestation of roaches, black birds and rats.

When discussions with Nancy Navarro, our District 4 Councilmember, proved unproductive, the Wheaton Coalition came up with a grand idea to invite our At-Large Council representatives to take a tour of

Connecticut Estates to see how the environment they were being forced to live in affected everyday life. The most enlightening calls I made was to Councilmember Hans Reimer, where I was told, he needed to get permission from Councilmember Navarro in order to take a tour, and he really did ask for permission, because he called me back to say, he could take the tour. Of course, still confused, I called Councilmember Leventhal to ask if it's true, they really needed permission to take our tour, and he confirmed, that they needed to let the District Representative know what they were doing.

I'm telling you this experience to illustrate how ineffective and broken the current County Council structure is. The At-large vote carries the same weight as the District Council member, but their voice doesn't, and if they don't have a voice how can they possibly give their constituents a voice at the table, the answer is they don't. The District Council member has the last word on anything concerning their district.

Leaving us, the constituents with only one voice, not five potential voices.

Eight years later we're still dealing with the same issues but on a much larger scale extending well beyond Connecticut Ave. Estates. Our At-Large council members, however, can overlook our concerns and issues, because Wheaton has one of the lowest voter's turnouts in Montgomery County. Further with At-Large candidate campaign funds needing to stretch across the entire county, Wheaton and other low voting communities are easily left out. The majority of people living in Wheaton have never had an At-large candidate knock at their door and you would be hard pressed to find a Wheaton resident able to name any, let alone all four At-large Councilmembers. This poses a huge problem, if the At-large Councilmembers don't know who we are and we don't know who they are, then how can they know our issues or understand our concerns, how do they give us a voice at the table? They don't, and they don't have to, because the At-Large know, they

don't need us to get elected. In Montgomery County, represented by progressive Democrats, our voices shouldn't be ignored or discounted because of the zip code we live in.

This experience with the Wheaton Coalition, along with those as President, of Wheaton Regional Park Civic Association, further demonstrated the disconnect between continuants and our At-Large Council members, which lead me to take on a new role to serve as Chair of the Nine Districts for MoCo effort. This local, non-partisan ballot committee is working hard to include a question on the 2020 general election ballot that would amend the County's Charter to eliminate all 4 At-Large County Council seats and instead create nine smaller, compact county council districts.

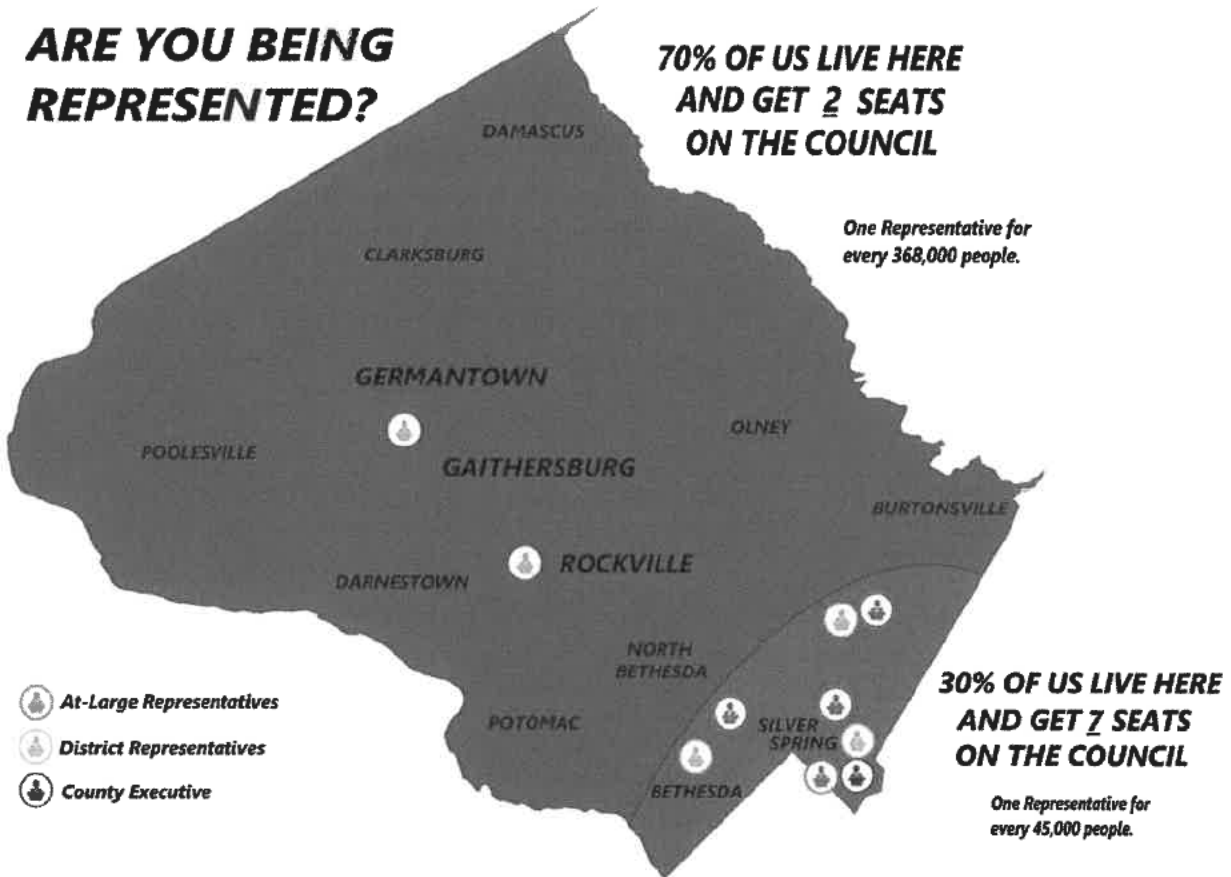
The five district representatives and four at-large representatives may have been a reasonable structure in 1990 when the population was some 700,000 residents concentrated down county. Since then our population has grown up county and there are more than 1.1 million

residents. Adding more Council seats will not answer the problem, but raise spending to hire more staff and pay more Council Members. Not a good idea with a budget that is already struggling and currently projected to have a 100 million shortfall.

Today 7 of 9 Council members live south and east of North

Bethesda. The result: County legislative decisions are made by representatives from a small area called the “down county crescent.” I call your attention to the map.

ARE YOU BEING REPRESENTED?



SIGN THE PETITION

By Authority Nine Districts for MoCo; Mark Lautman, Treasurer

7 of the 9 Council members (and the County Executive) live in the Silver Spring or Takoma Park area. Creating nine smaller and compact districts and eliminating all 4 At-Large Council seats would end the prospect of overrepresentation on the Council moving forward.

Over representation on the county Council means decisions about public services, transportation, housing, development, and taxes today are made by Council members from an area of the County **with only 30% of county population! How is that fair?**

The current structure makes it impossible for individual residents to be heard, so special interests dominate.

Increasing the number of Council districts to nine, and abolishing the at-large seats, will guarantee smaller districts, lead to more responsive representation, and an avenue for **everyone's voice to be heard.**

Why now? District boundaries drawn after the 2020 Census will be in place for ten years. Now is the time to demand nine compact districts.

All residents deserve a district representative on the Montgomery County Council.

The Nine Districts for MoCo local ballot Committee asks the Charter Review Commission to recommend the elimination of all 4 At-Large

Council seats and call for the creating of nine smaller and compact districts seats on the County Council.

Before the Montgomery County Charter Review Commission

Testimony of Paul M. Bessel

Saturday, February 8, 2020, Marilyn J. Praisner Branch Library

Concerning Structure of the County Council

My name is Paul M. Bessel. I was the Chair of the Charter Review Commission (CRC) from 2015 through 2018.

I understand that the CRC is again considering whether or not to recommend any changes in the structure of the County Council. This is a subject that the previous CRC considered in detail, at several of our meetings, and that we researched in detail. We included our conclusions in our 2018 report, pertinent parts of which are included at the end of my testimony.

1. One of the complaints that was made to our CRC was that the current Charter provisions led to having a number of Council Members who all lived in one part of the County.

As we pointed out in our 2018 CRC Report, this was something that existed because the voters of Montgomery County voted for those people. Should the wishes of the voters be ignored? We felt that the answer was "no."

Also, the Members of the current Council are more geographically diverse. Elections have succeeded in fixing this alleged problem.

2. The next allegation was that At Large Council Members could not be as responsive to the voters as District Council Members.

At first this made sense, but as we examined the facts we found that often some of the At Large Council Members were seen by voters as just as responsive, if not more so, as some of the District Members. I am not aware of any research that has been done since our report that contradicts this statement. There is simply no evidence that shows that District Members are more responsive to citizens than At Large Members, and there is evidence of the opposite being true.

3. Even if At Large Council Members should continue, some had suggested to the previous CRC that the number of District Members should be increased. We asked, "Why?" and did not receive any good answer.

It costs a great deal of money to increase the size of the Council. There are salaries and benefits for Council Members, salaries and benefits for their staff, costs to create a larger podium for the Council, costs to create more office space. And what would be gained? As far as we could tell, nothing.

As a detailed study by L. Southwick Jr concluded in 1997, "spending, debt, and taxes are both significantly and substantially higher in cities where ward (district) representatives have greater power than in cities where at large have the greater power."

4. Another reason the last CRC recommended no change in the Council size

or structure was that there were other major changes that had been made that had not had time for analysis. Term limits may have already resulted in some changes in the Council, and public financing has also probably caused significant changes.

Conclusion:

Now is NOT the time to consider proposals to change the structure of the Montgomery County Council. There are no reasons given for such changes that are backed by facts rather than guesses.

This issue has been studied by CRCs not only in 2018, but also in 1984, 1990, 2004, and 2006. The unanimous conclusions of all those studies was that the Council should not be changed in size and structure. Unless the current CRC has very strong and undisputed research, it should not try to change what so many others have studied in the past, and decided to leave the Council size and structure just as it is now.

Thank you.

Testimony

Montgomery County Charter Review Commission

February 8, 2020 at 3:30 PM Hearing

Name: Laurie Halverson ([REDACTED]) LD 15

Position: Support Nine County Council Districts

I support redistricting our County Council Districts into 9 districts with 0 at-large positions. Here's why:

#1. Better Representation: You have the opportunity to recommend to the County Council a system that lowers the number of constituents in each district, making it more likely for elected officials to listen to them and be known as their representative. When the current seven out of nine Council members live south and east of North Bethesda, people in the upcountry are under represented. As a candidate for State Delegate in 2018, I knocked on many doors in the Germantown area and attended events in Poolesville. I learned that many do not feel represented. Most are not aware of the name of their current representative. Many complained about traffic issues on I270, yet they are frustrated the County Council focuses more on transit than roads..

#2. Council Members would be less likely to push their personal agendas: Let's look at the issue of transportation for example. Last December, Council member Tom Hucker organized an event where 300 people rallied on a Monday evening to oppose Governor Hogan's Traffic Relief Plan. Mr. Hucker organized the rally, convincing the leader of the Sierra Club, Marc Elrich and other elected officials to attend. Hmm. Governor Hogan claims that 70% of Prince George and Montgomery County residents support his plan yet these 300 rally goers get all the attention. Was Tom Hucker listening to his constituents or was he advocating on behalf of his agenda to his constituents? Was he using his office as a bully pulpit to dictate his transportation agenda, as he is the Transportation committee chair? Is this representation? If we had nine districts, there would be more accountability, and more likelihood that the Council members will answer to their constituents, not the other way around.

#3 More manageable localized attention: At-large members are spread thin and have more voters to answer to than our Congressional members.

Congressional Representatives answer to about 710,000 people, while our at-large members answer to over a million. Plus our five council members who represent districts answer to about 211,000 people. If we have nine districts, then each County Council member would answer to around 117,000 people. This is much more manageable as an elected official and much easier to be heard as a constituent. Another thing—I heard that Evan Glass testified that he wants more staff...wouldn't his job be much easier if the constituent number decreases drastically, resulting in maybe even a decrease in staff needs?

#4. Easier to reach voters as a candidate: As we all know, it became a problem in our county when our County Council members were winning over and over and over again, to the point that the voters elected term limits. As the population of our county grew, new candidates were having a harder time reaching voters. With nine districts, it will be easier for any person running to reach voters through their campaigns. I can speak from experience. I was a candidate for the county-wide Board of Education race in 2014 and, unless you have unions to endorse you and help boost mailings to homes, it is quite difficult to reach people with your platform.

I urge you to look at statistics elsewhere with similar populations and look at the broken system we have right now. It is a very lopsided system where the County Council members think they know what is best for us and they run the show. They listen to the squeaky wheels and those who fit with their own agendas. Yet there are hard working residents who don't have the time to get involved in politics. Some will complain and continue to live here thinking this is just how things work in Montgomery County. Others will just move when they get fed up. That is already happening. Please think again and recommend to the County Council to redistrict to nine Districts with no at-large members.

At-Large Representation is Non-Representation

At-large representation has been called by Justice Ginsberg, the oldest trick in the book used as a preeminent second-generation way to deny equal opportunity for minority voters and candidates. Now it has morphed into a way of denying people of a minority party of any representation. I do not understand how anyone can even pretend there is equal representation in our county when looking at the map of where our representatives live.

I live in Damascus. We SELDOM are visited by any of our At-Large “representatives” and I put representatives in quotes because there is no reason to believe the At-Large council members have any interest in representing the needs of up-county voters. Do they understand standing in traffic on 270? Do they understand the special rural nature of our community and our desire to keep it as a close knit community?

The solution to this problem is to have all nine representatives live in districts that are near their constituents.

Then the concern we have to face in this issue, is how the district lines are to be drawn. If we have nine districts the lines must be drawn in a way that assures that council members live close to the people they represent.

Pat Fungo



Montgomery County Council
Council Office Building
100 Maryland Avenue
Rockville, MD 20850

February 19, 2020

Greetings Charter Review Commission Members,

The following statement is in support of leaving the current 5 District Council Members with 4 At-Large Members as is, with a suggestion that the At-Large members engage the *Community* more frequently. Alternative propositions are as follows: expand District representation by 1 while retaining the 4 At-Large Council positions or retain the 5 District Council Members and increase the At-Large Council positions by 1. The suggestions are made with clear recognition that increasing, or changing, the Council configuration has financial consequences. However, the general well-being of the County is most important in relation to the outcome of the Commission's decision.

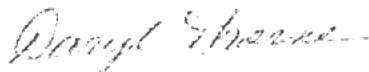
Based upon the 2018 Report of the Charter Review Commission, which referenced 2017 qualitative data, the major concern voiced by a sample of the County population was (and continues to be) the question of "accountability" of At-Large Council Members to the community and the perception of domicile "over representation" by the same. These concerns appear to be the driving force of those opposing the current Council configuration. However, the very real concern about At-Large accountability to the public can be addressed and resolved with **ALL** At-Large Members **actively participating** in county-wide community and civic events on a quarterly basis. This ensures the At-Large Council Members are holistically engaged in all areas of the county. The operational definition, and expectation, of an "At-Large" Council Member is one who represents the needs of the ENTIRE county. To this end, where an At-Large Council Member lives is irrelevant to the nature of their described position. Given this stated concern in the 2018 Report, I acknowledge that place of residence does influence perspectives but *should not and must not* override their ability/duty to engage the entirety of County residents' well-being. Moving to a 9 District structure, as opponents to the current structure suggest, DOES NOT guarantee a fully cooperative, or reciprocal, County Council – public relationship. There is no evidence that this structural change will ensure that the Council works together more effectively for the benefit of all constituents to this end.

The current 5 – 4 Council structure has been in place since 1990 (2018 CRC Report, p. A-34). Change is necessary and good when its goal is for the betterment of the People/County. Montgomery County's At-Large Council representation is the strategy to ensure this; as with all things, improvements via assessment and implementation need to occur. However, division (balkanizing) in the form of re-districting into 9 Districts with no At-Large representation is not the way to accomplish equity. In fact, this has the great potential to give way to social and political disenfranchisement which will polarize the County – a gerrymandering tactic. Proposing this type of change is more reflective of segregationist motives leaning towards disproportionate

electoral outcomes. The current demographic configuration of the County Council is more reflective of the racial, ethnic, religious and language diversity and inclusivity the County touts.

As a resident of Sandy Spring, Maryland – District 4 – located in the eastern portion of the County and an active member of the Sandy Spring Civic Association, I value the opportunity to vote for 4 County officials. The ability to highlight the joys and concerns related to my community, via civic engagement, with my local officials (plural) is only possible with the current Council structure in place. The current structure provides a platform for all County residents to have their voices heard by multiple local government officials. The suggestion to reassess current measures that will ensure more effective At-Large community participation, as the inherent expectation of the Seat, is reiterated. Again, I support maintaining the current 5 district – 4 At-Large County Council structure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daryl Thorne".

Daryl Thorne, Ed.D., LCPC, NCC

Charter review Committee 2/22/2020

Good Afternoon

My name is Matt Quinn and I am the president of the Greater Olney Civic Association. GOCA represents about 40K people.

I want to thank the CRC for coming to Olney and giving me and the rest of the people here an opportunity to convey their opinions on the current structure of the MOCO county council.

Twice, our district 4 council member has looked me in the face and said "Olney is doing just fine, I focus on Aspen Hill south, and I don't need Olney to win".

OLNEY is not represented at the council level.

When we our membership has voted on various positions and those positions are delivered to the council, which I have delivered to the council office multiple times, we do not receive feedback. We do not receive acknowledgement that our issues was received.

We can and have made appointments to see our council members, there have been times we were told that we could bring up specific topics.

The council was deaf to our concerns regarding ADUs, the were deaf regarding the issue of a 350 tower being built and the gateway to Olney. The planning for which started in 2010. We were not provided a full understanding of the project until March of 2019. We were accused of being NIMBYs and misrepresented in others ways.

I worked some of the council members to attend a July GOCA general meeting. We changed dates and made various accommodations to meet their schedules. The day before the event they canceled with no explanation. This past fall we did councilmember Glass attend a meeting, which we appreciated.

We are well represented at the state level with our district 14 and 19 teams. It doesn't mean we agree with everything they do or support, but we can and do have conversations with them.

The issues and concerns of Olney don't match up perfectly with other areas of the county. But we do share more concerns with the broader county. Olney is Geographically separated from much of the county, we are in our own unique corner. We need a council system where at a minimum, we can have an impact on who wins and represents us. Because that is not the case today.

GOCA supported, unanimously the initiative to put of the 2020 ballot the a 9 district configuration.

Q1. GOCA wants to know what is your preferred Council structure?

Answer Choices	Response Percent	Responses
5 Districts and 4 At Large [Current Structure]	15.09%	16
9 Districts and 0 At Large	43.4%	46
7 Districts and 2 At Large	17.92%	19
9 Districts and 2 At Large	15.09%	16
8 Districts and 3 At Large	4.72%	5
Other (please specify)	3.77%	4
Answered	106	

Before the Montgomery County Charter Review Commission

Testimony of Paul M. Bessel

Saturday, February 22, 2020 - Olney Library

Concerning Structure of the County Council

My name is Paul M. Bessel. I was the Chair of the Charter Review Commission (CRC) from 2015 through 2018. I previously spoke at the CRC's listening session at the Marilyn Praisner Library. I am submitting additional, new information largely based on what I heard then.

The CRC is expected to rely on EVIDENCE. There is no evidence – zero – that District Council Members provide better constituent service than At Large Council Members. In fact, several people testified that the opposite was true. They attempted to obtain assistance from their District Council Member, and when they didn't receive it, they then contacted an At Large Council Member who provided much better constituent service. Not one person at the earlier listening session said the he or she got better service from a District Council Member than from an At Large Council Member.

In the absence of ANY evidence that District Council Members provide better service than At Large Council Members, the CRC CANNOT conclude that having more District Council Members would result in better service to constituents.

Several people talked about At Large Council Members representing more

than a million people, while District Members represent far fewer citizens. They then make the jump in logic that District Member would give better service to citizens than At Large Members. But, again, we have heard from citizens, at the listening sessions this year and in interviews in past years, that the opposite is true. At Large Members often, usually, give better constituent service than District Members. The number of people represented is irrelevant. What counts is whether or not a Council Member, At Large or District, makes the decision to concentrate efforts on constituent service. Some in both categories decide to do this, and some decide not to do it.

It also should be emphasized that under the current system, each voter votes for 5 Council Members, a majority of the Council. If the Council were all District Members, and if one's District Member was not good at constituent service, that citizen would be out of luck. With the current system, each voter can call on any one of 5 people for assistance, which is much better than only being able to call on only one.

There continue to be complaints that a number of Council Members live in one part of the County, down-county, resulting in fewer Council Members to serve up-county citizens. One person produced a map allegedly showing this. That was disingenuous. First, one-third of the County, the northern and western parts, are the Ag Reserve. They probably have more cows than people, but cows do not vote. So of course it is to be expected that any map of where Council Members live will show that up-county is less represented than down-county.

However, there is a more important reason why this arguments MUST be rejected by the CRC. The essence of democracy is that a majority of voters elect their representatives. If up-county has less representation on the County Council, that is because the voters of the county elected those who won the election. If up-county voters elect down-county candidates, that is their prerogative. In the last election there were few candidates from the northern and western parts of our county. That is not the fault of the structure of the Council. If people in those areas do not present themselves as candidates, they will not be elected. If they file as candidates but are not elected, that is the will of the voters.

Even if At Large Council Members should continue, some had suggested to the previous CRC that the number of District Members should be increased. We asked, "Why?" and did not receive any good answer.

It costs a great deal of money to increase the size of the Council. There are salaries and benefits for Council Members, salaries and benefits for their staff, costs to create a larger podium for the Council, costs to create more office space. And what would be gained? As far as we could tell, nothing.

As a detailed study by L. Southwick Jr concluded in 1997, "spending, debt, and taxes are both significantly and substantially higher in cities where ward (district) representatives have greater power than in cities where at large have the greater power."

Another reason the last CRC recommended no change in the Council size or

structure was that there were other major changes that had been made that had not had time for analysis. Term limits may have already resulted in some changes in the Council, and public financing has also probably caused significant changes.

Conclusion:

Now is NOT the time to consider proposals to change the structure of the Montgomery County Council. There are no reasons given for such changes that are backed by facts rather than guesses. Those who argue for more District Members are basing their arguments on guesswork. The facts do not support what they have told the CRC.

And, it is important to note that this issue has been studied by CRCs not only in 2018, but also in 1984, 1990, 2004, and 2006. The unanimous conclusions of all those studies was that the Council should not be changed in size and structure. Unless the current CRC has very strong and undisputed research — which does not exist — it should not try to change what so many others have studied in the past, and decided to leave the Council size and structure just as it is now.

Thank you.

I am here to protest the imbalance of representation. As this country is founded on the federalist paper and states were created to balance the powers by location and not population, Montgomery County should do the same.

Northern Montgomery has always been under represented. Its time to make things right and give a voice to all Montgomery County residences. I support having nine districts.

Bryan Nelson

Good evening, my name is Mark Lautman, and I live in Rockville. I am the treasurer of the referendum effort Nine Districts for Montgomery County.

Hans Riemer is a three-term at-large. He mentions in his newsletters and interviews that he looks to the prominent progressive counties on the West Coast for inspiration for some of his work. Mark Elrich mentions that he also does the same homework, and personally I find that very laudable. What are those progressive counties that Mr. Reimer mentions? Santa Clara County, San Francisco county, Portland is in Multnomah County, and Seattle is in King County. Those are the four prominent progressive counties on the west coast, and I would like to throw in Marin County. None of those counties have any at large. If at large really were progressive, empowering, and democratic, then we would find at least one, lonely, over-worked at large representative somewhere in those five counties, but there are none. What does this mean?

San Francisco County did have at large for some time up until the mid-1970s. How did it come to an end? Harvey Milk was the martyr for bringing LGBT into mainstream politics. (There's a direct line from Harvey Milk to Mayor Pete who's running for president, and to our own Evan Glass. This is America at its best.) Mr. Milk had made two attempts to gain a seat on the County Council in San Francisco, but he failed both times. The small, entitled group of voters coalesced to elect all 5 at-large members on the council. Mr. Milk realized the injustice of this arrangement, and he led a referendum to abolish at large in San Francisco in favor of district voting. He prevailed, just like we in Nine Districts will also prevail. And what happened? On his first attempt in district voting, he won. But it's not about him, it's about his significant constituency in the Castro District. This is the absolute proof that at large is exclusionary and blocks out one demographic or another. And it's happening right here.

This is why at-large has been excoriated and denounced in the United States Supreme Court time and time again. Sandra Day O'Connor called it drowning out votes, Ruth Bader Ginsburg called it a tool of control, and Thurgood Marshall said it does not reflect voter preference.

In conclusion, we in Nine Districts are walking along a path that was prepared for us by Sandra Day O'Connor, Thurgood Marshall, Ruth Bader Ginsburg, Harvey Milk, and other American legends whom we have yet to discover. The view from this path is optimistic, inclusionary, and it is the future. We're asking for you to join us!

Testimony Before Charter Review Commission Hearing

Amy Waychoff

County Council District 1

March 4, 2020

My name is Amy Waychoff. Thank you for holding these hearings on the future structure of the Montgomery County Council. I support the elimination of at-large council seats in favor of nine smaller and more compact district seats. The current structure was put in place 30 years ago when the population was much smaller and was concentrated down county. Since that time, the county population has grown by over fifty percent, with a large portion of that growth being up county. If you look at the attached map, you will see that 7 of 9 council members (including the County Executive) live south and east of North Bethesda, a small area often called the “down county crescent:” however, only 30 percent of county residents live in this area, while the other 70 percent of us are represented by only two council members! Another way to look at this under representation is that those two council members must each be the voice for 368,000 people, while each of the seven council members in the Silver Spring and Takoma Park area speak for “only” 45,000 people.

I live near Wheaton, MD, one of those areas that has not had a voice in the County Council. I was moved by the testimony presented by

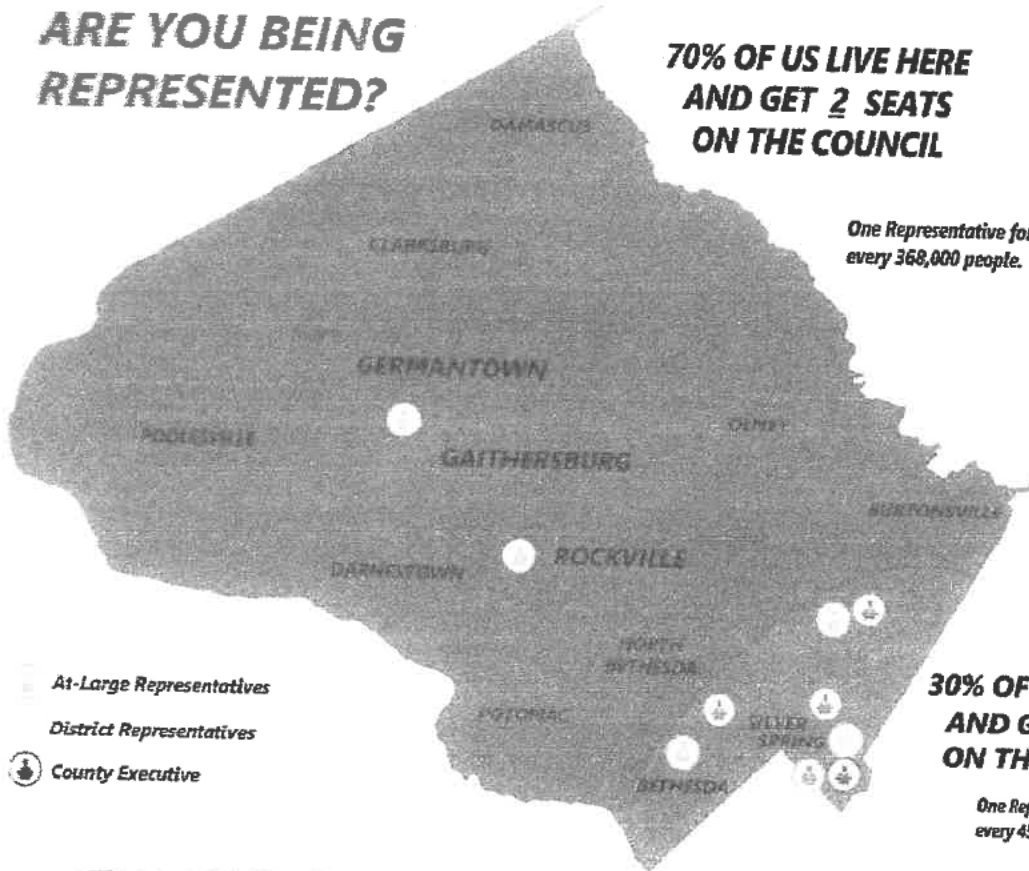
Kimblyn Persuad, chair of Nine Districts for MoCo and a community activist in the Wheaton area. She spearheaded the creation of the Wheaton Coalition to address inequalities impacting the quality of life in Wheaton. She mentioned problems including illegal accessory apartments and unregistered rooming houses, leading to overcrowding and enormous amounts of garbage. The latter, in turn, led to an infestation of roaches, black birds, and rats. And yet, when the Wheaton Coalition tried to get help from the County Council, it was given the runaround. She discovered that while the at-large members may have an equal vote in the council, their voice does not count as much as the district council members. Kimblyn further pointed out that “with at-large candidate campaign funds needing to stretch across the entire county, Wheaton and other low-voting communities are easily left out.” Now is the time to address this glaring inequality, because district boundaries will be drawn after the 2020 Census and will be in place for ten years.

Thank you.

**ARE YOU BEING
REPRESENTED?**

**70% OF US LIVE HERE
AND GET 2 SEATS
ON THE COUNCIL**

*One Representative for
every 368,000 people.*



**30% OF US LIVE HERE
AND GET 7 SEATS
ON THE COUNCIL**

*One Representative for
every 45,000 people.*

SIGN THE PETITION

By Authority Nine Districts for MoCo; Mark Lautman, Treasurer

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Gus B. Bauman < >
Sent: Thursday, October 3, 2019 2:36 PM
To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>
Cc: County Council <County.Council@montgomerycountymd.gov>;
Subject: County Council Composition

[EXTERNAL EMAIL]

Dear Commissioners:

I read that you are considering proposing to revamp the make-up of the County Council. Please be careful what a few may wish for.

By way of quick introduction, I have been involved in myriad ways with the politics and governance and community affairs of Montgomery County since 1974. (E.g., I was appointed in 1989 by the 7-member County Council to be chairman of MNCPPC/Montgomery County Planning Board and re-appointed in 1993 by the 9-member Council.)

I write not about whether we should have 9 Councilmembers versus 11 or 13. I write not about whether Council district lines should be maintained or re-drawn.

I write about only one, fundamental thing---that being, whatever you may end up recommending regarding numbers and lines, I urge that the County maintain the At-Large/District ratio system that went into effect in 1990. If we are now to have, say, 6 District members rather than 5, then we will also have 5 At-Large members rather than 4.

Why do I say this?

Because only THEN does a majority of the County Council have to pay attention to what a citizen is saying when that citizen comes knocking on Council's door.

To adopt a system of either all District members or a token number of At-Large members means any semblance of County democracy that we currently enjoy will be supplanted by inevitable parochialism writ large. The cascading effects on policies, budgets, and programs will invariably be expensive in every meaning of that word.

We have a single legislative body at the local level, not the dual check-and-balance system of the State and federal governments. Yet, our current 4/5 Council composition is our own internal dual system, admirably forcing more reasonable balance in our legislative decision-making. It is our way of always bringing to the public debate, on any matter large or small, a significant County-wide view.

A 4/5 Council ratio, or 5/6 or 6/7 ratio, renders the County political playing field more open, accessible, and fair to the citizen petitioning her County government. Let us not destroy what has been working well.

Sincerely,
Gus Bauman
Silver Spring

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Sarwar Faraz < >

Sent: Wednesday, January 15, 2020 8:13 AM

To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>

Subject: County Council At Large

[EXTERNAL EMAIL]

Hello:

Please eliminate all "At Large" positions in the county council. Despite having five positions, I find non of them do any representation for Upcounty residents.

Thanks

Sarwar Faraz

Clarksburg

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: E J < >

Sent: Wednesday, January 15, 2020 12:31 PM

To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>

Subject: Council Member Numbers

[EXTERNAL EMAIL]

Dear Sir/Madam,

I believe the number of Council Members should remain the same.

Sincerely,

E.J. Ghenene

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Richard Fidler <>

Sent: Wednesday, January 22, 2020 12:30 PM

To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>

Subject: Comments about Charter changes

[EXTERNAL EMAIL]

I recommend that we do away with at-large County Council seats and create 9 new single-member districts to ensure that all parts of the county are represented fairly.

---Richard Fidler

Bethesda

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Mac <>

Sent: Saturday, February 8, 2020 10:42 AM

To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>

Subject: County Council structure

[EXTERNAL EMAIL]

Good morning,

I've noted that there will be a number of listening sessions concerning the current structure which has 4 at large members.

I favor a structure where there are no at large members, but 9 areas in the county each with its own member. This is a much fairer and more representative arrangement to better represent all residents.

Mac

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Jian Ye <>

Sent: Monday, February 10, 2020 9:15 PM

To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>

Subject: The West side of Montgomery county needs more representation!!!

[EXTERNAL EMAIL]

Dear Commission Members,

The current make of the council is very biased. Areas in the West side of the county in Bethesda, Rockville, Germantown, Clarksburg where most people in Montgomery county live are significantly underrepresented. Please let each 9 districts of the county elect their own council member. Please also get rid of at large seats since they add the underrepresentation problem.

Sincerely e

Jian Ye

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: David Fishback <>
Sent: Friday, February 21, 2020 7:26 AM
To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>
Subject: County Council Structure

[EXTERNAL EMAIL]

February 21, 2020

To: County Charter Review Commission
From: David S. Fishback, Olney MD
Re: Proposal to alter the structure of the County Council

I have lived nearly my entire adult life in Montgomery County, and have lived in Olney since 1986.

I believe it would be a big mistake to move to a nine District Council, eliminating the At-Large seats.

The advantage of the current five District/four At-Large system is that it is more likely to reflect majority sentiment in the County. The four at-large members are responsible to the entire electorate; the five district members are responsible only to the people in their districts. The more districts and the fewer at-large districts, the more likely we could get a Council that would not reflect majority views on significant policy matters. I recognize that smaller districts might lead to more responsiveness with respect to constituent service and might yield a greater diversity of ideas in the course of Council deliberations. But for the reason explained below, I think that that argument is far outweighed by the impact of the current requirement of the "Ficker Amendment."

Under the "Ficker Amendment" to the Charter, property tax rates may not be increased beyond inflation unless the Council **unanimously** approves such an increase. Several years ago, County Executive Leggett correctly concluded that such an increase was absolutely necessary for the County to continue to be the kind of place we want to live in. After considerable discussion, the Council unanimously voted to approve the necessary tax package.

But if the Council had been splintered into nine districts, it would have been much more difficult, if not impossible, to secure that unanimity. With more, and smaller, districts, it would have been more likely that a single Council

member could have vetoed the overwhelming majority of sentiment in the County.

A better case could be made for more, smaller district seats if the "Ficker Amendment" had not been passed. Indeed, one could make an argument that the Amendment it might not have passed if the Council structure had then consisted of nine smaller districts. But unless and until the "Ficker Amendment" is repealed, splintering the Council into smaller districts would be a ticking, fundamentally undemocratic time-bomb, which could result in tragic consequences for our community.

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Wellons, Christine <Christine.Wellons@montgomerycountymd.gov>
Sent: Friday, February 21, 2020 9:49 AM
To: gail <>; Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>
Cc: Jean-Paul, Marie <Marie.Jean-Paul@montgomerycountymd.gov>
Subject: RE: Resident Feedback regarding Listening Sessions

Hi Ms. Weiss:

Thank you for your follow-up email. In response to your first question, Councilmembers may attend public meetings, including the Charter Review Commission's Listening Sessions. In response to your second question, the Commission seeks as many resident perspectives as possible. Speakers are advised of the 3 minute timeline (which is what the Council uses) to facilitate hearing from as many attendees as possible, though the actual number of registrants/attendees will dictate how tightly the timing must be enforced. If a resident has spoken at a previous session, he or she might be asked to speak after other residents - who have not yet been heard from - have an opportunity to speak. Residents may share any views they have with the Commission Members, including in writing if more comfortable, convenient, and/or the 3 minutes of speaking time is insufficient. Thank you for sharing your concerns on these important matters.

Best regards,

Christine

Christine Wellons, Legislative Attorney
Montgomery County Council

From: gail <>
Sent: Wednesday, February 19, 2020 9:25 PM
To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>
Cc: Wellons, Christine <Christine.Wellons@montgomerycountymd.gov>; Jean-Paul, Marie <Marie.Jean-Paul@montgomerycountymd.gov>
Subject: Re: Resident Feedback regarding Listening Sessions

[EXTERNAL EMAIL]

Hi Christine,

I am wondering if any clear conclusion was reached with regard to the concerns that I expressed below?

Will the last three listening sessions (all of which were expressly set up to hear from residents) be conducted without the intimidating and inappropriate presence of Council members, hopefully, so that residents can feel that they can speak freely?? And will no resident be silenced, or edited, even if they have spoken at a previous listening session, so long as time permits?

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

Thank you for your time.

Sincerely,
Gail Weiss

On Mon, Feb 10, 2020 at 10:14 AM Charter Review Commission
<CharterReview.Commission@montgomerycountymd.gov> wrote:

Dear Ms. Weiss,

Thank you for sharing your comments and concerns with the Charter Review Commission. I'll share your email, below, with the Commission Members for their review.

I can assure you that all of the Commission Members, as well as the Councilmembers and staff members, very much welcome and value all residents' input.

Thank you, again, for sharing your thoughts on the Listening Sessions and on the Council structure. Please feel free to share any additional thoughts you may have at an upcoming session or in writing to this email address. Below is information on the remaining Listening Sessions:

1. Saturday, Feb. 22, 2020, 2:30 p.m. – 4 p.m.; Olney Community Library, Medium Room #2, 3500 Olney-Laytonsville Road, Olney
2. Rockville: Wednesday, March 4, 2020, 6:30 p.m. – 8 p.m.; Council Office Building, 3rd Floor Hearing Room, 100 Maryland Ave., Rockville
3. Germantown: Monday, March 23, 2020, 7:00 p.m. – 8:30 p.m.; Upcounty Regional Services Center, Conference Room A, 12900 Middlebrook Road, Germantown

If you wish, you can preregister to speak at the session(s) via the Council's website, <https://www.montgomerycountymd.gov/council/calendar.html>.

Best regards,
Christine Wellons, Legislative Attorney

Montgomery County Council

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: gail < >

Sent: Monday, February 10, 2020 9:20 AM

To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>

Subject: Resident Feedback regarding Listening Sessions

[EXTERNAL EMAIL]

Dear Charter Review Commissioners:

At the initial "listening session" I was unsettled by the attendance of Evan Glass, At-large council member. By the Commission's own words, these five "listening sessions" were established to hear the RESIDENTS' views on the size and structure of our Montgomery County Council. Mr. Glass's attendance felt intimidating to residents who came to be heard as well as even the residents who came to hear fellow resident's comments. Since these sessions are video taped (when the guy can get there on time. Sheesh.) there is no reason for council members to attend "to listen and to learn" as Even Glass stated.

I refer you to this from the Charter Review Commission's own website:

Montgomery County Charter Review Commission to hold public listening sessions on County Council size and representation

For Immediate Release: Monday, January 13, 2020

ROCKVILLE, Md., Jan. 13, 2020—The Montgomery County Charter Review Commission will hold five listening sessions with residents between January and March to discuss the structure of the Montgomery County Council. These sessions will address whether the size of the Council (currently nine members) and its make-up (five district Councilmembers and four at-large Councilmembers) should be changed or remain the same.

As we can see, these "listening sessions" - by the Commission's own description - are for residents.

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

While Council members need not be prohibited from sending staffers to attend, *even that is not required as the sessions are videotaped*. Further, I see no need or justification for any staffers in attendance to be publicly recognized, as that also could intimidate or otherwise constrain or temper the comments of speakers. Such self-censorship of resident's comments seems like it would be contrary to the Commission's stated objective.

I was even more troubled to hear that Will Jawando, At-large council member, was given unlimited time to SPEAK at the most recent "listening session" this past weekend.

Again, these sessions are for residents to speak to the Charter Review Commissioners; not for council members "to listen and learn" and certainly not for them to speak. If Council members need this venue (that is intended to hear from residents) to "listen and learn" and speak to residents, it only proves the point of residents who are testifying, that the current structure of the Council is outdated and not working!

Council members have their own time to hear from, and speak to, residents and if they are failing to do that effectively, then the current structure (of five plus four) clearly needs to be changed for ALL council seats, in order to provide a much smaller ratio of resident-to-council member, such as nine specific district seats would provide, and do so at zero additional taxpayer burden! We would get more bang for our tax buck to have 100% accountable elected officials (no way to shift who takes blame/ credit of every area of the county) and a much more accessible (nearly doubled) relationship for each voter with our council member. Aren't both of those things the very basis of good and democratic government which we all seek?

Finally, I am very distressed to learn that four of the Commissioners sought to prohibit one resident from speaking again (despite two of the four opposing Commissioners not yet having heard this resident, as they were not present at the prior listening session when she first spoke, and the videographer did not capture her testimony as he had not yet arrived when she testified) When this resident was finally 'allowed' to speak, she was told WHAT she may or may not say to the Commission.

The fact that this resident is female and is African American also makes me wonder about the values being exhibited by some of the Commissioners in this instance.

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

While the Commissioners are volunteers, you are at least viewed as a de facto extension of our County government having been appointed by and reporting to the Council:

The County Council appoints an eleven-member, bi-partisan, Charter Review Commission to study the County Charter. **The Commission must report to the County Council...**

Citizens have every right to petition our government and to do so utilizing our right to speak freely. (I'm pretty sure we fought a war significantly over these principles.) This includes being able to address the Charter Review Commission during "listening sessions" that were specifically set up to listen to residents, and for residents to do so in any way that we see fit.

I hope that the Commission will seriously course-correct for the remaining three sessions regarding the issues raised here. It needs to be made clear that these sessions are for residents (and not for Council members to be seen or heard) and residents are to be given a safe space to speak freely and Commissioners will not constrain resident's speech by any preordained guidelines or by even the unintended appearance of intimidation by the presence of any Council members or their staff. Let's strive to work together towards the accountable and representative county government that will serve us all best and most equitably.

Thank you for your consideration.

Sincerely,

Gail Weiss

Montgomery County Resident

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Sharon Begosh <>
Sent: Sunday, March 1, 2020 11:01 AM
To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>
Subject: Comments for consideration for proposed charter amendment

[EXTERNAL EMAIL]

Dear CRC,

I attended the listening session at Olney Library in February. I did not speak due to lack of time since many of the speakers went over their 3 minute limit. However, I do have several comments I would like you to consider, many in response to things I heard during the session.

My position is that residents in the upcounty areas have been under-represented and therefore ignored for years. I am a retired Montgomery County employee, who served as as a Division Chief for the Department of Correction and Rehabilitation, and testified before council many times. I remember periods where the 4 At Large Districts were all held by citizens of Takoma Park, a small radically liberal enclave in the county (who recently introduced a bill to ban all fossil fuels within their city limits).

This sets in motion the possibility of a majority (5) of council members who could be from Takoma Park. And although the doctor who testified second at the Olney meeting said it doesn't matter where the council members live "everybody has to live somewhere", I think we all know that couldn't be further from the truth, especially in local politics. Your neighborhood is where you spend, the majority of your time and where you are sure to be present a part of everyday. It's where you run into neighbors constantly who are able to voice their opinions and influence your views. It's where your children go to school and need to fit in, and it's where your reputation and public opinion mean the most to you and your family personally. Council members from Takoma Park, have needs and desires much different than the typical resident of Damascus or Poolesville.

Another speaker for keeping things the same said that At Large Council members actually serve the under-represented counties better because they have access to 5 members who technically represent them. That is only valid if it is true, and they are responsive to the lower populated area's citizens. But, as several people testified that day, they can't even get an At Large Council member to attend the Greater Olney Civic Association meeting (which is our largest gathering of constituents). The At Large member that you had at the listening session was someone I have never seen or heard from before in my life. There is no active outreach by the At Large Council members to the lesser populated areas of this county.

In conclusion, the current make-up of the county council for a county which represents approximately 1/7th of the State's population, does not effectively represent residents in the upper, less populated, and typically more conservative part of the county. My recommendation is to divide the county into 8 districts, clumping areas that have more commonalities than differences in those districts, leaving one council member at large. If that is not feasible, than I would be in favor of the 9 district solution with no At Large seats.

Sincerely,
Sharon Begosh

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Betty H. <>

Sent: Wednesday, March 25, 2020 11:09 AM

To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>

Subject: Size of County Council

[EXTERNAL EMAIL]

My name is Betty Howard. I live in Rockville near the capital beltway. I felt it was important to share my opinion regarding the size and make-up of the Councilmembers with the Charter Review Commission.

Nine members should be an adequate number of representatives for our large county. Balancing the voice of the diverse districts should be our goal in deciding equal representation. Too many members can make it hard to come to consensus on issues. However, I feel it would be better to have fewer at-large members. Currently the at-large members are centered in the area with the largest population closest to the Capital Beltway. The more densely populated districts, on the existing County Council, have a 2-1 ratio creating an imbalance of representation that does not give equal voice to all districts.

The fact that most of the current at-large members come from the more metropolitan area of our community does not represent where most of our growth is centered in the outer regions of our county. Representatives from each district limiting at large members to only 2 could give a more equal voice to our growing out lying districts. The focus of the districts will be different because of the population density and needs of the developing communities.

Obviously I don't have the answers but wanted the Commission to evaluate the balance to try to give equal representation to all districts.

Thank you for your interest in hearing public opinion as you struggle to evaluate our Council Charter.

Betty Howard

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

From: Wellons, Christine <Christine.Wellons@montgomerycountymd.gov>
Sent: Tuesday, May 12, 2020 1:15 PM
To: Aaron Cameron <>; Charter Review Commission
<CharterReview.Commission@montgomerycountymd.gov>
Cc: Jean-Paul, Marie <Marie.Jean-Paul@montgomerycountymd.gov>
Subject: RE: Abolish At-large Seats

Mr. Cameron:

Thanks very much. I'll share your additional thoughts with the Charter Review Commission Members.

Best,

Christine Wellons, Legislative Attorney
Montgomery County Council
100 Maryland Avenue, 6th Floor
Rockville, Maryland 20850
240-777-7892

CONFIDENTIALITY NOTICE: The contents of this email, including any attachments, may be confidential under the attorney-client privilege, the attorney work product doctrine, or other applicable law. If you are not the intended recipient, please notify the sender immediately, do not distribute the email, and delete any copies of it. Thank you.

From: Aaron Cameron <>
Sent: Tuesday, May 12, 2020 1:03 PM
To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>
Cc: Wellons, Christine <Christine.Wellons@montgomerycountymd.gov>; Jean-Paul, Marie <Marie.Jean-Paul@montgomerycountymd.gov>
Subject: Re: Abolish At-large Seats

[EXTERNAL EMAIL]

Ms. Wellons,

Thank you for the reply. While I have your attention, I'd like to point out for the record that I understand the arguments in favor of at-large positions. Despite my original suggestion, perhaps a move to seven geographic seats to two at-large is most appropriate. Not that I want to expand government in these upcoming times of austerity, but maybe 11 geographic and two at-large is best. I don't know. What I do know is that an almost 50/50 split in geographic vs at-large does not pass the sniff test, and that there are plenty of folks who do not feel well represented in the current structure.

Regards,

Aaron Cameron

Emails from Public to Charter Review Commission Re: Size and Composition of the Council
Personal Contact Information Has Been Redacted

On Tuesday, May 12, 2020, 12:39:31 PM EDT, Charter Review Commission
<charterreview.commission@montgomerycountymd.gov> wrote:

Dear Mr. Cameron:

Thanks very much for sharing your views with the Charter Review Commission.

Best regards,

Christine Wellons, Legislative Attorney

Montgomery County Council

From: Aaron Cameron < >

Sent: Tuesday, May 12, 2020 10:51 AM

To: Charter Review Commission <CharterReview.Commission@montgomerycountymd.gov>

Subject: Abolish At-large Seats

[EXTERNAL EMAIL]

Charter Review Commission,

I was born and raised in Montgomery County, as was my wife. She and I spend an inordinate amount of time discussing whether or not to take our household income elsewhere, due to Montgomery County's politics having gone completely off the rails. The current structure of the County Council is barely a representative democracy for much of the county. Many of us feel that Downcounty is jamming their agenda down our throats. When I look at the geographic makeup of the Council, I see exactly why.

Abolish the four at-large seats and move to nine geographic districts so that my opinion and vote carries the same weight as someone in Silver Spring or Takoma Park.

Aaron Cameron

North Potomac

APPENDIX E

AGENDA

CHARTER REVIEW COMMISSION

Wednesday, June 12, 2019

8:00 a.m.

**Council Office Building
6th Floor Potomac Conference Room**

(Times are approximate)

8:00 a.m. I. OPENING REMARKS

- Welcoming remarks
- Introduction of CRC members and staff

8:20 a.m. II. MISSION OF THE CHARTER REVIEW COMMISSION

- Description of the mission of the CRC and staff's role
- History of the CRC
- What qualifies as Charter material? (presented by Edward Lattner, Office of the County Attorney)
- How issues are selected for CRC review
 - i. Input from meetings with the County Executive and Councilmembers
 - ii. Input from public forums
 - iii. Consensus/Vote of Commission Members
- Timeline for drafting first report
 - i. Draft report due to Council staff: March 2020
 - ii. Final draft approved by the CRC: April 2020
 - iii. Final report due to the Council: May 1, 2020
 - iv. Report presented to the Council: **June 2020**

8:55 a.m. III. ADMINISTRATIVE ITEMS

- Selection of next meeting date/ regular time for future meetings
- Discussion of agenda for the next meeting
 - Issues for Commission for consideration
- Confirmation of contact information
- Attendance at Commission meetings
- Reimbursement for travel and dependent care expenses
- Parking arrangements and badges

9:15 a.m. IV. ADJOURN

Additional information can be found on the official CRC website at
<http://www.montgomerycountymd.gov/crc/>

CHARTER REVIEW COMMISSION

Wednesday, June 12, 2019 – 8:00 a.m.
6FL.CONF .POTOMAC RIVER
Council Office Building

Commission Members Present:

George Margolies, Chair
Laura Goddeeris, Vice Chair
Christopher Danley
Katherine Gugulis
Susan Miles
Perry Paylor
Ronald Stubblefield
Nichole Thomas
Courtney Walker

Staff:

Jean Arthur, County Council
Edward Lattner, Office of the County Attorney
Marie Jean-Paul, County Council
Christine Wollens, County Council

Commission Members Absent:

David Hill
Larry Lauer

Commission Chair George Margolies called the meeting to order at 8:06 a.m.

I. Opening Remarks

Mr. Margolies opened the meeting by welcoming the Commission Members and staff and asked everyone to give a brief introduction.

II. Mission of the Charter Review Commission

Jean Arthur described staff's role to the Commission, which is to facilitate decision-making, provide background information on issues that come up, and conduct research. Ms. Arthur and Mr. Lattner also briefed the new Commission members on the history of previous Charter Review Commissions. Ms. Arthur noted that the Commission does not receive instructions from the Council; however, past Commissions have met with elected officials to obtain their ideas and recommendations. Ms. Arthur also noted that previous Commissions have solicited public comments on potential charter review issues by holding public forums and issuing press releases requesting input on potential Charter changes.

Commission members discussed ways to generate ideas for the Commission to study. The Commission decided to solicit input from current Councilmembers and the current County Executive and directed staff to extend invitations for this purpose.

Ed Lattner briefed the Commission members on the history of local government in Maryland and the relationship between the state and local governments. Mr. Lattner explained that the Express Powers Act gives home rule counties the power to legislate in areas that the State and federal governments have not preempted. Mr. Lattner further explained that the County and the State have concurrent authority, but under the doctrine of preemption by conflict, the County cannot permit something the State has expressly prohibited nor can the County prohibit something the State has expressly permitted.

The Charter is basically the County's constitution. The Court of Appeals has held that a Charter should deal with the organization of local government and the allocation of the powers granted to the County by the State among the entities or agencies created in the Charter. Legislative material should not be found in the Charter. Legislative power must primarily reside in an elected Council, but this power can be shared. For example, legislative power may be shared with the County Executive, who has the power to veto legislation. In addition, the Council's legislative power can be shared with the people through the power of referendum. The County Charter provides that the people of Montgomery County can share the legislative power by petitioning laws passed by the County Council to referendum.

Mr. Lattner explained that a proposed Charter Amendment must be approved by the registered voters of the County. A Charter Amendment is placed on the ballot in one of two ways:

1. The County Council may place a proposed Charter Amendment on the ballot. The Charter Review Commission may advise the Council about existing Charter proposals or make independent suggestions for Charter amendments.
2. Citizens may petition a Charter Amendment, if the petition contains the requisite signatures of not less than 20 percent of registered voters or 10,000 whichever is less.

III. Administrative Items

Commission members agreed to meet on the second Wednesday of every month between 8:00 a.m. and 9:30 a.m. Commission members agreed not to meet during August. Commission members asked Council staff to distribute a list of future meeting dates. George requested that Members inform him or staff in advance if they cannot attend a meeting. He also stated that he would be starting meetings promptly.

Council staff discussed the County's parking arrangements, badges, reimbursement for travel and dependent care expenses for members of County boards, committees, and commissions.

Council staff discussed the online training requirements for members of County boards, committees and commissions.

With the concurrence of Members, George advised that the next meeting's agenda would be devoted to brainstorming—but not debating—issues that Members desire to place on the table for CRC to consider for 2019-2020. We will also hear, within the limits of time, from those Councilmembers who have accepted our invitation.

Meeting adjourned at 9:11 a.m.

AGENDA

CHARTER REVIEW COMMISSION

Wednesday, July 10, 2019
8:00 a.m.
Council Office Building
6th Floor Potomac Conference Room

(Times are approximate)

8 a.m. I. ADMINISTRATIVE ITEMS

- Acknowledgment of Quorum
- Introduction of Larry Lauer and David Hill
- Approval of Minutes of June 12, 2019
- Parliamentary Procedures online training
- Open Meetings Act online training
- Badges/Parking
- Attendance at Commission meetings

8:20 a.m. II. DISCUSSION OF POTENTIAL ISSUES

- Invitation sent to Councilmember/County Executive per discussion on June 12, 2019
- Issue suggested by Council member Hans Riemer (attached)
- Brainstorming Session on issues for CRC to consider for 2019-2020
 - State issue and identify section of Charter
 - Explain in 2-3 minutes
 - Leave debate for next meeting
 - By next meeting, staff will compile, identify overlaps, and note whether issue has been previously studied or recommended before.

9: 30 a.m. IV. ADJOURN

Additional information can be found on the official CRC website at
<http://www.montgomerycountymd.gov/crc/>

As you know, in November 2018, following the recommendation of the Charter Review Commission and the Council, the voters approved an amendment to Charter section 305 to address the "vacancy" contingency. Overriding the Charter limit on property tax revenue now requires the affirmative vote of "all current" Councilmembers rather than "nine" Councilmembers.

When the Council was discussing this amendment in July 2018, I raised a related issue: a "health" contingency, where a "current" Councilmember is incapacitated and thus unable to vote to override the Charter limit. This confluence of events may seem remote, but it could occur: Over the years, several "current" Councilmembers have been incapacitated and unable to vote at critical times.

One possible approach proposed last year, remote voting, is not really responsive, and it is a bad idea in any event. Another proposed approach was to develop a parallel to the 25th amendment to the Constitution, but this too is problematic. Since there was insufficient time last year for the CRC and the Council to fully examine this question, you suggested that the new CRC be requested to include it on their agenda this year.

The CRC and the Council may ultimately conclude that there is no workable solution to the "health" contingency, but as my July 24, 2018 email below notes, it is important to consider it in an orderly way. If you still feel that this course makes sense, do you want to ask the CRC to do so?

CHARTER REVIEW COMMISSION
Wednesday, July 10, 2019 – 8:00 a.m.
6FL.CONF. POTOMAC RIVER
Council Office Building

Minutes

Commission Members Present:

George Margolies, Chair
Laura Goddeeris, Vice Chair
Christopher Danley
Katherine Gugulis
David Hill
Larry Lauer
Susan Miles
Perry Paylor
Ronald Stubblefield
Nichole Thomas
Courtney Walker

Staff:

Jean Arthur, County Council
Edward Lattner, Office of the County Attorney
Marie Jean-Paul, County Council
Christine Wellons, County Council

Commission Chair George Margolies called the meeting to order at 8:00 a.m.

I. Opening Remarks

Mr. Margolies acknowledged the presence of a quorum and welcomed Commission Members and staff.

The agenda was adopted without objection. The draft minutes of June 12, 2019 meeting were likewise approved without objection, having been sent out in advance to Commissioners.

Jean Arthur reminded Members that attendance is mandatory, and that each Member must take online training regarding the Open Meetings Act and parliamentary procedure.

Commission Members Hill and Lauer introduced themselves to the other Members and the staff.

II. Potential Topics for Charter Review Commission Consideration

Ms. Arthur explained that invitations were sent to the County Executive and to each Councilmember inviting them to attend a Commission meeting and to share any topics they would like the Commission to consider. A copy of one such letter was provided to Commissioners. Councilmember Reimer has forwarded one topic for consideration.

Mr. Margolies provided an overview of Councilmember Reimer's proposed topic, which is whether Section 305 of the Charter should be amended to provide a "health contingency" exception to the requirement that "all current Councilmembers" approve certain increases of real property taxes. Mr. Margolies stated that this suggestion, among all other topics identified by the Commission Members, will be considered at the Commission's September meeting.

Mr. Margolies invited each Member to suggest one or more Charter amendment topic(s) for consideration.

Mr. Danley proposed consideration of whether Sections 102 and 103 of the Charter should be amended to convert the four at-large Councilmember slots to be district-based slots. He stated that the County previously changed the composition of at-large versus district-based Councilmembers in the 1980s, and that population changes in the County warrant revisiting the issue.

Mr. Stubblefield suggested examining whether Section 206 of the Charter, regarding removal of the County Executive, should be amended to provide that criminal activity would be a basis for removing a County Executive.

Mr. Lauer suggested reviewing whether Sections 102 and 103 should be amended to provide for staggered terms of Councilmembers for purposes of continuity. Mr. Lauer also suggested Sections 510, 510A, and 511, regarding collective bargaining, as potential Sections for review, for being too specific.

Ms. Thomas suggested considering whether Sections 102 and 103 should be amended to increase the number of Councilmembers given population growth. She stated that she supports having a mix of at-large and district-based Members.

Mr. Paylor proposed reviewing whether Section 110 should be amended to provide for workforce housing and balanced growth throughout the County.

Mr. Hill proposed reviewing Section 314 regarding competitive procurement to add more prescriptive language, and suggested researching whether past Commissions have reviewed this topic. Mr. Hill also noted that Section 104, regarding redistricting, should be reviewed if Sections 102 and 103 are reviewed. Changes to Sections 102 and 103 might have implications for Section 104.

Ms. Goddeeris suggested reviewing Section 302 regarding the CIP process and fiscal policy. She asked whether the language of this section needs to be tightened and whether other amendments might be warranted. Ms. Goddeeris also proposed reviewing whether Section 410 should be amended to provide for explicit rights and protections for individuals who file ethics complaints.

Mr. Margolies proposed reviewing whether Section 203 should be amended to provide that an individual must have resided in the County for more than one year in order to qualify as a candidate for County Executive. He noted that other counties, including Prince George's County

and Anne Arundel County, have more robust residency requirements for their County Executives. Mr. Margolies also suggested reviewing Section 107 regarding whether the compensation of Councilmembers should continue to be determined by vote of the Council.

Ms. Gugulis proposed reviewing whether the Charter could be amended to provide for charter schools and a voucher system.

III. Administrative Items

Mr. Margolies reminded Members that the next Commission meeting is scheduled for Wednesday, September 11 from 8:00 a.m. to 9:30 a.m.

The next meeting will be devoted to deciding upon [a] Charter amendment topic(s) for the Commission to consider in 2019-2020. Prior to the September meeting, staff will compile topics, identify overlaps, provide brief analyses of the topics, and identify whether the topics have been reviewed by prior Commissions. Also prior to the September meeting, Mr. Margolies and Ms. Goddeeris will meet with staff to discuss how to group the many topics thrown on the table; how to present the background to the topics insofar as they have been addressed in the past; how the Commissioners might approach deciding to make an issue one to formally consider this cycle for study and recommendation; and how to go about studying the issue(s) the Commissioners choose.

Meeting adjourned at 9:01 a.m.

AGENDA

CHARTER REVIEW COMMISSION

Wednesday, September 11, 2019

8:00 a.m.

**Council Office Building
6th Floor Potomac Conference Room**

(Times are approximate)

8:00 a.m. I. ADMINISTRATIVE ITEMS

- Acknowledgment of Quorum
- Approval of Minutes of July 10, 2019

8:05 a.m. II. DISCUSSION AND IDENTIFICATION OF ISSUES FOR STUDY

- Review the chart of items previously identified by Commission members.
- Select topics of study for the 2020 CRC Report.
- Develop plan to study topics and to make recommendations.

9: 30 a.m. III. ADJOURN

Additional information can be found on the official CRC website at
<http://www.montgomerycountymd.gov/crc/>

CHARTER REVIEW COMMISSION
Wednesday, September 11, 2019 – 8:00 a.m.
6FL.CONF. POTOMAC RIVER
Council Office Building

Minutes

Commission Members Present: George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Susan Miles Perry Paylor Ronald Stubblefield Nichole Thomas Commission Member Not Present: Courtney Walker	Staff Present: Ed Lattner, Office of the County Attorney Marie Jean-Paul, Office of the County Council Christine Wellons, Office of the County Council Guests Present: Marc Elrich, County Executive Joy Nurmi, Chief of Staff, Office of Councilmember Albornoz Mark Pierzchala, Councilmember, Rockville City Council Dale Tibbitts, Office of the County Executive Debbie Spielberg, Office of the County Executive
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Commission Chair George Margolies called the meeting to order at 8:00 a.m.

I. Opening Remarks

Mr. Margolies acknowledged the presence of a quorum and welcomed Commission members, guests, and staff.

The agenda, with one amendment, was adopted without objection. The amendment to the agenda was that the County Executive, Marc Elrich, would join the meeting at approximately 8:45 a.m. The draft minutes of the July 10, 2019 meeting were approved without objection, having been sent out in advance to Commissioners.

The Chair called for a moment of silence in observation of 9/11 and the work of first responders.

II. Review of Chart of Potential Topics

Staff presented a chart outlining the topics that Commission members previously identified as potential areas of study for the Commission. Mr. Lattner responded to questions of the Commission members related to issues of law and potential State preemption.

III. County Executive Recommendations

County Executive Marc Elrich joined the meeting at approximately 8:45 a.m. Mr. Elrich outlined several recommendations for the Commission's consideration:

(1) Charter Section 102. The County Executive encouraged the Commission to review the composition of the County Council under Section 102 – a topic which the Commission previously had identified as a potential topic for study. Mr. Elrich recommended increasing the number of district seats on the Council. He argued that having more district seats would give residents better access to their elected officials.

(2) Non-Merit System Appointees. The County Executive encouraged the Commission to study whether more County employee positions should be non-merit. He stated that converting certain positions to be non-merit would increase the responsiveness of those positions to the Executive's mission.

(3) Inspector General. The County Executive questioned whether the Montgomery County Public Schools (MCPS) should be subject to the County's Inspector General. He believes that MCPS contracts should be subject to scrutiny by the County's Inspector General.

(4) Park and Planning. Mr. Elrich stated that the County should have more direct control over planning. He questioned whether the current bi-county planning commission, the Maryland-National Capital Park and Planning Commission, should be dissolved in favor of a County commission.

(5) Campaign Finance and Ethics. The County Executive suggested reviewing ethics laws to address conflicts of interest that may arise when an elected official decides upon a matter affecting the official's campaign donor.

IV. Discussion of Potential Topics for Review

The Commission members discussed the composition of the County Council (Charter Section 102), which is a topic that Members had identified at prior Commission meetings as a potential area for study. Several members – including Mr. Danley, Ms. Thomas, Ms. Gugulis, and Mr. Lauer – argued that the issue is ripe for review because redistricting will occur in 2022. Ms. Thomas noted that the Commission could build upon the work of prior Commissions, including a minority report contained within the Commission's 2018 report.

Mr. Hill and Mr. Paylor argued against studying the composition of the Council. Mr. Hill pointed out that changes recently were made to the redistricting process under Section 103, and that these changes should proceed before evaluating whether to change the composition of the Council. Mr. Paylor argued that under the current Section 102, the Council is highly diverse. He also noted a lack of empirical evidence that increasing the number of districts would result in Councilmembers who are more responsive to residents.

Mr. Danley made a motion for the Commission to study whether Section 102 should be amended to alter the composition of the Council. Five members voted in support of the motion: Mr. Danley, Ms. Gugulis, Mr. Lauer, Ms. Thomas, and Ms. Miles. Five members voted against the motion: Mr. Margolies, Ms. Goddeeris, Mr. Paylor, Mr. Hill, and Mr. Stubblefield. The motion failed for lack of a majority.

Mr. Lauer suggested studying whether Charter Section 305 should be amended to provide a “health contingency” exception to the requirement that “all current Councilmembers” approve certain property tax increases. Several members, including Mr. Margolies, argued against studying the topic.

Ms. Goddeeris suggested that further consideration be given to whether there is sufficient time to study Section 102 for the Commission’s 2020 report. Mr. Margolies stated that the Commission is free to reconsider whether to study Section 102 at its October meeting upon receipt of additional information. Mr. Margolies stated that reconsideration of the defeated motion to study Section 102 could occur at the next meeting if a member of the prevailing side of the defeated motion moves to reconsider.

V. Administrative Items

Mr. Margolies noted that the next scheduled meeting, October 9, 2019, falls on Yom Kippur. Accordingly, Members decided to reschedule the meeting to October 2, 2019.

Mr. Paylor asked counsel to remind Members that the Open Meetings Act applies to all Commission meetings. Counsel stated that the Act applies to all Commission meetings.

The next meeting will be devoted to continuing to decide upon [a] Charter amendment topic(s) for the Commission to consider in 2019-2020. Prior to the October meeting, staff will research: (1) the timeline for considering any amendments to Charter Section 102, as that timeline relates to redistricting; and (2) prior Commissions’ reviews of Section 102.

Meeting adjourned at 10:28 a.m.

AGENDA

CHARTER REVIEW COMMISSION

Wednesday, October 2, 2019

8:00 a.m.

Council Office Building

6th Floor Potomac Conference Room

(Times are approximate)

- 8:00 a.m. I. ADMINISTRATIVE ITEMS
- Acknowledgement of Quorum
 - Adoption of Agenda
 - Approval of Minutes of September 11, 2019
- 8:05 a.m. II. DISCUSSION OF ISSUES FOR STUDY
- Review of materials prepared by staff in response to 9/11/19 discussion
 - Continued discussion/selection of topics to be studied for 2020 CRC Report
 - For any topics selected to be studied for 2020 report:
 - C.O.W. vs. Committee review?
 - Public hearing(s) and/or input via mailing list?
- 9:30 a.m. III. Adjourn

Additional information can be found on the official CRC website at
<http://www.montgomerycountymd.gov/crc/>

CHARTER REVIEW COMMISSION
Wednesday, October 2, 2019 – 8:00 a.m.
6FL.CONF. POTOMAC RIVER
Council Office Building

Minutes

Commission Members Present: George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Susan Miles Perry Paylor Ronald Stubblefield Nichole Thomas Courtney Walker	Staff Present: Ed Lattner, Office of the County Attorney Marie Jean-Paul, Office of the County Council Christine Wellons, Office of the County Council Guests Present: Kate Masters, <i>Bethesda Beat</i>
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Commission Chair George Margolies called the meeting to order at 8:01 a.m.

I. Opening Remarks

Mr. Margolies acknowledged the presence of a quorum. The agenda was adopted without objection. The minutes of the September 11, 2019 meeting were adopted without objection.

II. Background Information on Sections 102 and 103 of the Charter

Staff presented two memoranda on information previously requested by Commission members. One memorandum summarized prior Commissions' consideration of Sections 102 and 103 of the Charter, as well as prior Charter amendments affecting those Sections. The other memorandum provided a timeline of the due dates for Commission reports, together with dates for the upcoming 2022 redistricting.

Mr. Lattner informed the Commission that if it were to recommend amendments to Sections 102 and 103 in the Commission's 2022 report (as opposed to the 2020 report), then the Commission also might wish to recommend temporary amendments to the redistricting procedure under Section 104. Otherwise, any amendments to Sections 102 and 103 would not go into effect until the 2032 redistricting.

III. Discussion of Topics for the Commission to Review and Study

Ms. Goddeeris moved to reconsider a motion that failed during the September 11, 2019 meeting, namely: whether to study for the 2020 report sections of the Charter related to the

composition of the Council (*i.e.*, the total number of Councilmembers, and the division of at-large versus district Members). Mr. Lauer seconded the motion. The motion passed by a vote of 7 to 3, with one member absent from the room. Voting in favor of the motion were Mr. Margolies, Ms. Goddeeris, Mr. Danley, Ms. Gugulis, Mr. Lauer, Ms. Miles, and Ms. Walker. Voting against the motion were Mr. Hill, Mr. Paylor, and Mr. Stubblefield. Ms. Thomas was absent during the vote.

Mr. Hill moved to amend the reconsidered motion in order to provide that the Commission will study the composition of the Council, including Sections 102, 103, and 104 of the Charter, without regard to whether any recommendations will be made in the 2020 report or in the 2022 report. Ms. Goddeeris seconded Mr. Hill's motion. The motion passed, with 7 voting in favor of the motion and 4 abstaining. The favorable votes were by Mr. Margolies, Ms. Goddeeris, Mr. Hill, Mr. Lauer, Mr. Paylor, Mr. Stubblefield, and Ms. Walker. The abstentions were by Mr. Danley, Ms. Gugulis, Ms. Miles, and Ms. Thomas.

Mr. Lauer moved for the Commission to adopt the amended motion, *i.e.*, for the Commission to study Sections 102, 103, and 104 of the Charter regarding the composition of the Council, without regard to whether the study will be completed by the 2020 report or the 2022 report. Mr. Stubblefield seconded the motion. The Commission voted unanimously (11-0) to adopt the motion.

The Chair invited members to propose any other topics for study. No additional proposals were made.

The Commission members discussed how to approach their review of Sections 102, 103, and 104. The Chair suggested, without objection, studying the sections as a committee of the whole. Ms. Goddeeris proposed holding focus groups regarding the composition of the Council. Mr. Hill suggested interviewing each current Councilmember as well as some past members. Mr. Paylor suggested holding 5 public hearings, one in each Council district, and Ms. Thomas concurred. Mr. Lauer suggested interviewing the County Executive in addition to Councilmembers.

The Chair invited members to list research that should be conducted before the next meeting. Ms. Thomas suggested looking into the cost of running a campaign; Mr. Lauer suggested researching best practices related to the size of districts in other metropolitan areas; Mr. Hill suggested looking into whether data is available regarding the responsiveness of Councilmembers to citizen complaints; and the Chair suggested reviewing scholarly literature regarding the size of districts, the benefits of at-large versus district seats, how to achieve diversity in membership, and campaign costs. The Chair also suggested reviewing the make-up of legislative bodies in nearby jurisdictions.

The Chair stated that the next Commission meeting is scheduled for November 13, 2019. Meeting adjourned at 9:28 a.m.

AGENDA

CHARTER REVIEW COMMISSION

Wednesday, November 13, 2019

8:00 a.m.

**Council Office Building
6th Floor Potomac Conference Room**

(Times are approximate)

- 8:00 a.m. I. **ADMINISTRATIVE ITEMS**
- Acknowledgement of Quorum
 - Adoption of Agenda
 - Approval of Minutes of October 2, 2019
- 8:05 a.m. II. **REMARKS FROM COUNCILMEMBER GLASS**
- 8:30 a.m. III. **DISCUSSION OF COUNCIL COMPOSITION AND
STRUCTURE – PART I**
- Overview of campaign finance statute
 - Overview of campaign costs in recent elections
 - At large vs. district seat cost comparisons
 - Impacts of population growth
 - Early effects of public financing
- 9:30 a.m. III. **REMINDER OF NEXT MEETING**
- December 11, 2019
 - Next Topic: Council Size & Composition in Other Jurisdictions
- ADJOURN**

Additional information can be found on the official CRC website at
<http://www.montgomerycountymd.gov/crc/>

CHARTER REVIEW COMMISSION
Wednesday, November 13, 2019 – 8:00 a.m.
6FL.CONF. POTOMAC RIVER
Council Office Building

Minutes

Commission Members Present: George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Perry Paylor Ronald Stubblefield Nichole Thomas Courtney Walker Member Not Present: Susan Miles	Staff Present: Ed Lattner, Office of the County Attorney Marie Jean-Paul, Office of the County Council Christine Wellons, Office of the County Council Guests Present: Councilmember Evan Glass Andrea Parodi, Legislative Aide, Office of Councilmember Evan Glass
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Commission Chair George Margolies called the meeting to order at 8:01 a.m.

I. Opening Remarks

Mr. Margolies acknowledged the presence of a quorum. The agenda was adopted without objection. The minutes of the October 2, 2019 meeting were adopted without objection.

II. Discussion with Councilmember Evan Glass

Councilmember Evan Glass spoke at the invitation of the Commission regarding Council size and composition under Sections 102 and 103 of the Charter. In particular, he addressed five questions posed by the Commission in a letter to Councilmembers dated October 17, 2019. First, the Commission had asked whether there is a significant difference in the expense of running for an at-large seat as opposed to a district seat on the Council. Councilmember Glass shared his experiences running for a district seat and later running for an at-large seat.

A campaign for an at-large seat requires communicating with approximately 1.1 million residents, whereas a campaign for a district seat requires communicating with approximately 225,000 residents. A direct mailing to likely voters, for example, would cost approximately \$40,000 in an at-large race, but would cost \$10,000-to-\$15,000 in a district race. In order to campaign successfully for an at-large seat, Councilmember Glass held 88 “meet and greets” with residents across the County to hear their priorities and concerns.

The Commission's second question was whether the County's population growth has affected the costs of campaigning. Councilmember Glass stated that the costs of campaigning have increased in general, not only because of population growth, but also because of the changing nature of campaigns. Increasingly, campaigns need to utilize multiple media platforms and have qualified campaign managers and field staff.

Third, the Commission asked about the effects of public campaign financing. Councilmember Glass described public financing as a "game changer" that allows candidates to focus attention on small individual donors.

Fourth, the Commission asked about whether population growth in the County has affected constituent services. Councilmember Glass stated that population growth has increased the demands on Council staff, which has not increased in size along with the population. Councilmember Glass stated that additional staff are needed.

Lastly, Councilmember Glass addressed strengths and weaknesses of the current Council structure. He emphasized that under the current structure, each resident may vote for a majority of the Councilmembers, and that this voter representation should not be diluted.

Councilmember Glass also noted that the Commission might wish to study the issue of rank choice voting.

III. Discussion of Campaign Finance and Campaign Costs

Staff provided to the Commission: (1) a PowerPoint presentation regarding campaign finance law; and (2) informational charts regarding campaign costs in recent elections. A discussion ensued regarding the importance of the data and its significance to consideration of the County Council structure. This was the first of Commission meetings devoted to several topics related to the composition of the Council (the issue selected for the Commission's workplan).

IV. Conclusion

The Chair stated that the next Commission meeting is scheduled for December 11, 2019.

The topics of the meeting will be (1) a comparison of other jurisdictions' Council sizes and compositions; and (2) scholarly literature on the sizes and compositions of legislative bodies. Dates and locations of community forums will be provided at the December meeting.

Meeting adjourned at 9:33 a.m.

AGENDA

CHARTER REVIEW COMMISSION

Wednesday, February 12, 2020

8:00 a.m.

**Council Office Building
6th Floor Potomac Conference Room**

(Times are approximate)

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| 8:00 a.m. | I. ADMINISTRATIVE ITEMS <ul style="list-style-type: none">➤ Acknowledgement of Quorum➤ Adoption of Agenda➤ Approval of Minutes of December 11, 2019 |
| 8:05 a.m. | II. DISCUSSION/ Q&A WITH MARLENE MICHAELSON, EXECUTIVE DIRECTOR, OFFICE OF THE MONTGOMERY COUNTY COUNCIL |
| 8:30 a.m. | III. DISCUSSION RE: IMPLICATIONS FOR PLACING BALLOT QUESTION AS TO COUNCIL COMPOSITION AND STRUCTURE ON 2020 BALLOT VS. 2022 BALLOT |
| 8:45 a.m. | IV. FEEDBACK FROM LISTENING SESSIONS OF 1/26/20 AND 2/8/20 <ul style="list-style-type: none">➤ Reminder: Upcoming Listening Sessions on 2/22 at Olney Community Library, 2:30-4 p.m.; and 3/4 at Council Office Building, 6:30-8 p.m. |
| 9:20 a.m. | IV. REMINDER OF NEXT MEETING <ul style="list-style-type: none">➤ March 11, 2020➤ Next Topic: Preliminary discussion of Commissioner proposals related to County Council composition and structure, with straw vote |

ADJOURN

Additional information can be found on the official CRC website at
<http://www.montgomerycountymd.gov/crc/>

CHARTER REVIEW COMMISSION
Wednesday, February 12, 2020 – 8:00 a.m.
6th Floor Potomac River Conference Room
Council Office Building
Minutes

Commission Members Present: George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Ronald Stubblefield Susan Miles Commission Members Not Present: Perry Paylor Nichole Thomas Courtney Walker	Staff Present: Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council Guest: Marlene Michaelson, Executive Director, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:01 a.m.

I. Opening Remarks

Mr. Margolies acknowledged the presence of a quorum. The agenda was adopted without objection. The minutes of the December 11, 2019 meeting were adopted without objection.

II. Discussion/ Q&A with the Executive Director of the Council's Staff

Mr. Margolies introduced Marlene Michaelson, Executive Director of the Office of the County Council. Ms. Michaelson was asked by the Chair to speak to the Commission regarding constituent services provided by the Council; the impact of population growth and/or technology on the demands placed on the Council; Council staff resources; and impressions about the size and structure of the Council.

Ms. Michaelson thanked the Commission members for their service and explained that she has served on the Council staff for over 30 years, most recently as its Executive Director.

In terms of constituent services, Ms. Michaelson explained that demands on Councilmembers and their staff are greater than ever due to population growth and technological changes over time. She noted that over the past 25 years, the population of the county has grown by about 30%, but the central staff of the Council has grown by only about 3%. Individual Councilmembers' staffs have grown by about 10%.

Ms. Michaelson noted several strengths of having a mix of district Councilmembers and at-large Councilmembers under the current structure of the Council. In her experience, it is beneficial not only to have Councilmembers who know their districts inside and out, but also to have Councilmembers who can focus more broadly on Countywide issues, such as affordable housing and education.

According to Ms. Michaelson, an additional benefit of the current makeup of the Council is that each resident has five Councilmembers who are directly responsible to the resident – one district member and four at-large members. The resident might choose to contact his or her district member for an issue specific to the district, but the resident might choose instead to contact an at-large member who is most interested in a particular Countywide issue, such as the environment.

Ms. Michaelson agreed to provide an organizational chart of Council central staff.

III. Discussion about Redistricting

At Mr. Margolies's request, Mr. Lattner discussed dates for the next redistricting under Charter Section 104. The dates include –

- Feb. 2021 – County Council appoints Redistricting Commission members under Section 104.
- Nov. 15, 2021 - Redistricting Commission issues plan and report.
- Feb. 15, 2022 - Redistricting Commission plan becomes law if no other law reestablishing the boundaries of the Council districts has been enacted.

IV. Discussion regarding Listening Sessions

Commission Members discussed the Listening sessions held in Bethesda and Burtonsville on January 26 and February 8, respectively. The next Listening Sessions are –

- Olney: Saturday, Feb. 22, 2020, 2:30 p.m. – 4 p.m.; Olney Community Library, Medium Room #2, 3500 Olney-Laytonsville Road, Olney
- Rockville: Wednesday, March 4, 2020, 6:30 p.m. – 8 p.m.; Council Office Building, 3rd Floor Hearing Room, 100 Maryland Ave., Rockville
- Germantown: Monday, March 23, 2020, 7:00 p.m. – 8:30 p.m.; Upcounty Regional Services Center, Conference Room A, 12900 Middlebrook Road, Germantown

V. Conclusion

The Chair stated that the next Commission meeting is scheduled for March 11, 2020. The tentative topic is a preliminary discussion of Commissioner proposals related to the County Council's composition and structure, with straw votes.

Meeting adjourned at 9:30 a.m.

AGENDA

CHARTER REVIEW COMMISSION

Wednesday, May 13, 2020

8:00 a.m.

Remote Microsoft Teams Meeting

[Join Microsoft Teams Meeting](#)

[+1 443-692-5768](#) United States, Baltimore (Toll)

Conference ID: 969 727 173#

(Times are approximate)

8:00 a.m.

ADMINISTRATIVE ITEMS

- Acknowledgement of Quorum
- Adoption of Agenda
- Approval of Minutes of March 11, 2020
- Any updates from Commission Members

8:15 a.m.

FINAL VOTE ON RECOMMENDATION TO COUNTY COUNCIL AS TO BALLOT QUESTION ON COUNCIL COMPOSITION AND STRUCTURE

- Motions
- Discussion
- Vote

9:30 a.m.

ADJOURN

Additional information can be found on the official CRC website at
<http://www.montgomerycountymd.gov/crc/>

CHARTER REVIEW COMMISSION
Wednesday, May 13, 2020 – 8:00 a.m.
Remote - Microsoft Teams Meeting
Minutes

Commission Members Present: George Margolies, Chair Laura Goddeeris, Vice Chair Perry Paylor Christopher Danley Katherine Gugulis David Hill Larry Lauer Ronald Stubblefield Susan Miles Commission Members Not Present: Nichole Thomas Courtney Walker	Staff Present: Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council Amanda Mihill, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:03 a.m.

I. Opening Remarks

Mr. Margolies acknowledged the presence of a quorum. The agenda was adopted without objection. The minutes of the March 11, 2020 meeting were adopted without objection.

II. Motions - Proposed Amendments Re: Council Size and Composition

Mr. Margolies invited motions regarding proposed amendments to Council size and composition (currently 4 at-large and 5 district members) for inclusion in the Commission's 2020 report.

Ms. Gugulis moved to recommend that the Council be composed of 9 district members. Mr. Lauer seconded the motion. Mr. Hill moved to recommend no changes to the Council's size and composition. Mr. Paylor seconded the motion.

The Commission members discussed the motions on the table. Regarding the proposal for 9 district Council members, Commission members made the following points:

- During public listening sessions, many community members expressed that they feel under-represented by current Council structure;
- The County has experienced exponential population growth over the last decade, and the Council structure should be updated to reflect this growth;

- The option to move to a 9 district member Council should be put on the ballot for the voters to decide;
- A majority of benefits flow to one region of the County (“downcounty”), and this imbalance could be corrected by having 9 districts; and
- Other jurisdictions, including Howard County, have district members only.

Regarding the proposal that no changes be made to the Council’s size and composition, Commission members made the following points:

- Recently elected at-large members should be given the opportunity to do their jobs;
- It is important to have at-large members to bring a Countywide perspective to issues before the Council;
- Prince George’s County determined that its district-only membership led to parochialism and recently switched to a mix of at-large and district members; Frederick County also has adopted a mix of at-large and district members;
- Voters currently get to vote for majority of the County Council; with 9 district seats and zero at-large, a voter would have only one member on the council; and
- The size of the district won’t necessarily make the constituents better served; the constituents would be served by additional staff assigned to Councilmembers.

The Commission voted against the motion to recommend 9 district members. Voting in favor of the motion were Ms. Gugulis, Mr. Lauer, Mr. Danley, and Ms. Miles. Voting against the motion were Mr. Margolies, Ms. Goddeeris, Mr. Hill, Mr. Perry, and Mr. Stubblefield. Ms. Walker and Ms. Thomas were absent.

The Commission voted in favor of the motion to recommend no changes to the existing Council size and structure. Voting in favor of the motion were Mr. Margolies, Ms. Goddeeris, Mr. Hill, Mr. Perry, and Mr. Stubblefield. Voting against the motion were Ms. Gugulis, Mr. Lauer, Mr. Danley, and Ms. Miles. Ms. Walker and Ms. Thomas were absent.

Mr. Margolies stated that he would draft the Commission’s report to the Council. He stated that he would circulate a draft within approximately 10 days and invite edits. Mr. Lauer agreed to draft a minority statement to append to the report.

III. Conclusion

The next meeting is scheduled for June 10, 2020 at 8:00 a.m.

Meeting adjourned at 9:20 a.m.

APPENDIX F



CHARTER REVIEW COMMISSION

October 17, 2019

Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

Dear Councilmembers:

As you are undoubtedly aware, the Charter Review Commission has chosen, once again, to review the interrelated provisions of Sections 102, 103, and 104 of the Charter insofar as they address the composition and structure of the County Council. The Commission has not predetermined whether it will recommend any changes to the composition or structure of the Council. Nor has the Commission predetermined whether any recommendation for proposed amendment(s) would be made in time for our 2020 or 2022 report.

At this juncture, the Commission would greatly benefit from receiving your thinking and insight as to the following questions:

- (1) In your opinion and experience, is there a significant difference in the expense of campaigning at-large in contrast to campaigning for a district seat, and to what extent did the cost of campaigning factor in your decision whether to run for a district or at-large seat?
- (2) To what extent do you believe that the county's population growth has influenced the cost of campaigning over time?
- (3) Do you believe that the cost of campaigning has been ameliorated by the option of public financing, and has that option diminished the cost differential in campaigning between an at-large seat and a district seat?
- (4) In your view and experience, has the growth in the population of the County had an impact on addressing constituent services and needs by Councilmembers and Council offices/staff?
- (5) In general, and especially given the size and diverse demographics of the County, what do you see as key strengths of the current structure? Limitations?

Thank you for your time and assistance with these questions. We would appreciate any input you'd like to share by November 8, 2019, so that we may consider it at our next meeting on November 13, 2019.

Sincerely,

George Margolies
Chair, Charter Review Commission

cc: Charter Review Commission

Montgomery County Council

100 Maryland Avenue • Rockville, Maryland 20850 • 240/777-7900, TTY 240/777-7914, FAX 240/777-7989



MONTGOMERY COUNTY COUNCIL

November 6, 2019

GABRIEL ALBORNOZ
COUNCILMEMBER AT-LARGE

To: George Margolies, Chair, Charter Review Commission
From: Gabe Albornoz, Councilmember
Subject: Comments Re: Council Composition

First, let me thank you for volunteering to chair the Charter Review Commission. Your efforts, and that of your fellow members, to achieve a responsive government that truly serves our residents is much appreciated.

You have asked Councilmembers to comment on the issue of Council Composition generally, and specifically on County Executive Marc Elrich's proposal to reduce the number of at-large Councilmembers to two, and to increase the number of district Councilmembers to nine.

I believe that the current configuration provides the optimal balance between a countywide and district perspective and representation for our residents. Each resident is now able to cast votes for a majority of Councilmembers: one for their district candidates, and four for at-large candidates. Under the County Executive's proposal, residents would be limited to voting for only three seats. I believe this would have the consequence of limiting, not expanding their voice in local issues.

District seats are intended to provide residents with a representative who will look after their interests within their district. At-large seats, on the other hand, are intended to provide Councilmembers whose job it is to look after all residents. I believe reducing the number of Councilmembers with a Countywide obligation will lead to diminished representation for residents. As an at-large Councilmember, I attend events and community meetings all over the County. It is my job to represent the full spectrum of residents, from rural to suburban to urban, and with widely varying interests and perspectives.

In my opinion, expanding either the number of district or at-large seats is not advisable. Currently, the nine Councilmembers are able to collaborate and communicate with their colleagues efficiently and effectively because of the limited size of the body. We are able to easily share our views and hear from our district members about needs and concerns in their communities. Further, adding additional district members will have the effect of diluting the strength of the districts. What is more needed for the Councilmembers' offices and central staff is additional capacity. With the sharp rise in popularity of communicating through email and social media, Councilmembers have experienced a significant increase in resident correspondence and are expected to respond to them quickly on Twitter, Facebook, Instagram and other social media outlets.

Again, thank you for soliciting our views on this important matter. If you have further questions, I would be happy to appear in person at a Commission meeting.

C: Christine Wellons, Council Staff Attorney
Councilmembers

(1) In your opinion and experience, is there a significant difference in the expense of campaigning at-large in contrast to campaigning for a district seat, and to what extent did the cost of campaigning factor in your decision whether to run for a district or at-large seat?

There is a significant difference. In order to obtain name recognition and familiarity with the candidate's platform, funds must be used for campaign literature, mailing, ads, etc. This is why even within the Public Campaign Finance Program there is a difference between the threshold for District versus At-large disbursements.

The size of the County versus the size of Districts is something candidates consider when running. Of course, factors like open seats, etc. also play a role in considering At-large versus District.

(2) To what extent do you believe that the county's population growth has influenced the cost of campaigning over time?

I believe that both the growth and the diversity of the electorate has influenced the cost of campaigning. One must cover a larger universe of voters, while also investing in translation, and advertising in both traditional and ethnic media outlets. In addition, social media platforms have become more central in communications, and one must develop and execute creative social media campaigns.

(3) Do you believe that the cost of campaigning has been ameliorated by the option of public financing, and has that option diminished the cost differential in campaigning between an at large seat and a district seat?

As the chair of the committee that worked on this program, and a participant in the program, I believe it has provided an alternative means of financing campaigns. It has expanded the universe of contributors, especially at the grass-roots level. It is still challenging to meet the qualification threshold but it's an improvement. I don't believe it has diminished the cost differential between At-large and District, because the amount is different for each.

(4) In your view and experience, has the growth in the population of the County had an impact on addressing constituent services and needs by Councilmembers and Council offices/staff?

My experience is that the advent of the internet and social media has had a major impact. In the past a constituent would write a letter or make a phone call with the expectation that staff would research the issue and respond accordingly. Today, there is an expectation that answers must be in real time, 24/7- this places a lot of pressure on staff and Councilmembers.

The growth in population and the diversity of the population places additional demands on constituent services. We must not neglect to acknowledge that we are a "majority of color" County. In addition, over 34% of our residents are immigrants. This requires expertise and staff that can respond to the needs of all our residents.

(5) In general, and especially given the size and diverse demographics of the County, what do you see as key strengths of the current structure? Limitations?

I think the current structure is appropriate because we have At-large members that can uniquely address macro issues, while District members can address micro issues. That is an important balance for a County of our size, with our complexities.

However, Councilmembers should have more staff and the Central office should also have more analysts. This additional capacity will allow Councilmembers and the Central office to have the appropriate policy expertise, as well as, culturally and linguistically capabilities. This will also be less expensive than the models being discussed, which aim to reconfigure the current Council structure.

Nancy Navarro, President, District 4 Montgomery County Council

APPENDIX G

Council Size and Composition - Other Jurisdictions

Montgomery County

5 district seats; 4 at-large seats

Population: 1,052,567¹

Ratio: 1 Councilmember: **116,952** residents

Nearby Jurisdictions

Prince George's County: 9 district seats; 2 at-large seats

Population: 909,308

Ratio: 1 member: **82,664** residents

Howard County: 5 district seats

Population: 323,196

Ratio: 1 Cmember: **64,639** residents

Frederick County: 5 district seats; 2 at-large seats

Population: 255,648

Ratio: 1 member: **36,521** residents

Baltimore City: 14 district seats; 1 at-large President

Population: 602,495

Ratio: 1 member: **40,166** residents

Anne Arundel County: 7 district seats

Population: 576,031

Ratio: 1 member: **82,290** residents

Washington, DC: 8 ward seats; 5 at-large seats

Population: 702,455

Ratio: 1 member: **54,035** residents

Fairfax County, VA: 9 district seats; 1 at-large Chair

Population: 1,150,795

Ratio: 1 member: **115,080** residents

¹ Source of Population Data: U.S. Census Population Estimates, 2018,
<https://www.census.gov/quickfacts/fact/table/US/PST045218>

Loudoun County, VA: 8 district seats; 1 at-large Chair

Population: 406,850

Ratio: 1 member: **45,206** residents

Arlington County, VA: 5 at-large seats

Population: 237,521

Ratio: 1 member: **47,504** residents

Alexandria, VA: 7 at-large

Population: 160,530

Ratio: 1 member: **22,933** residents

Large Cities

New York, NY: 51 district seats

Population: 8,398,748

Ratio: 1 member: **164,681** residents

Los Angeles, CA: 15 district seats

Population: 3,990,456

Ratio: 1 member: **266,030** residents

Chicago, IL: 50 ward seats

Population: 2,705,994

Ratio: 1 member: **54,120** residents

Houston, TX: 11 district seats; 5 at-large seats

Population: 2,325,502

Ratio: 1 member: **135,344** residents

Jurisdictions with Populations of 800,000 – 1.6 Million

Philadelphia, PA: 10 district seats; 7 at-large seats

Population: 1,584,138

Ratio: 1 member: **93,185** residents

San Antonio, TX: 10 district seats

Population: 1,532,233

Ratio: 1 member: **153,223** residents

San Diego, CA: 9 district seats

Population: 1,425,976

Ratio: 1 member: **158,442** residents

Dallas, TX: 14 district seats

Population: 1,345,047

Ratio: 1 member: **96,075** residents

San Jose, CA: 10 district seats

Population: 1,030,119

Ratio: 1 member: **103,012** residents

Austin, TX: 10 district seats

Population: 964,254

Ratio: 1 member: **96,425** residents

Charlotte, NC: 7 district seats; 5 at-large seats

Population: 872,498

Ratio: 1 member: **72,708** residents

Hennepin County, MN: 7 district seats

Population: 1,259,428

Ratio: 1 member: **179,918** residents

Salt Lake County, UT: 6 district seats; 3 at-large seats

Population: 1,152,633

Ratio: 1 member: **128,070** residents

Mecklenburg County, NC: 6 district seats; 3 at-large seats

Population: 1,093,901

Ratio: 1 member: **121,545** residents

Honolulu County, HI: 9 district seats

Population: 980,080

Ratio: 1 member: **108,898** residents

MEMORANDUM

September 24, 2019

TO: Members, Montgomery County Charter Review Commission

FROM: Christine M.H. Wellons, Legislative Attorney

SUBJECT: Timeline of Redistricting and Potential Charter Amendments

At its September 11, 2019 meeting, the Charter Review Commission (CRC) asked Council staff to provide a timeline of potential amendments to the Charter in relation to redistricting that will occur in 2022.

The timeline would be:

- May 2020 – First CRC report due (per Charter Section 509)
- Nov. 2020 - If County Council were to approve a recommendation from the CRC re: number/type of councilmembers, then the measure would be presented to the voters.
- Feb. 2021 – County Council appoints Redistricting Commission members under Section 104.
- Nov. 15, 2021 - Redistricting Commission issues plan and report.
- Feb. 15, 2022 - Redistricting Commission plan becomes law if no other law reestablishing the boundaries of the Council districts has been enacted.
- May 2022 – Second CRC report (per Charter Section 509)
- Nov. 2022 - Election with (potentially new) boundaries

NOTE: If Charter Section 104 were amended simultaneously with Sections 102 and 103, then the timeline might be different.

Demographic Profile of Council Districts Montgomery County, MD (2016)

The legislative branch of the Montgomery County Government consists of five representative Council Districts and four at-large Council seats. The Charter of Montgomery County requires the Council Districts be compact, contiguous and substantially equal in population. Boundaries for the current Council Districts were adopted in 2011 and are redrawn every 10 years using total population counts by election precinct from the U.S. Decennial Census.

Since 2010, the County's population increased by 5.6 percent, gaining about 55,000 people by 2016. Population growth in three areas, District 2 (6.7 percent), District 5 (6.5 percent), and District 3 (6.4 percent) outpaced the County's rate of growth. These Districts each gained over 12,500 residents between 2010 and 2016. The most populous area is District 3 with 210,264 residents and District 4 at 199,959 is the least populated.

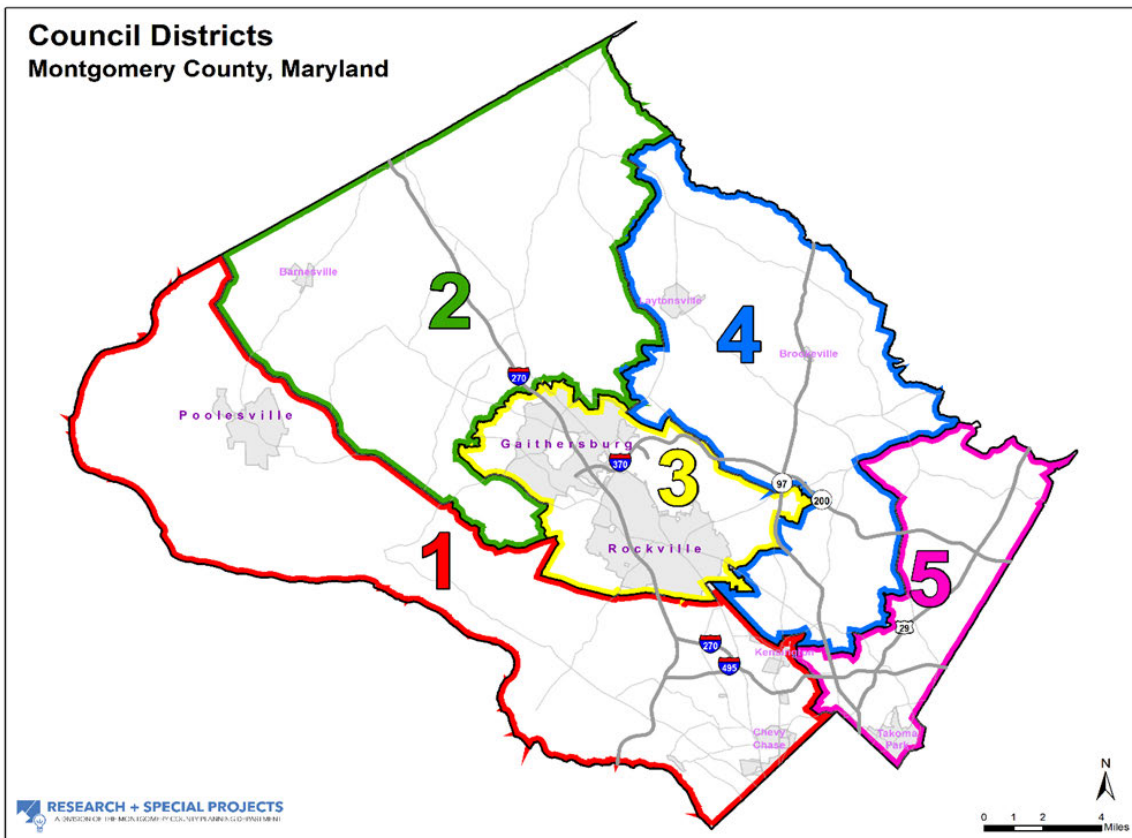
A demographic profile of the Council Districts is reported in the following tables. Block group data compiled from the 2012-2016 American Community Survey, 5-year estimate are aggregated approximating, with a few minor exceptions, the legal boundaries of the Council Districts. A spreadsheet containing the profile is available on the Research and Special Projects' [website](#). The County Council webpage offers an [interactive Council District map](#) to determine which Council District you live in.

For more information, contact:

Pamela Zorich, Research Coordinator

Pamela.Zorich@MontgomeryPlanning.org

Caroline McCarthy, Chief of Research & Special Projects Caroline.McCarthy@MontgomeryPlanning.org





Demographic Profile of Council Districts Montgomery County, MD (2016)

	District 1		District 2		District 3		District 4		District 5		COUNTY	
	Estimate	%	Estimate	%	Estimate	%	Estimate	%	Estimate	%	Estimate	%
Total Population	207,377	20.2%	202,133	19.7%	210,264	20.5%	199,959	19.5%	206,638	20.1%	1,026,371	100.0%
Population living in households	205,056	98.9%	201,282	99.6%	207,760	98.8%	198,468	99.3%	205,018	99.2%	1,017,584	99.1%
Average household size	2.52		2.99		2.65		3.04		2.72		2.77	
Age												
Under 18 years	47,908	23.1%	54,201	26.8%	46,083	21.9%	46,796	23.4%	46,716	22.6%	241,704	23.6%
18-34 years	32,544	15.7%	43,270	21.4%	46,753	22.2%	44,912	22.5%	50,745	24.6%	218,224	21.3%
35-49 years	42,636	20.6%	45,897	22.7%	43,326	20.6%	40,227	20.1%	45,330	21.9%	217,416	21.2%
50-64 years	45,518	22.0%	41,699	20.6%	39,944	19.0%	42,259	21.1%	38,920	18.8%	208,340	20.3%
65 years and older	38,771	18.7%	17,066	8.4%	34,158	16.3%	25,765	12.9%	24,927	12.1%	140,687	13.7%
Race and Hispanic Origin												
Not Hispanic:	189,826	91.5%	163,327	80.8%	170,699	81.2%	147,151	73.6%	164,818	79.8%	835,821	81.4%
White	148,282	71.5%	81,078	40.1%	96,216	45.8%	77,258	38.6%	68,642	33.2%	471,476	45.9%
Black	9,861	4.8%	38,393	19.0%	25,641	12.2%	36,994	18.5%	67,007	32.4%	177,896	17.3%
Asian or Pacific Islander	24,945	12.0%	36,850	18.2%	40,965	19.5%	25,404	12.7%	21,041	10.2%	149,205	14.5%
Other race	6,738	3.3%	7,006	3.5%	7,877	3.8%	7,495	3.8%	8,128	3.9%	37,244	3.6%
Hispanic/Latino (may be of any race)	17,551	8.5%	38,806	19.2%	39,565	18.8%	52,808	26.4%	41,820	20.2%	190,550	18.6%
Minority population	59,095	28.5%	121,055	59.9%	114,048	54.2%	122,701	61.4%	137,996	66.8%	554,895	54.1%
Language Spoken at Home												
Population 5 years and over	196,341		187,816		196,264		186,927		192,224		959,572	
English only	142,254	72.5%	112,933	60.1%	109,197	55.6%	101,795	54.5%	111,273	57.9%	577,452	60.2%
Language other than English	54,087	27.5%	74,883	39.9%	87,067	44.4%	85,132	45.5%	80,951	42.1%	382,120	39.8%
Speak English less than "very well"	13,505	6.9%	26,228	14.0%	33,601	17.1%	33,503	17.9%	30,034	15.6%	136,871	14.3%
Residence 1 year ago	205,544		199,631		207,280		197,128		204,307		1,013,890	
Same house	179,139	87.2%	170,581	85.5%	173,228	83.6%	172,303	87.4%	172,456	84.4%	867,707	85.6%
Moved	21,753	10.6%	26,486	13.3%	30,250	14.6%	22,832	11.6%	28,380	13.9%	129,701	12.8%
Abroad	4,652	2.3%	2,564	1.3%	3,802	1.8%	1,993	1.0%	3,471	1.7%	16,482	1.6%
Educational Attainment												
Persons 25 years and older:	147,245		131,216		147,548		135,291		142,677		703,977	
Less than high school diploma	3,207	2.2%	9,995	7.6%	14,230	9.6%	18,058	13.3%	16,715	11.7%	62,205	8.8%
High school grad/some college	25,951	17.6%	52,394	39.9%	46,775	31.7%	55,739	41.2%	51,864	36.4%	232,723	33.1%
Bachelor's degree	44,228	30.0%	36,489	27.8%	39,810	27.0%	32,311	23.9%	34,135	23.9%	186,973	26.6%
Graduate or professional degree	73,859	50.2%	32,338	24.6%	46,733	31.7%	29,183	21.6%	39,963	28.0%	222,076	31.5%
Bachelor's degree or higher	118,087	80.2%	68,827	52.5%	86,543	58.7%	61,494	45.5%	74,098	51.9%	409,049	58.1%
Class of Worker												
Civilian employed 16 years and over	106,621		108,740		109,475		107,093		113,307		545,236	
Private wage and salary	72,579	68.1%	80,901	74.4%	79,209	72.4%	79,613	74.3%	82,404	72.7%	394,706	72.4%
Government	25,523	23.9%	22,882	21.0%	23,788	21.7%	20,590	19.2%	24,414	21.6%	117,197	21.5%
Self-employed	8,365	7.9%	4,849	4.5%	6,394	5.8%	6,754	6.3%	6,356	5.6%	32,718	6.0%
Unpaid family workers	154	0.1%	108	0.1%	84	0.1%	136	0.1%	133	0.1%	615	0.1%
Place of Work												
Workers 16 years and over	105,954		107,212		108,355		105,234		111,059		537,814	
Live and work in the County	54,570	51.5%	77,831	72.6%	75,668	69.8%	65,408	62.2%	51,081	46.0%	324,558	60.3%
Work in elsewhere in Maryland	7,150	6.7%	10,387	9.7%	7,666	7.1%	13,246	12.6%	21,730	19.6%	60,179	11.2%
Work outside of Maryland	44,234	41.7%	18,994	17.7%	25,021	23.1%	26,580	25.3%	38,248	34.4%	153,077	28.5%
Work Trip												
Drove	72,549	68.5%	88,823	82.8%	82,324	76.0%	81,392	77.3%	78,550	70.7%	403,638	75.1%
Alone	65,379	61.7%	77,837	72.6%	71,197	65.7%	70,021	66.5%	67,405	60.7%	351,839	65.4%
Carpool	7,170	6.8%	10,986	10.2%	11,127	10.3%	11,371	10.8%	11,145	10.0%	51,799	9.6%
Public transportation	16,983	16.0%	10,975	10.2%	16,701	15.4%	16,934	16.1%	23,354	21.0%	84,947	15.8%
Walked and other means	6,823	6.4%	2,283	2.1%	3,487	3.2%	2,036	1.9%	4,161	3.7%	18,790	3.5%
Worked at home	9,599	9.1%	5,131	4.8%	5,843	5.4%	4,872	4.6%	4,994	4.5%	30,439	5.7%

Source: 2012-2016 American Community Survey, 5-year estimate. Compiled by Research & Special Projects, Montgomery County Department of Planning, M-NCPPC.



Demographic Profile of Council Districts Montgomery County, MD (2016)

	District 1		District 2		District 3		District 4		District 5		COUNTY	
	Estimate	%	Estimate	%	Estimate	%	Estimate	%	Estimate	%	Estimate	%
Total Housing Units	85,708	22.2%	70,445	18.3%	82,258	21.3%	67,772	17.6%	79,302	20.6%	385,485	100.0%
Detached, single-family	50,073	58.4%	29,059	41.3%	30,627	37.2%	40,346	59.5%	33,680	42.5%	183,785	47.7%
Attached, single-family	7,077	8.3%	26,086	37.0%	17,761	21.6%	11,075	16.3%	9,518	12.0%	71,517	18.6%
2 to 4 units	1,064	1.2%	1,259	1.8%	1,562	1.9%	691	1.0%	2,364	3.0%	6,940	1.8%
5 to 19 units	4,735	5.5%	11,455	16.3%	15,941	19.4%	11,112	16.4%	13,160	16.6%	56,403	14.6%
20 units or more	22,594	26.4%	2,357	3.3%	16,122	19.6%	4,462	6.6%	20,505	25.9%	66,040	17.1%
Other	165	0.2%	229	0.3%	245	0.3%	86	0.1%	75	0.1%	800	0.2%
Total Households	81,331	22.1%	67,311	18.3%	78,479	21.3%	65,251	17.7%	75,392	20.5%	367,764	100.0%
Owner-occupied	58,234	71.6%	50,202	74.6%	47,062	60.0%	46,303	71.0%	39,400	52.3%	241,201	65.6%
Renter-occupied	23,097	28.4%	17,109	25.4%	31,417	40.0%	18,948	29.0%	35,992	47.7%	126,563	34.4%
Average Monthly Costs												
Homeowner (all)	\$2,996		\$2,109		\$2,092		\$2,016		\$1,981		\$2,270	
Homeowner (mortgage or loan)	\$3,760		\$2,390		\$2,600		\$2,437		\$2,377		\$2,723	
Renter (gross rent)	\$1,977		\$1,562		\$1,659		\$1,559		\$1,497		\$1,646	
Households Spending More Than 35% of Income on Housing Costs												
% Homeowners (with mortgage)	8,050	19.7%	8,832	21.0%	7,565	22.5%	9,062	25.8%	6,167	20.4%	39,676	21.8%
% Renters	7,385	33.3%	6,864	42.0%	12,386	41.0%	8,426	46.2%	14,747	42.6%	49,808	41.0%
2016 Household Income Distribution												
Under \$50,000	11,893	14.6%	14,230	21.1%	20,434	26.0%	16,667	25.5%	22,041	29.2%	85,265	23.2%
\$50,000 to \$99,999	15,159	18.6%	19,761	29.4%	21,651	27.6%	19,184	29.4%	22,084	29.3%	97,839	26.6%
\$100,000 to 149,999	14,062	17.3%	13,966	20.7%	15,210	19.4%	12,617	19.3%	15,305	20.3%	71,160	19.3%
\$150,000 or more	40,217	49.4%	19,354	28.8%	21,184	27.0%	16,783	25.7%	15,962	21.2%	113,500	30.9%
Average 2016 Household Income	\$211,073		\$119,519		\$119,756		\$115,364		\$103,761		\$135,849	
Type of Households												
Families	54,439	66.9%	51,633	76.7%	52,153	66.5%	49,096	75.2%	48,807	64.7%	256,128	69.6%
Married-couples	47,264	58.1%	39,540	58.7%	40,570	51.7%	36,022	55.2%	35,043	46.5%	198,439	54.0%
Other families	7,175	8.8%	12,093	18.0%	11,583	14.8%	13,074	20.0%	13,764	18.3%	57,689	15.7%
Families with children	21,693	26.7%	20,570	30.6%	18,272	23.3%	15,744	24.1%	16,357	21.7%	92,636	25.2%
Nonfamily	26,892	33.1%	15,678	23.3%	26,326	33.5%	16,155	24.8%	26,585	35.3%	111,636	30.4%
Living alone	22,648	27.8%	12,937	19.2%	21,819	27.8%	13,067	20.0%	21,059	27.9%	91,530	24.9%
Unrelated	4,244	5.2%	2,741	4.1%	4,507	5.7%	3,088	4.7%	5,526	7.3%	20,106	5.5%
Availability of Vehicles in Households												
No vehicles available	5,411	6.7%	3,030	4.5%	6,519	8.3%	4,370	6.7%	9,058	12.0%	28,388	7.7%

Source: 2012-2016 American Community Survey, 5-year estimate. Compiled by Research & Special Projects, Montgomery County Department of Planning, M-NCPPC.

MEMORANDUM

September 24, 2019

TO: Members, Montgomery County Charter Review Commission

FROM: Christine M.H. Wellons, Legislative Attorney

SUBJECT: History of Charter Amendments, Ballot Initiatives, and Charter Review Commission Reports Addressing the Composition of the County Council

At the September 11, 2019 meeting of the Charter Review Commission (CRC), Members asked staff to provide an overview of prior Montgomery County Charter amendments, ballot measures, and CRC reports regarding the composition of the Montgomery County Council (*i.e.*, the number of Councilmembers and whether they are elected by district or at-large).

In **1968**, the voters of Montgomery County adopted the County Charter. The 1968 Charter established a seven-member County Council. All members of the Council were elected at-large, but five of the members were required to reside in different districts of the County.

In **1984**, two relevant Charter questions appeared on the ballot by petition. One proposal would have amended Charter Section 102 to make five of the seven Council positions district seats. The other proposal would have amended the Charter to make all seven Councilmembers elected by district. Both ballot measures failed.

In **1986**, the CRC recommended amending the Charter to increase the size of the Council to nine members, with five members elected from separate districts and four members elected at-large. The issue was put on the ballot, and the voters amended the Charter in 1986 to establish the current composition of the Council, consisting of five district members and four at-large members. (126,154 FOR/ 36,998 AGAINST)

The CRC's 1986 report provided the following rationale for increasing the number of Councilmembers, with four seats at-large:

The principal reasons for this recommendation are: (1) the great increase in population in Montgomery County since the present seven person Council was established and projected population growth in the future which will make our County more populous than several states; (2) the difficulty and expense to run countywide for the Council, discouraging minority candidates and interests; and (3) with a nine member council, each voter will be able to vote for a majority, four-at-large and one from the district....

Subsequent CRCs have considered, but rejected, recommending additional changes to the composition of the Council. In **1992**, because of a petition by the Montgomery County Public Employees Council, the CRC studied whether to return to a seven-member Council. The CRC

noted that the 1986 Charter amendment increasing the Council had been effective only since 1990. The CRC concluded: “We believe it would be inappropriate to change a system that has been in effect for less than two years absent strong evidence of significant problems. The Commission has identified no such problems.”

In **2002**, the CRC did not recommend any changes to the composition of the Council, but it recommended that the issue of whether to alter the number of district and at-large seats should be revisited “two years prior to the next decennial redistricting.” The CRC noted that:

The current system tends to provide greater electoral influence by the majority political party and down-county voters because of straight ticket voting for at-large members. In addition, some significant demographic and geographic segments of the population do not believe that they have adequate representation.

In **2004**, the CRC considered whether the Charter should provide for more Councilmembers and more district seats, but found “no compelling reason to change the existing Council structure[.]” The CRC reasoned that:

This [current] Council structure was designed to maintain an important balance between local and broader interests....

The majority of the Commission does not believe that adding additional district seats will necessarily bring about enhanced representation....

It is debatable whether smaller districts would reduce the cost of running for a Council seat...

Adding more Councilmembers also has a budgetary impact....

Also in 2004, a proposed Charter amendment concerning Council elections appeared on the ballot by petition. The amendment would have provided for the election of Councilmembers by district, but the ballot measure was rejected by the voters. (143,718 FOR/ 221,235 AGAINST)

The **2006** CRC report also recommended no change to the Council structure. The reasons for the recommendation were the same as the reasons set forth in the 2004 report.

The **2008** CRC report noted that the composition of the Council was “worthy of further consideration[.]” but that “there was not sufficient time to research the various options nor to seek input from the general public in time for this report.” In **2016**, the CRC again noted the composition of the Council as a potential topic for future study.

The **2018** CRC considered potential changes to the structure of the Council, including whether to decrease or eliminate at-large members, and whether to increase the total number of Councilmembers. After extensive study and a public hearing, the CRC voted not to recommend any changes to the current Council structure. The majority of the CRC determined that:

Many residents feel that some of the most responsive Councilmembers are among the at-large members....

[O]ur County Council is about the same size as other similar jurisdictions, and any increase in the overall size of the Council would likely cost a great deal of money for taxpayers....

Also, any increase in the size of the Council would likely make decision-making more difficult....

Having four people elected by all voters in the county provides for almost half the Council Members having a broader view than those that represent a single district....

It should also be pointed out that every voter in the county currently has the ability to vote for a majority of the Councilmembers.... This should not be ignored, as it gives voters much more power to elect whom they wish than they would have if they could only vote for a single Councilmember from their own local district....

Term limits and public financing of elections have resulted in a dramatic [increase] in the number of candidates, and will ultimately result in substantial turnover on the Council after the 2018 election. It is best to wait and see the longer term effects of these new policies before adding another major change such as a change in the number of at-large and district Councilmembers....

The 2018 CRC report appended a “minority report” arguing in favor of revising the Council structure. The minority report, submitted by four of the eleven CRC members, noted a 13.2% population growth in the County since 1990 and questioned “whether the Charter need[s] to be amended to more effectively represent this growth.” Further, the minority report argued that the current Council structure results in “under-representation of Up County and East County communities, where concerns are different from Down County communities....” The minority report did not recommend any specific change to the Charter, but recommended that “the current County Council, or the next CRC, make reviewing, modifying, and rejuvenating the structure of the County Council a priority.”