

CHARTER REVIEW COMMISSION
Wednesday, July 13, 2011 – 8:00 a.m.
6th Floor Conference Room
Council Office Building

Commission Members Present:

Molly Mahoney Matthews, Chair
Mark Feinroth, Vice-Chair
Jeannie Cho
Mariana Cordier
Diane Nash Dillon
Wendell Holloway

Thomas King

Jerry Pasternak
Albert Pearce

Staff:

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

Guests:

Kathleen Boucher, Office of the County
Executive

Commission Members Absent:

Guled Kassim
Pamela Mason

Commission Chair Molly Matthews called the meeting to order at 8:02 a.m.

I. Administrative Items

The Commission approved the minutes from the June 8 meeting. Motion made by Jeannie Cho and seconded by Mark Feinroth. Motion passed unanimously among those present.

Commission members discussed future meetings and agreed not to meet in August.

II. What Qualifies as Charter Material?

County Attorney Marc Hansen briefed the Commission on the history of local government in Maryland and the relationship between the state and local governments. Mr. Hansen explained that the Express Powers Act gives home rule counties the power to legislate in areas that the State and Federal government has not preempted. Mr. Hansen 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 elective 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. Hansen 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, as long as the petition contains the requisite signatures of not less than 20 percent of registered voters or 10,000 whichever is less.

III. Meeting with Councilmember Phil Andrews

Councilmember Andrews discussed with Commission members an issue studied by the Commission last year, but ultimately not recommended by the Commission: whether to amend the Charter to allow a special hiring authority to be established in the County merit system that would permit an alternative approach for the recruitment, selection, and hiring of people with disabilities into merit system positions. The County Attorney determined that establishment of such a system would require an amendment to the County Charter. Councilmember Andrews noted that the unemployment rate is very high among this group of individuals. He also noted that the County has been striving to make changes to address this issue. For example, the Council recently enacted legislation that he sponsored to establish a hiring preference for persons with disabilities. Councilmember Andrews also noted his belief that the County Executive supported such a Charter change.

Councilmember Andrews also commented on the issue of the size of the Council. Although acknowledging that the issue may not be appropriate for action in the current economic climate, Councilmember Andrews stated that ultimately the size of the Council should be increased by 2 district members (bringing the total number of Councilmembers to 11). Councilmember Andrews noted that the number of constituents in each district has increased, resulting in districts that are much larger (nearly 200,000 residents compared to about 125,000 for state senate and state house districts) than the state senate districts. Responding to Commissioner questions, Councilmember Andrews stated his view that the district Councilmembers have more opportunities to interact with constituents and that it is hard for new candidates to break in to an at-large system in a county that is much more populous than a U.S. Congressional district.

Meeting adjourned at 9:20 a.m.