

REPORT OF
THE CHARTER REVISION COMMITTEE
OF
BALTIMORE COUNTY
July, 1962

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Reporter

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Introduction

The Charter Revision Committee was created for the purpose of studying the Baltimore County Charter in order to recommend changes which might facilitate the more efficient operation of the County Government. One Committee member was appointed by each County Councilman, and one was appointed by the County Executive. The Committee then selected its Reporter.

The Committee did not intend to re-write the Charter, nor did it wish to adopt drastic changes, since it believes that the Charter form has not been operative in Baltimore County long enough to be afforded a fair trial. The Committee decided, rather, to study the Charter carefully, section by section, recommending only those changes in phraseology which might either clarify the Charter or strengthen what has already proven to be a weakness in it.

Following are the Committee's recommendations:

Section 202(b): Councilmanic Qualification and Disqualification

This section seeks to deal with two separate questions. (Sec. 202(b) can be confusing unless studied with care. Some of the confusion arises because the section, as currently written, consists of one sentence, rather than two. The Committee believes that the section would be clarified if each question were dealt with in a separate sentence.)

The first question which Sec. 202(b) seeks to answer is as follows: Who may be eligible to qualify or serve as a member of the County Council? The current Charter specifies that no person may be so eligible "while he holds any other office or employment for profit of or under the State or County . . ." The reasoning of the original Charter Board seems quite plain: no one who is already holding office or employment for profit under the State or County should simultaneously qualify for service and remuneration as a Councilman, the latter job being thought to be one requiring public service for Baltimore County unhampered by devotion to public service elsewhere.

The Committee is unanimously in accord with this reasoning, but it believes that the prohibition is not comprehensive enough. Accordingly, the Committee has

broadened those public offices or employments, the connection for profit with which would preclude a person from simultaneously seeking to become a Councilman.

The second question which Sec. 202(b) seeks to answer is this: once a person has been elected to the Council, may he, during his term, be appointed to another County office? Such an appointment is currently prohibited by the Charter, and the Committee unanimously agrees that the prohibition is a salutary one. The Charter Board reasoned that if a person chooses to run for the Council and he succeeds, he owes it to those citizens who voted him into office not to resign, during his term, in order to accept another County office or employment.

It should be noted, however, that neither the Committee's recommended draft nor Section 202(b) as now written forbids a Councilman from resigning in order to accept a position in another county or at the State or Federal level, the prohibition being explicitly limited to any other Baltimore County office, position or employment.

Salaries generally and Section 204 in particular

The Committee devoted much discussion to the question of those salaries specified in the Charter -- viz., County Councilmen, County Executive, Administrative Officer, and Board of Appeals Chairman and members. Indeed, the first question considered was whether the Charter should specify any salary. The Committee, noting that those salaries explicitly set forth are minimum salaries, favors their retention in the Charter, since it believes that such Charter specification lessens the possibility that a drastic lowering of salaries could become an effective weapon of political reprisal.

The Committee further noted that the salaries of the County Executive, the Administrative Officer, and the Chairman and members of the Board of Appeals can be raised by Council action alone. Since the County Executive and the Administrative Officer are each currently receiving more than the minimum salaries set forth in the Charter, the Committee decided not to recommend that the Charter's minimum for those offices be raised, although the Committee wished it clearly understood that its

not recommending such a raise should in no way be construed as criticism of the salaries currently paid those officials, which salaries the Committee considers fully justified. On the other hand, the Committee, realizing that the County Council cannot raise the salary of its own members, recommends a raise in the \$3,000 per annum salary currently specified in the Charter. The Committee believes such a salary unrealistic for several reasons: (1) the County's rapid growth requires much more of a Councilman's time than was originally contemplated; (2) Councilmen are prohibited from having many outside interests; (3) Councilmen are permitted no allowances or expenses; (4) their specified salary has suffered through inflation. Then too, the Committee feels that the \$3,000 salary has caused many persons of high caliber to refrain from seeking that office, and cites this as another incentive for recommending a raise.

Because of the many additional duties which devolve upon the Chairman of the Council, the Committee recommends that Sec. 204 be amended to provide a salary of \$6,000 per year for the Chairman and \$5,000 per year for all other Council members.

Section 208: Council Sessions

The Committee began its discussion of Sec. 208 by pinpointing what it believed to be the principal fault of the section as now written -- viz., it does not apprise the general public as to when, other than May, the Council might pass laws which affect them. Accordingly, the Committee recommends that Sec. 208 be amended to provide for a so-called "monthly legislative session-day", which is to be the only day during which the Council may enact legislation in every month other than May (which remains the annual legislative session.) This session-day would fall on the same day each month, and the public would thus know when laws might be passed. Since the Committee expressly specifies a monthly legislative session-day, it was deemed beneficial for the Charter to provide in 208(e) for emergency sessions, in order to allow some flexibility to meet genuinely emergency situations.

Sec. 208(a) merely states what is already binding upon chartered counties by virtue of Art. XIA, Sec. 3 of the Maryland Constitution. The Committee believes it wise to recommend in 208(b) deletion from the Charter of the requirement that all

legislative sessions be held in Towson, since this might operate to prohibit zoning map hearings from being held in other sections of the County.

Sections 402d(9) and 524.1: Appointment and Removal of the Director of Planning

The Committee agrees that inasmuch as the Zoning Commissioner and his Deputy exercise duties which are in part quasi-legislative -- e.g., reclassifications -- the Council should be accorded the right to confirm their appointments. However, the Committee sees no such justification for requiring Council confirmation of the Director of Planning, whose status the Committee deems to be precisely the same as all other department heads. Accordingly, the Committee recommends that Sec. 524.1 be amended in order to delete the Council's role in appointing and removing the Director of Planning.

In order to be consistent with this recommendation, the Committee proposes to add to Sec. 402d(9) only the Zoning Commissioner and his Deputy. If, however, the Council should decide not to divest itself of the role it currently enjoys under 524.1 relative to the appointment and removal of the Director of Planning, then it should add the Director of Planning to the Committee's draft of Sec. 402d(9).

Likewise, if the Council should approve the Committee's recommended establishment of an Office of Legislative Reference, the Council should add the Director of Legislative Reference to Sec. 402d(9).

Section 406(b): Vacancy Appointments

The Committee considers this section, as now written, inadequate, since it does not require the filling of a vacancy at the level of head of an office or department. Accordingly, it would be possible for the heads of all the offices and departments to be removed and no one appointed to replace them, resulting in all governmental responsibility vesting in one official. Since this is obviously quite foreign to the fundamental concept of the Charter form, the Committee recommends that Sec. 406(b) be amended to require that any such vacancy must be filled within thirty days. The Committee makes this recommendation, fully cognizant of the fact that the Administrative Officer may have difficulty in finding, within 30 days, a qualified person who will take

the job for the money budgeted.

(To avoid confusion, note that 406(b) deals with the initial appointment to fill the vacancy; 406(c) deals with how long that appointee may serve.)

Sections 503 and 504

The Committee recommends that Sec. 503 be amended in order to reflect the Committee's proposal that an Office of Legislative Reference be established.

Inasmuch as the Committee recommends abolition of the Department of Public Safety, it necessarily proposes that Sec. 504 be amended in order to provide for the four separate Departments of Police, Fire, Civil Defense, and Traffic Engineering.

Section 511 $\frac{1}{2}$: The Office of Legislative Reference

The Committee recommends that the Charter be amended in order to provide for the establishment of an Office of Legislative Reference.

The Office would be headed by a Director, an attorney-at-law who would devote full time to his duties. He would be subject to the merit system and would not enjoy the status of a department head. He would be responsible for legislative research and draftsmanship, as well as for codification and annotation of the Baltimore County Code. He would also maintain the Journal.

The Committee was emphatic in its insistence that the Office be entirely independent of both the County Solicitor and the County Council. The Office is not to serve as a Council Solicitor's Office, and, to this end, the Director is not to render legal opinions either to the Council or to any other agency or individual.

An earlier tentative draft of Sec. 511 $\frac{1}{2}$ had proposed that the Office be under the administrative control of the County Solicitor. The Committee deleted this proposal so as to make it plain that the office was in no way dependent upon the County Solicitor.

Questions arose in the Committee, first, as to whether the duties of the Office were so extensive as to require a full-time Director, and, second, as to whether the Charter should specify that the Director must be an attorney-at-law. Both questions were ultimately resolved in favor of a full-time attorney.

Sec. 511½(a) deals specifically with the appointment and requirements of the Director. It should be noted that his appointment requires confirmation by both the executive and legislative branches; the purpose of this dual confirmation is to make it clear that he is not to serve either at the expense of the other, but, rather, to serve both impartially.

Sec. 511½(b) sets forth the duties of the Director. Some of these duties were modeled after Maryland Code 1957, Art. 41, Sec. 142, which enumerates the duties of the State's Department of Legislative Reference. Other duties were added by removing from the responsibility of the County Solicitor the Journal maintenance of Sec. 508 as well as those duties specified in Sec. 1005(b) of the Charter. Accordingly, the Committee recommends deletion of Sec. 1005(b) along with adoption of Sec. 511½. The Committee also recommends certain deletions from Secs. 508 and 510 in order that these sections might be consistent with Sec. 511½.

Sec. 511½(c) is modeled after Maryland Code 1957, Art. 41, Sec. 144.

Sections 522-524: Separation of Zoning from Planning

After much discussion, the Committee split, three to three, on the question of whether the Office of Zoning should be separated administratively from the Office of Planning.

On June 10, 1960, the County Council enacted Bill No. 80, which set up one Office of Planning and Zoning, the administrative head of which is the Director of Planning. Bill No. 80 (now Title 23 of the Baltimore County Code) provides that in any petition for reclassification, the Director of Planning shall submit to the Zoning Commissioner a report concerning pertinent planning factors. The law contemplates that the Zoning Commissioner shall nevertheless exercise an independent judgment as to whether the petition shall be granted or denied; accordingly, the Commissioner may either agree or disagree with Planning's report.

Those members of the Committee who believe that the Office of Zoning should be separated administratively from the Office of Planning opine that such a separation would more readily insure that objectivity with which the Zoning Commissioner should consider Planning's report, for they deem it unrealistic to expect the Zoning Commissioner

to consider the report of his administrative superior as objectively as he would consider the report of one to whose administrative status he was equal.

Those members of the Committee who believe that the Office of Planning and Zoning should remain in status quo contend that having one such office provides the optimum framework within which both Planning and Zoning may work together most efficiently. They feel that the very close relationship between Planning and Zoning justifies their administrative union.

Sections 534-536: Department of Public Safety

The Committee recommends that the Charter be amended so as to abolish the Department of Public Safety.

At first, the Committee was divided as to whether it should recommend abolition. Those who favored abolition believed that the Department created an unnecessary step in the County chain of command, causing undue delays and "red tape". They viewed the Department as an unwieldy conglomeration of heterogeneous duties, and they preferred the establishment of separate Departments of Police, Fire, Civil Defense, and Traffic Engineering, the head of each of which would be responsible directly to the Administrative Officer. They felt that this would permit, within each such department, the development of depth in a line of command consisting of career men experienced in their particular specialty. They pointed out that the head of a Department of Public Safety must, of necessity, lack experience in all of the separate bureaus currently under his jurisdiction. They considered the Department somewhat of an anachronism, set up initially to correct administrative weaknesses in the Fire and Police Departments, which weaknesses no longer exist.

Those who opposed abolition opined that in time of emergency -- e.g., an atomic holocaust -- it might prove beneficial to have a Department of Public Safety co-ordinating all fire and police activities. They felt that during such times the functions of the Police and Fire Departments would overlap, necessitating efficient command co-ordination.

Regardless of whether the Department of Public Safety is ultimately abolished, however, all members of the Committee agree that the control of air pollution should

be shifted immediately from the Department of Public Safety to the Department of Health.

Should the County Council decide to recommend the Department's abolition, it should delete reference to the Department of Public Safety in certain public local laws relative thereto, as well as in Secs. 402(c) and 802(l) of the Charter.

Section 539: Department of Health

Until recently, the County Council was required by law to act as a local board of health. But in 1961, the General Assembly of Maryland enacted what is now Maryland Code, 1961 Cum. Supp., Art. 25A, Sec. 5(Y), which empowers the Council to organize and establish a separate board of health. The Committee's draft of Sec. 539 contains its recommended implementation of this newly granted power.

Sec. 539(a) merely sets forth the composition of the Department of Health -- it shall consist of the County Health Officer, the County Board of Health, and all officers, agents, or employees serving either. The Committee recommends strongly that the Department be under the administrative supervision of the County Health Officer, who devotes full-time to his duties. Accordingly, 539(c) provides that he is to be construed to be "head" of the Department. The Committee recommends in 539(e) that the County Board of Health consist of nine members, each appointed by the County Executive for three-year, staggered terms.

In order to insure liaison between the Board and the Health Officer, the Committee recommends that the Officer serve as secretary to the Board; but in order to preclude the possibility that the Board will simply defer to him in those matters in which they should exercise independent judgment, the Committee has specified that he is neither a member of the Board nor entitled to a vote.

The Committee agrees unanimously that responsibility for the control of air pollution should vest in the Board, rather than in the Department of Public Safety.

The Committee further recommends that the Charter require at least monthly meetings. Although both regular and emergency meetings are to be public, the Committee recognizes the necessity of occasionally permitting the Board to hold "closed" meetings, where the matter discussed might cause panic, public disorder, etc.

Much discussion was devoted to proposals that the Charter specify certain

qualifications for membership on the Board. The Committee, however, agrees unanimously that it would be extremely unwise to require such qualifications in the Charter. It believes that the composition of the Board should be left to the discretion of the County Executive, reasoning that if he makes a poor appointment, he would be subject to criticism in the press. Specifying qualifications might unreasonably bind the Executive, since he might not find such qualified persons willing to serve without salary at the time a particular appointment expires. Then too, during the Committee's public meetings, various persons who urged that the Charter specify qualifications each suggested a different qualification as essential to the Board. Among the specialties so suggested were a nurse, a psychiatrist, a chemist, a bacteriologist, and a dentist. The Committee ultimately decided that the wiser course would be for the Board to consist of interested and informed private citizens. By not specifying qualifications, of course, Section 539 does not preclude the Executive from appointing such specialists; he may appoint whomever he believes will most benefit the County's health program.

Section 601: Board of Appeals

One question dominated the Committee's many discussions concerning the Board of Appeals -- viz., what recommendation would best insure that the Board would promptly accomplish its workload? The Committee was made aware of many instances in which County citizens who had filed zoning petitions had had to wait what seemed to be an unreasonably long time before the Board acted.

The Committee considered the following alternatives: (1) create two three-member Boards; (2) increase the membership of the one Board to five members, with three sitting as a quorum in any one case; (3) lengthen the term of the Board members; (4) increase the present salary of the Board members, upon condition that the Board sit two days each week instead of one.

After carefully weighing each alternative, the Committee decided to recommend that the Council enact a bill raising the salaries of the Board members to \$8,500.00 for the Chairman and \$8,000.00 for the other members, both increases to be conditioned upon the Board's promptly disposing of its caseload. The Committee points out that if such an increase in salary should not prove to expedite the Board's action upon

zoning cases, the Council could promptly enact another bill reducing said salaries.

Sections 707 and 710(a): Budget Information for Libraries

The Committee recommends that Secs. 707 and 710(a) be amended in order to require that copies of the proposed budget, budget message, supporting summary tables, and the adopted budget be sent promptly to each library in the Department of Libraries in the County, to be there maintained in its reference department. The Committee believes that adoption of this recommendation will work a two-fold advantage: first, it would obviate the necessity for one who lives in Essex or Catonsville to come to Towson to obtain information concerning the budget; second, it would relieve congestion at the Council Office by not requiring that one Office to service all persons throughout the County.

Section 711: Transfer of Appropriations

The Committee recognizes that an appropriation transfer is an act of an essentially legislative character, since its effect is to amend the Budget as previously adopted by the County's legislative body. The Committee believes that Sec. 711, as now written, needs revision in order to make clear the significant role of the Council in such transfers.

Sec. 711(a) sanctions transfers of appropriations between the expense and capital budgets upon the authority of the Administrative Officer only with the approval of the Executive, the Planning Board, and four members of the Council. The Committee avers that when the Council approves the expense budget for an agency, the appropriation so approved is for the cost of the work done by that agency; no part of that appropriation should be used for the building of capital projects unless specifically so authorized by the Council. Likewise, an appropriation for a capital project should be so used, unless the Council explicitly authorizes another use.

Sec. 711(b) deals with the current expense budget in two facets, the first of which is a transfer within the same office, department, institution, board, or agency. Recognizing that such transfers may often occur, the Committee did not wish to saddle the Administrative Officer with the necessity of obtaining Council approval of

very small transfers. Accordingly, the Committee recommends that transfers of no more than 10% of appropriations within the same office, department, etc., may be authorized by the Administrative Officer alone; however, where such transfers during the course of the year total in excess of 10% of the appropriation, then, in that event, the Administrative Officer must obtain Council approval. The second facet of 711(b) deals with transfers between offices, departments, etc. The Committee here recommends only minor changes in form.

Sec. 711(c) requires that transfers of funds between projects in a capital budget appropriation be sanctioned by the Executive, Planning Board, and at least four members of the Council.

Sec. 711(d) merely sets forth a method by which the Council might expedite its approval of all of the foregoing transfers.

Section 715: Executive Power to Contract

The Committee deems it incongruous that the Charter calls for an Executive budget subject to Council review, while simultaneously permitting (under Sec. 715 as now written) the Executive branch, without any concurrence on the part of the Council, to bind the County monetarily for many years in the future by means of contracts of lease or for services. Accordingly, the Committee recommends that Sec. 715 be amended to restrict the Executive power to make such contracts in substantially the same manner as the Executive is restricted by Council review of its budgetary program.

The Reporter wishes to point out that the Committee's recommended revision of Sec. 715 must not be considered out of context with the first part of that section. It is only when a contract exceeds the appropriation for an office, department, etc., that the Executive needs Council approval.

Section 716: Restrictions on Capital Projects

The Committee recommends that Sec. 716 be amended in such manner as to remove any doubt that is to be construed as being subject to Sec. 713. The Committee believes that such an amendment would clarify the status of so-called "hold-over projects."

Section 802(i): A County-wide "Hatch Act"

The Committee considered carefully a proposal that Sec. 802(i) be amended by deleting therefrom the phrase "on County property during business hours." If this phrase were deleted, all employees in the classified service would be prohibited from participating in partisan political activities at any time, and, in effect, Baltimore County would have what amounts to a local version of the Federal "Hatch Act." After many lengthy and often animated discussions, the Committee split three to three on the proposed deletion.

Those who favored the deletion believe that employees in the classified service are paid with taxpayers' money and that they should be hired strictly upon the basis of ability and qualification for the job, rather than upon the basis of having contributed time, effort or money to a particular political party or faction. They argue that a local "Hatch Act" would compel the County to employ the best applicant for a particular job, without regard to his partisan "connections."

Those who favored leaving Sec. 802(i) in status quo opine that all citizens, whether they work for the County or not, should be encouraged to engage in political activities; that adopting a local "Hatch Act" would effectively convert all employees in the classified service into political "eunuchs"; and that Sec. 802(i) as written suffices in that it forbids partisan political activities "on County property during business hours."

Section 1001: Conflict of Interest

In drafting its proposed revision of Sec. 1001, the Committee considered Maryland's state-wide "Conflict of Interest" law (Maryland Code, 1961 Cum. Supp., Art. 19A), a similar law of New York, and a proposed draft submitted by a citizens' committee.

Sec. 1001(a) enumerates those interests of County officers, agents, and employees which are prohibited. The Committee recognizes that these prohibitions are quite comprehensive, but it believes that they will not work undue hardship on County personnel in view of the disclosure provision of 1001(b)(3).

Sec. 1001(b)(4) is a new provision which empowers the Council to enact furthering legislation designed to implement the conflict of interest section.

Sec. 1001(d) sets forth penalties which are graduated in order to provide the possibility of lesser punishment for those whose violations are purely technical ones.

Sec. 1001(e)(4) defines "indirect interest" to include the spouse, parent, or child of only those officials whom the Committee considers to be in policy-making positions in the County Government.

Transitory Clauses and Sentences

Since the Committee did not consider its raison d'etre to be to re-write the Charter, it does not recommend deletion of the many transitory sentences and clauses contained therein. (Indeed, it would have been incongruous for the Committee to recommend such deletions, since the Committee's own proposed revision of Sec. 539, for example, contains a transitory sentence.) At such time as the Charter is ultimately re-written, however, the Committee does recommend that all such transitory sentences and clauses either be deleted or be placed in footnotes.

* * * *

Conclusion

This report has been prepared for the purpose of clarifying the Committee's reasoning in recommending the several proposals hereinbefore discussed. It is hoped that the report will prove helpful to those who are interested in the operation of Charter government in Baltimore County.

Respectfully submitted,


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