

**R E P O R T O F T H E
C O M M I S S I O N O N C H A R T E R R E V I S I O N
T O
B A L T I M O R E C O U N T Y**

Towson, Maryland

March 14, 1978

REPORT OF THE BALTIMORE COUNTY
COMMISSION ON CHARTER REVISION

Towson, Maryland

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INTRODUCTION AND SUMMARY

A. Method and Procedure

Pursuant to authority granted in section 402(d)7 of the Baltimore County Charter, the Baltimore County Commission on Charter Revision was appointed on May 23, 1977 by County Executive Theodore Venetoulis. Forty-three members were appointed, but resignations attributable to schedule changes or illness reduced the membership to thirty-seven by the conclusion of the Commission's work.

To pursue its investigation, the Commission divided into the following committees: (1) Executive Organization and Effectiveness, (2) Fiscal, Budgetary, and Purchasing Matters, (3) Legislative Matters, (4) Open Government and Government Ethics, (5) Personnel Matters and the Merit System, (6) Planning, Zoning, and Economic Development. Most members served on only one committee, but members of the Committee on Open Government and Government Ethics also held membership on one of the other five committees. Although other committees were assigned only the parts of the Charter appropriate to the subject of their study, the Committee on Open Government and Government Ethics was charged with examining the application of its subject of study throughout the Charter.

Between May and December of 1977, the committees of the Commission held a total of over 60 meetings at which members of the Administration and the County Council and interested members of the general public were interviewed, issues were discussed, and proposals were formulated for the examination of the full Commission. The full Commission held five public hearings scattered throughout the County. In addition, written comments were solicited and received. In late November or early December, each committee

submitted its proposals for the consideration of the full Commission. During January and February of 1978, the full Commission held 10 meetings to discuss and vote upon proposals of committees and individual members.

The Commission decided to adopt a procedurally conservative approach to its recommendations. To recommend any measure, it required the affirmative vote of a majority of the total number of Commission members or three quarters of those present and voting, whichever was less. A quorum consisted of a majority of the total number of Commission members. Because some members of an unpaid 37-member lay Commission were certain to be absent from any given meeting, the practical effect was to insure that no proposal would pass unless supported by an overwhelming majority. In fact, every amendment recommended by the Commission on Charter Revision has been approved by over two thirds of those who voted upon it.

Throughout its work, the Commission operated independently of any other government body or any government official. Although appointed by the County Executive, Commission members were aware that the County Council had ultimate responsibility for deciding what proposed Charter amendments would be placed on the ballot. Accordingly, the Commission tried to keep both the County Council and the County Executive well advised of its deliberations. Both Council members and members of the executive branch were quite helpful in supplying information and opinions to the Commission, and the Commission considered such information and opinions vital to its work. However, the Commission's recommendations are a product solely of the independent decisions of its members, acting upon the evidence and their best judgment.

B. General Descriptions of Major Proposals of the Commission.

The major proposals of the Commission on Charter Revision affecting the structure and operation of the County Council and the passage of legislation are as follows: (1) Increase the number of Council members to eleven so that the number of constituents each Council member must serve will be reduced, Council members will be better able to represent the constituents they have, and the Council as a body will be better able to grapple with the growing complexity of Baltimore County government;¹ (2) add to the Charter new guarantees of the accessibility of Council proceedings to the general public and provisions which will guarantee that proceedings of any committees of the County Council created in the future will be as accessible to the public as the proceedings of the full Council;² (3) improve and clarify the procedures for verifying and challenging referenda petitions and provide that one third, rather than one half, of the full number of signatures required to complete a petition will be enough to delay the implementation of a law until the 75th day after its enactment.³

Major proposals of the Commission on Charter Revision affecting fiscal, budgetary, and purchasing matters are as follows: (1) Give the County Council an extra fifteen days to examine the budget and allow the County Executive to correct errors or omissions found in budget expenditures during that period;⁴ (2) give the Council more time during which it can hold hearings on the budget, and allow those hearings to be held early enough to affect the Council's decisions;⁵ (3) give the County authority to classify

¹See Charter sections 201 and 206.

²Sections 303 and 308

³Section 309.

⁴Sections 706 and 707.

⁵Section 708.

gifts and grants as supplementary appropriations so federal grants need not be classified as "emergency" appropriations;⁶ (4) Provide for an annual, rather than biennial, independent audit;⁷ (5) Include the Revenue Authority in Baltimore County's regular budgetary and auditing procedures;⁸ (6) provide different categories which the Council may use in defining what kinds of contracts are appropriate to competitive bidding and what kinds are not.⁹

The Commission on Charter Revision recommends the following changes in provisions affecting personnel administration and the merit system: (1) Transform the Personnel and Salary Advisory Board into a Personnel Appeals Board and allow its administrative duties to formally revert to the Office of Personnel, to which most of them have already been delegated in practice anyway;¹⁰ (2) remove the present limitation of two unclassified employees on the personal staff of the County Executive and leave the limitation of that staff to the budgetary decisions of the County Council;¹¹ (3) expand the merit system to include permanent part-time employees;¹² (4) allow the County Executive, with the concurrence of two thirds of the Council, to put certain management-level positions outside the merit system;¹³ (5) provide that neither the Charter nor Baltimore County Ordinances will prevent County employees from engaging in collective bargaining.¹⁴

⁶ Section 712.

⁷ Section 312.

⁸ Section 702 and several others.

⁹ Section 904.

¹⁰ Section 802.

¹¹ Sections 402, 801.

¹² Section 801.

¹³ Section 801.

¹⁴ Section 804.

Other than the changes recommended in personnel administration and the merit system, the Commission has recommended only one major change in the Charter which might affect the general organization of the administrative services. That is to allow the County Executive, with the concurrence of two thirds of the Council, to create, merge, or abolish offices or departments, provided that there is never a total of more than 17 offices and departments, which is the present number.¹⁵ Because everyone who testified agreed that the jail and civil defense bureaus were presently misplaced, the Commission also recommends removing the Charter requirement that they be in the Police Department.¹⁶

The Commission has recommended the following changes in the area of planning and zoning: (1) Make the planning board an all-citizen 15-member board with members appointed by the County Executive but the chairman and vice-chairman confirmed by the Council;¹⁷ (2) give Charter guarantees that the master plan will be comprehensively reviewed at least every 10 years and the zoning map will be comprehensively reviewed at least every 6 years;¹⁸ (3) have the County Council adopt the master plan by resolution;¹⁹ (4) have the Board of Appeals hold initial hearings on reclassifications and limit hearings of the Zoning Commissioner to variances, special exceptions, and violations;²⁰ (5) make hearings of the Zoning Commissioner hearings of record and appeals from decisions of the Zoning Commissioner to the Board of Appeals

¹⁵Section 502.

¹⁶Section 541.

¹⁷Section 522.

¹⁸Section 522.1.

¹⁹Section 523.

²⁰Sections 522.3, 523, 602, 603.

be based on that record;²¹ (6) include in the Charter guarantees that certain minimum standards for publicizing hearings of the Zoning Commissioner, the Planning Board, and the Board of Appeals will be met;²² (7) require that the Zoning Commissioner render decisions within 60 days of the completion of hearings and the Board of Appeals render decisions within 90 days of the completion of hearings.²³

Throughout the Charter, the Commission has recommended requirements for adequate public notice of hearings, assurances of openness in government, and improved methods of publicizing governmental actions and decisions. The Commission has recommended clarification and strengthening of provisions for the removal from office of delinquent public officials.

Finally, the Commission has recommended deletion of many obsolete provisions of the Charter and rewriting of other provisions to clarify their language without changing their substance or intent.

²¹Sections 522.3, 602.

²²Section 524.1

²³Sections 522.3, 603.1.

Explanation of Text and Comments

The text which follows constitutes the main body of the Report of the Commission on Charter Revision. Sections in which amendments are proposed are presented in standard legal form, in which underlining indicates additions to and brackets enclose deletions from the existing document. Sections and subsections of the Charter which do not appear in the text are those in which no change is proposed.

Each section in the text is followed by a "comment" composed by the Director to give a brief explanation of the reason for or the intent of the amendment shown.

ARTICLE II. THE COUNTY COUNCIL

Sec. 201. Composition, mode of election, etc.

(a) Residence requirement. There shall be a county council of Baltimore County composed of [seven] eleven members, each one of whom shall, at the time of his election and for [two years] one year prior thereto and during his full term of office, reside in a different one of [the seven] eleven councilmanic districts [described in section 206 of this article].

COMMENT

Under a seven-member council, Baltimore County has over 92,000 constituents per council member. The Commission thought council members would be better able to serve their constituents if that ratio were reduced. In deciding on an eleven-member council, the Commission considered both the size of district which would be manageable and the size of council which would be conducive to appropriate deliberations.

The Commission's recommendation to retain single-member districts was made after consideration of proposals to institute multi-member districts, to elect some council members at large, and to elect a chairman of the Council at large. Many Commission members feared multi-member districts would reduce the accountability of council members and that the election of at-large Council members would create members who, by virtue of having larger constituencies, might be accorded a higher status than other Council members. Because the voters of Baltimore County had so recently spoken on the issue, and because most Commission members agreed with them, the Commission did not consider a reversion to electing all Council members at large a serious alternative.

The Commission recommends the Charter require only one year of residency in a district before election to the Council, since voters should have the opportunity to elect whom they wish and will, in any case, be able to defeat any candidate they think insufficiently familiar with their district.

Section 202. Qualifications.

(a) In general. In addition to the requirement of residence as provided in section 201(a) of this article, the members of the county council shall [possess the same qualifications for their office as are provided in the Constitution of the state of Maryland for the office of state senator] be citizens of the United States of America and at least twenty-one years of age.

COMMENT

The Commission found that some present qualifications for State Senator were inappropriate for County Council members and decided that the qualifications required of Council members should not, in any case, be tied to state requirements which might change independently of the will of Baltimore County citizens.

Section 204. Compensation.

[Each member of the county council shall be paid for the performance of his duties as provided in this Charter the sum of three thousand dollars (\$3,000.00) per annum. Such salary shall be in full compensation for all services required by law or by this Charter to be performed by the members of the county council.] The county council may establish by ordinance a commission empowered to set compensation and allowances to be paid its members as provided in article 25A section 5(AA) of the Annotated Code of Maryland. Compensation and allowances of members of the county council shall be set by no other method.

COMMENT

The Commission thought it inappropriate to specify salaries of any County official in the Charter and applied this principal throughout its recommendations. Moreover, salaries now specified in the Charter are all outdated, and thus misleading. The existing section 204 of the Charter has been overridden by state law, and the Commission recommends that the section be amended as above to reflect the salary-setting procedures allowed by state law.

Section 206. Councilmanic Districts. Delete existing section and insert:

Baltimore County shall be divided into eleven councilmanic districts. At least two years prior to the date of the 1982 councilmanic elections, the county council shall set the boundaries for the eleven councilmanic districts by legislative act. The act shall not be subject to the referendum provision in section 309 of this Charter and shall be separate and distinct from the revision of councilmanic districts provided for in section 207 of this Charter.

COMMENT:

In the existing Charter, this section describes district lines, even though those lines can be changed by statute. The Commission thought it more appropriate to describe district lines in the Code. Amendment of section 206 as recommended by the Commission would provide the means for establishing the eleven councilmanic districts mentioned in section 201. The Commission recommends making the initial establishment of district lines immune to repeal by referendum because of the confusion which could result from a referendum on this issue. The final drawing of district lines before the establishment of an expanded Council will be subject to referendum, as stated in section 207.

Section 207. Revision of councilmanic districts.

At the first [annual] legislative session-day of the county council after the publication of the decennial census figures of the United States Bureau of the Census, beginning with the 1960 census and every ten years thereafter, the county council shall include as an item of legislative business at said session the revision of the councilmanic districts of the county. The county council is hereby empowered by legislative act adopted by [the affirmative vote of not less than five members] two thirds of the total number of county council members established by this Charter to revise, amend, or reconstitute, but not to increase or decrease the number of the councilmanic districts in effect at such time. Any such act shall not be subject to the executive veto provided in article III, section 308(g) hereof, but shall be subject to the referendum provision in article III, section 309 hereof.

COMMENT

The council no longer has annual legislative sessions, so the Commission changed the section accordingly.

Instead of specifying the absolute number of Council members required to redistrict, the Commission recommends specifying a proportion in order to simplify any future Charter changes which might change the number of Council members. It adopted the phrase "of the total number of County Council members established by this Charter" in order to obviate the possibility that the number of votes required would be reduced in the event of more than one vacancy on the Council. It recommends the use of similar language throughout the Charter.

The Commission thought any change in the number of councilmanic districts should require a Charter amendment and consequently inserted language to remove any doubt about whether the Council can reduce the number of districts.

Section 208. Sessions of the county council; quorum; rules of procedure.

(e) Emergency sessions. The county council may be called into emergency session for the purpose of enacting legislation either by the county executive or by [any five councilmen] two thirds of the total number of county council members established by this Charter, provided, however, that before any bill shall be passed at such an emergency session, it shall require the affirmative vote of [five members of the county council] two thirds of the total number of county council members established by this Charter.

(f) Quorum. At all meetings of the county council, other than emergency sessions, [four members thereof] a majority of the total number county council members established by this Charter shall constitute a quorum for the transaction of business.

COMMENT

Amendments recommended for this section merely change the method of describing the number of council members necessary for action. See comments on section 207.

ARTICLE III. THE LEGISLATIVE BRANCH

Section 302. Officers.

(a) Presiding Officer. The county council at its first regular session in each calendar year shall elect from its membership by a vote of the majority of the total number of council members established by this Charter a chairman who shall preside at all meetings. In the event of his absence or inability to act, the members present, by an order entered in the journal, shall select one of their number to act as chairman pro tem. who, while so acting, shall have all the authority of the chairman. On all questions before the county council, the chairman or chairman pro tem. shall have and may exercise the vote to which he is entitled as a council member.

Section 303. Action by council; committees, appointment of.

The county council shall have the power to create standing committees. All committees shall be appointed by the chairman or by [five members of the council] two thirds of the total number of council members established by this Charter. If a committee is created, any meeting held shall comply with the notice and agenda requirements of section 308(a). All votes of each member of the county council or any committee thereof shall be recorded in a permanent record which shall be available for inspection by the public.

COMMENT

Although the Council now has no committees, the Commission recognized that, given the increasing complexity of government and the increasing workload of the Council, committees may be formed in the future. The addition recommended would require that, if the Council formed committees, committee proceedings would be as accessible to the public as the meetings of the full Council.

Section 308. Legislative procedure.

(a) Public meetings. All meetings of the county council or any committee thereof shall be open to the public. Except for emergency sessions called pursuant to section 208(e), at least five calendar days prior to any meeting, a notice of the meeting shall be published in a daily newspaper of general circulation in the county, and copies of the agenda for the meeting shall be made available for inspection in the office of the county council. The notice shall state when and where the meeting is to be held, and shall indicate that copies of the agenda may be inspected at the office of the county council. If an item on an agenda is carried forward to a subsequent meeting to be held within five calendar days, additional notice and publication of agenda shall not be required.

(c) Titles. Every copy of each bill shall bear the name of the county council member introducing it, the name of any committee to which it was referred and the date it was introduced for the consideration of the council. Each law enacted by the county council shall embrace but one subject, which shall be described in its title; and no law, or section of law, shall be [revived] revised or amended by reference to its title or section only.

Section 308. (continued)

(d) Votes required. No bill shall become law unless it be passed by the affirmative vote of [not less than four members of] a majority of the total number of county council members established by this Charter, or such greater number as may elsewhere be required in this Charter, and on its final passage the vote of each member of the county council [yeas and nays] shall be recorded in [the journal.] a permanent record which shall be available for inspection by the public.

(e) Publication of county laws. On the introduction of any bill, [a copy thereof shall be posted on an official bulletin board to be set up by the county council in a public place, and additional copies shall be made available to the public and to the press.] A notice shall be published at least once on each of two consecutive weeks in a daily newspaper of general circulation in the county, and copies of the bill shall be made available for inspection in the office of the county council and at each branch of the Baltimore County Public Library. [Every copy of each bill shall bear the name of the councilman introducing it and the date it was introduced for the consideration of the council; and no bill shall be passed before the tenth calendar day after such date, except by the consent of at least five members. Upon the passage of any bill by the county council, it shall receive such publication as may from time to time be required by law.] One such notice shall also be published within one week after the bill is enacted, and, as soon as practicable, copies of the act shall be made available for inspection in the office of the county council and each branch of the Baltimore County Public Library.

(f) Effective date of laws; emergency measures. No bill shall be passed before the tenth calendar day following its introduction, except by the consent of two thirds of the total number of county council members established by this Charter. All public local laws and ordinances enacted by the county council shall take effect forty-five days after [their] enactment, unless by the affirmative vote of [five members of the county council] two thirds of the total number of county council members established by this Charter any such law or ordinance shall be declared to be effective on a later date, or declared an emergency measure affecting the public health, safety or welfare, in which latter event the same shall take effect from the date of [its] enactment. The term "emergency measure" shall not include any measure creating or abolishing any office or changing the salary, term or duty of any officer, or granting any franchise or special privilege, or creating any vested right or interest.

(g) Executive veto. Upon the passage of any legislation by the county council, including any public local law, ordinance or other act having the force of law, with the exception only of such measures as may in this Charter be made expressly exempt from the executive veto, the same shall be presented within two calendar days to the county executive for his approval or disapproval, and within ten days after such presentation he shall return any such legislation to the county council with his approval endorsed thereon or with a statement in writing of his reasons for not approving the same. Upon approval by the county executive any such legislation shall stand enacted. Any such legislation presented to the county executive and returned with his veto may be reconsidered by the county council. His objections

Section 308. (continued)

shall be entered upon the journal of the council, and, not later than at its next regular session, the county council may consider the enactment thereof notwithstanding the executive veto. The vote [thereon shall be taken by yeas and nays to be recorded in the journal,] of each member of the county council, shall be recorded in a permanent record which shall be available for inspection by the public, and if [five members of the council] two-thirds of the total number of county council members established by this Charter vote in the affirmative, the legislation shall stand enacted. Whenever the county executive shall fail to return any such legislation within ten days after the date of its presentation to him, the secretary of the county council shall forthwith record the fact of such failure in the journal, and such legislation shall thereupon stand enacted.

COMMENT

In addition to several changes meant to clarify and reorganize this section, the Commission recommends substantive changes described below.

Subsection (a)--Amendments to this subsection are intended to strengthen guarantees that the public will receive adequate notice of any County Council meeting.

Subsection (c)--The Commission recommends that this section contain a new requirement that each bill bear the name of any committee to which it was referred. The recommendation is made in the belief that when committees exist they usually have great influence on the bills they consider, and the public should have the opportunity to assess that influence and the roles of individual members.

Subsection (d)--The Commission found there were no guarantees that the journal of the County Council would be readily accessible to the public and consequently recommends specifying that votes be recorded in a permanent record accessible to the public. The journal, of course, could still be used as long as its availability was assured. The permanent record mentioned in this subsection is meant to be the same as the permanent record mentioned in section 303 and elsewhere in this Charter where its mention has been recommended by the Commission.

Subsection (e)--Because it was clear that posting a bill on any given single bulletin board would not make it accessible to most citizens of Baltimore County, the Commission recommends that the requirement for posting bills on a bulletin board be deleted and a requirement that bills be available in public libraries be added. The Commission also found that the Charter's present requirements for publicizing bills are somewhat at variance with the requirements specified in Article XI-A of the Maryland Constitution, so it recommends the other changes shown in this subsection to bring the Charter into conformity with state law.

Subsection (g)--The substantive change recommended for this subsection is parallel with that recommended in subsection (d).

Section 309. The Referendum.

(a) Scope of the referendum. The people of Baltimore County reserve to themselves the power known as "The Referendum," by petition to have submitted to the registered voters of the county, to approve or reject at the polls, any enacted law or ordinance or part of any such law or ordinance of the county council. The referendum petition against any such law or ordinance shall be sufficient if signed by ten per cent[um] of the qualified voters of

Section 309. (continued)

the county calculated upon the whole number of votes cast in the county for Governor at the last preceding gubernatorial election. Such petition shall be filed with the board of supervisors of elections of Baltimore County within forty-five days after the enactment of the law to be referred to the voters at the next general election. If such a petition is filed as afore-said, such law or ordinance or part thereof to be so referred shall not take effect until thirty days after its approval by a majority of the qualified voters of the county voting thereon at the said next general election; provided, however, that if more than [one-half] one-third but less than the full number of signatures required to complete any referendum against such law or ordinance [to be] is filed within forty-five days from the date of its enactment, the time for the law to take effect and the time for filing the remainder of the signatures to complete the petition shall be extended for an additional thirty days with like effect. An "emergency measure" as defined in section 308 of this article shall remain in force from the date of its enactment notwithstanding the filing of such petition, but shall stand

(b) Form of petition. A petition may consist of several papers, but each paper shall contain the full text of the Act or the part of the Act petitioned upon; and there shall be attached to each such paper an affidavit of the person procuring the signatures [thereon] that each signature was signed before him, that to the best of the said person's [own personal] knowledge, information and belief, each signature thereon is genuine and bonafide[,] and [that to the best of his knowledge, information and belief] the signers are registered voters in the state of Maryland and Baltimore County, as set opposite their names; and no other verification shall be required of the person procuring the signatures.

(c) Verification and challenge. Within 60 days of the filing of a petition, the board of supervisors of elections of Baltimore County shall verify the registration of each signator and the form of the petition, and shall report the results of its verification investigation to the county council. Any court proceeding to challenge the findings of the board of supervisors of elections must be commenced within 60 days of the date of the report.

[c](d) Furthering legislation. The provisions of this section shall be self-executing; provided, however, that legislation in furtherance hereof and not in conflict herewith may be enacted by the county council.

COMMENT

The commission found that the hardest part of a petition drive was the beginning and that a drive with a relatively slow beginning nevertheless might have a good chance of success within 75 days. Consequently, it decided one third of the number of signatures required to complete a petition should be enough to delay implementation of a law for 30 days.

The Commission learned there had been some attempt to have subsection 309(b) interpreted to mean a person gathering signatures had to personally know each person who signed. The Commission recommends the first change

Section 309. (continued)

COMMENT (continued)

shown in this subsection to remove any ambiguity which might give rise to the thought that such an unreasonable requirement exists while still making it clear that the signing of signatures should be witnessed by the person signing the affidavit.

The final addition to subsection 309(b) is not meant to change any current practice, but to remove ambiguity. Without this addition, it is possible to interpret the final sentence to mean that no verification of signatures beyond the affidavit could ever be required, but in the past further verification has been carried out by the election board after a challenge.

The committee thought the responsibility for verifying signatures should be clearly specified, in section 309(c), and the board of election supervisors seemed the logical entity to carry out the verification. The specification of a 60-day limit on challenges to petitions is recommended to obviate the confusion which has surrounded the issue in the past.

Section 311. County auditor.

The county council shall by resolution appoint a county auditor who shall hold office for an indefinite term at the pleasure of the council and shall receive such compensation as the council may determine. He shall be a certified public accountant licensed for the practice of his profession under the laws of this state, and shall be appointed on the basis of his knowledge of governmental accounting and auditing and his experience pertaining to the duties of his office. He shall, within [6 months] one hundred fifty days following the close of each fiscal year of the county, prepare and submit to the county council and the county executive a complete financial audit for the preceding fiscal year of all offices, departments, institutions, boards, commissions, authorities and other agencies of the county government except those whose entire records, accounts and affairs are completely audited each year by the state government. Such audit shall include a report thereon, together with such explanatory comments as the auditor may deem appropriate. The report and explanatory comments shall be published in [at least two newspapers] a daily or weekly newspaper of general circulation in the county, and copies of the complete audit shall be open to [the] inspection [of] by the public and the press in the county auditor's office and each branch of the Baltimore County Public Library. A notice stating that the complete audit is available for inspection in the county auditor's office and each branch of the Baltimore County Public Library shall be published in a daily newspaper of general circulation in the county. All records and files pertaining to the receipt and expenditure of county funds by all officers, agents and employees of the county and all offices, departments, institutions, boards, commissions, authorities and other agencies thereof shall, at all times, be open to the inspection of the county auditor. He shall promptly [call] bring to the attention of the county council, at a monthly legislative session-day, and to the attention of the county executive any

Section 311. (continued)

irregularity or improper procedure which he may[, from time to time,] discover. The county council shall have the power to implement the provisions of this section and to assign additional duties and functions to the county auditor not inconsistent with those provided herein. All actions of the county council pursuant to this section shall be exempt from the executive veto.

COMMENT

The Commission determined that the county auditor could complete his audit in 150 days rather than 180 and amended this section to fit his capabilities, since it deemed it an advantage to have the audit done as soon as possible.

Although the Commission thought the existing language of the section already indicated that any authorities should be included in the county audit, it noted that in practice the county did not audit the Revenue Authority or include it in its regular budget procedures. The commission thought the Revenue Authority, as an entity with the capability of carrying out many governmental functions, should not exist entirely independent of the county government. Consequently, in this section and any others in which the opportunity arose, it deliberately added the word "authorities" to the list of entities covered by county audits and budget processes.

The Commission was persuaded by the county auditor's argument that the auditor's report was put in the public domain by publishing it in one newspaper and that putting it in two of the county newspapers of small circulation in which it was generally published served no additional purpose. The Commission found that the cost of publishing the auditor's report in a metropolitan daily of wide circulation made such publication undesirable, but the report could be made available to interested parties in all parts of the county by distributing it in the public libraries.

The Commission was concerned that there was no way provided in the Charter for the public to be made aware of improprieties or irregularities the auditor uncovered in the course of his work. It considered requiring that such improprieties or irregularities be published in a newspaper, but thought it unwise to require the auditor to make in a newspaper accusations about what might, on occasion, be criminal conduct. Furthermore, it feared that the jobs of individual auditors might be threatened if they were required to make to the public reports potentially damaging to the people who hired them. If this occurred, the best auditors would be those most threatened, and the Commission would find itself in the position of creating a situation which punished pursuit of duty. Consequently, the Commission recommends that the auditor be required to report improprieties and irregularities to the County Council at a legislative session. Legal complications will thus be skirted, while adequate advertisement and access of the public and press will be assured.

Section 312. [Biennial] Independent audit.

A financial audit of all offices, departments, institutions, boards, commissions, authorities and other agencies of the county government, except only those whose entire records, accounts and affairs are completely audited each year by the state government[, and covering their operations for the preceding two fiscal years,] shall be made following the close of each fiscal year [ending in an odd number] by an independent firm of certified public accountants whose members are licensed for the practice of their profession under the laws of this state. The selection of such firm and its employment by contract shall be made before the close of [such] each fiscal year ending in an odd number by the county executive with the advice and consent of the county council. The completed [biennial] audit shall be submitted to the county council and to the county executive, and copies shall be made available to the public and the press no later than [eight months] one hundred eighty days following the close of each fiscal year [ending in an odd number]. All records of the county auditor and all records and files pertaining to the receipt and expenditure of county funds by all officers, agents and employees of the county and all offices, departments, institutions, boards, commissions, authorities and other agencies thereof shall be open to the inspection of the accountants conducting the biennial audit. The county council shall have the power to implement the provisions of this section by legislative act not inconsistent herewith, and to require such additional independent audits as it shall deem necessary.

COMMENT

The testimony of all people who spoke on the issue indicated that Baltimore County should have a yearly independent audit rather than a biennial one. Primary arguments were that bond underwriters and rating agencies preferred yearly certification and that the additional work required was minimal because the present biennial auditor had to audit both the years covered by his report already. Most of the amendments proposed in this section are those necessary to requiring an annual audit.

The Commission decided the independent audit could be done in less than the eight months now allowed. It was inclined to reduce the time allowed to 150 days, but felt the independent auditor should have a chance to look at the report of the county auditor before making his own. Consequently, it gave the independent auditor 30 days more than the county auditor.

The addition of "authorities" to the list of organizations subject to the independent audit is in accord with comments made on section 311.

ARTICLE IV. THE EXECUTIVE BRANCH

Section 402. County Executive.

(a) Nature and term of office; mode of election; qualifications; salary.

The county executive shall be the chief executive officer of the county and the official head of the county government. In such capacity, he shall be the elected executive officer mentioned in section 3 of article XI-A of the Constitution of this state. He shall be nominated in the primary elections in the same manner as other elected county officials and shall be elected on the general ticket by the qualified voters of the county to serve for a term of four years and until his successor shall be elected and qualify; provided, however that the county executive shall be ineligible to serve for more than two consecutive terms, beginning with the election in 1978. The county executive shall qualify on the first Monday in December following his election or as soon thereafter as practicable and shall enter upon the duties of his office immediately upon such qualification. The county executive shall be a qualified voter of the county, not less than twenty-five years of age, and shall have been a resident of the county for at least five years next preceding his election. He shall devote his full time to the duties of his office and[, subject to the provisions of section 405 of this article,] shall be paid an annual salary [of seventeen thousand five hundred dollars (\$17,500.00)] pursuant to section 405 of this Charter.

(b) Vacancy. Whenever for any cause the office of the county executive shall become vacant, the same shall be filled by the affirmative vote of [not less than four members of the county council] a majority of the total number of county council members established by this Charter. The person so elected by the council shall possess the same qualifications for the office as hereinbefore provided in section 402(a) hereof, shall belong to the same political party as his predecessor (unless his predecessor was not a member of a political party) and shall serve the unexpired term of his predecessor and until his successor shall qualify.

(c) Temporary absence of county executive. During the temporary disability or absence from the county of the county executive, the county administrative officer shall serve as acting county executive. If both the county executive and the county administrative officer are temporarily disabled or absent from the county, the director of the budget, as the acting county administrative officer, shall also serve as acting county executive, unless the county council designates the head of another office in the administrative services, or the director of public works [or the director of public safety] to serve as acting county executive. If a county executive fails actively to perform the daily duties and responsibilities of his office for a continuous period of six months, his office may be declared vacant by the affirmative vote of [not less than four members of the county council] a majority of the total number of county council members established by this Charter, and such vacancy shall thereupon be filled in the manner above provided in section 402(b) of this article. An acting county executive shall have the same rights, duties, powers and obligations as an elected incumbent of said office, exclusive, however, of the power of executive veto.

Section 402. (continued)

(d) Duties of the office.

9. To appoint, subject to confirmation by the affirmative vote of [not less than four members of the county council] a majority of the total number of county council members established by this Charter, the county administrative officer, the county solicitor, the chief of police, and the fire chief, [and the members of the appeal tax court,] and to approve all appointments made by the county administrative officer as hereinafter provided;

15. To appoint [a confidential clerk or secretary who] personal staff, one of whom shall be known as "Secretary to the County Executive," [who] and shall have and may exercise all powers and functions heretofore conferred on the secretary of the board of county commissioners, including but not limited to the power to attest the signatures of all county officials;

COMMENT

In concert with recommendations in section 204 already discussed, the Commission recommends that specification of salaries of county officers be deleted from subsection 402(a). See also section 405.

The Commission thought the executive should be able to have whatever staff budgetary constraints and his sense of efficiency allowed, and more, in any case, than the single confidential secretary and the single stenographer the Charter now allows. It found the executive's obvious need for more staff to manage county government effectively in the face of Charter restrictions had resulted in the creation of ostensibly "part-time" positions to circumvent the Charter and that the charade should be ended by giving the executive, in subsection 402(d)15 the authority to have the staff everyone recognized as necessary. It also recommends an amendment to section 801 to serve this purpose.

Other recommended changes in section 402 are editorial.

Section 403. County administrative officer.

(a) Qualifications; mode of selection; salary. The county administrative officer shall be appointed solely on the basis of his integrity and of his executive and administrative qualifications for the performance of the duties of his office as hereinafter set forth. He shall have had, prior to his appointment, at least five years' experience as an executive either in public service or private business, or both. He shall also be thoroughly familiar with modern accounting methods and budget procedures. At the time of his appointment, he may but need not be, a resident of Baltimore County or of the State of Maryland, but during his tenure of office he shall at all times reside within the county. He shall devote his full time to the duties of his office, and[, subject to the provisions of section 405 of this article,] shall be paid an annual salary [of fifteen thousand dollars (\$15,000.00)] pursuant to section 405 of this Charter.

COMMENT

See comments on sections 402 and 405.

Section 405. Change in compensation of county executive and county administrative officer.

The county council, by the affirmative vote of [not less than five of its members] two thirds of the total number of council members established by this Charter, shall have power to increase or reduce the compensation [provided in this Charter] for the county executive and the county administrative officer[, and thereafter, upon a similar vote to reduce such compensation]; provided, however, that in no event [shall such compensation be reduced to a figure lower than that provided in this Charter, except by amendment thereto, nor] shall the compensation of the county executive be increased or reduced during his current term, nor shall the compensation of the county administrative officer be reduced during his current term.

COMMENT

Although the Commission did not wish the Charter to specify salaries, it thought some protection against manipulation of those salaries for political purposes or personal gain was needed. It altered this section to provide such protection. However, it did allow the salary of the administrative officer to be raised during his term because it thought him unlikely to ever have the power to unduly influence the council on this matter.

ARTICLE V. THE ADMINISTRATIVE SERVICES.

Section 502. Composition; restrictions on creation of additional offices and departments.

The administrative services shall consist of the offices and departments [hereinafter] enumerated [and described] in sections 503 and 504, provided that, except for the office of planning and zoning, offices and departments may be created, merged or abolished by legislative act proposed by the county executive and passed by two thirds of the total number of county council members established by this Charter, but the total number of offices and departments shall not exceed seventeen. [Except as otherwise herein expressly provided, no additional offices or departments shall be created except by amendments to this Charter.] Existing or additional duties and functions may[, however, from time to time] be assigned to or reassigned among existing offices or departments by directive of the county administrative officer or by legislative act of the county council. New bureaus or divisions of existing offices and departments shall not be created except by legislative act of the county council.

COMMENT

The Commission found that the present inability of the county to create or abolish departments by any means other than Charter amendment was too inflexible and had encouraged the creation of administratively clumsy and wasteful arrangements to take care of necessary functions. It did not propose the creation of any new departments because it did not feel it was constituted to carry out the kind of detailed study necessary to such creation. However, it did want to give the Executive, with the consent of the County Council, the ability to create departments if necessary. The Office of Planning and Zoning was exempted from the provision for abolishment because the organization of the Office recommended by the Commission includes certain procedural guarantees the Commission decided should be inviolable except through Charter amendment. The Commission limited the total number of departments and offices to the number which now exists because of the desire of some to prevent reorganization from becoming merely expansion.

Section 510. Temporary additional [legal] assistance.

Nothing in this article [contained] shall be construed as preventing the county executive, with the approval of the county council, from engaging the services for a temporary period of any attorney or attorneys for legal work of an extraordinary nature when the work to be done is of such character or magnitude as to require legal services in addition to those provided by the regular staff of the office of law. [By resolution which shall not be subject to the executive veto, the county council may, by the affirmative vote of not less than five members, from time to time employ attorneys or other qualified persons in place of the county solicitor to serve as special legislative draftsmen or codifiers] Subject to available appropriation, the county council by a resolution of two thirds of the total number of council members established by this Charter, which shall not be subject to executive veto, may, for a temporary period, employ attorneys or experts to

Section 510. (continued)

assist and advise the county council for purposes strictly limited to the exercise of its legislative and budget enactment powers. Any attorney or attorneys so employed shall not prosecute lawsuits by or against the county council.

COMMENT

The Commission recommends this amendment to slightly broaden the purposes for which the Council may use temporary legal or other assistance.

Section 512. Composition.

The office of personnel shall consist of the director of personnel, the personnel [and salary advisory] appeals board, and their subordinate officers, agents and employees. The office shall be administered by the director of personnel. He shall be responsible directly to the county administrative officer and shall possess the qualifications for his office provided in article VIII of this Charter and such other qualifications as may be provided in the county personnel law.

COMMENT

See section 802.

Section 516. Specific powers and duties of director of finance.

The director of finance shall have the following specific powers and duties:

(d) To control all county expenditures on the basis of authorized budgetary allotments and to report thereon to the several offices, departments, boards, commissions, authorities and other agencies of the county government.

COMMENT

The amendment is consonant with that dealing with authorities which was recommended for section 311.

Section 519. Powers and duties of director of the budget.

The director of the budget shall be responsible for the formulation of the budget under the supervision of the county administrative officer in accordance with the procedures set out in article VII of this Charter; the study of the organization, methods and procedures of each office, department, board, commission, institution, authority and agency of the county government; the submission to the county administrative officer of periodic reports on their efficiency and economy, and such other duties and functions as may be assigned to him by the county administrative officer or by legislative act of the county council.

COMMENT

See comment on section 516.

Section 522. Organization of office and [duties generally of personnell]
selection of its components.

The office of planning and zoning shall be composed of a director of planning and zoning who shall administer the office subject to the limitations contained in section 522.3, a planning board[,], and a zoning commissioner.[and deputy zoning commissioner. The director of planning, the zoning commissioner and deputy zoning commissioner shall be appointed by the county administrative officer, subject to confirmation by the county executive. The members of the planning board shall be appointed by the county executive. Unless and until otherwise provided by legislative act of the county council in accordance with section 524 of this article, the director of planning, the planning board, the zoning commissioner and deputy zoning commissioner shall have and perform such duties as are provided by law in effect at the time of the adoption of this Charter.] Subject to confirmation by the county council, the county executive shall appoint the director of planning and zoning and the zoning commissioner. The director of planning and zoning shall serve until he shall resign or be removed. Removal shall require the recommendation of the county executive and the approval of two thirds of the total number of county council members established by this Charter. The zoning commissioner shall serve a four-year term, subject to removal from office at any time on the recommendation of the county executive and with the approval of two thirds of the total number of county council members established by this Charter.

The planning board shall consist of 15 members serving three-year terms, subject, however, to the requirement that the terms of five members shall end each year. Members of the planning board shall be appointed by the county executive, but the appointment of the chairman and vice-chairman shall be subject to confirmation by the county council. No member of the planning board shall hold any other salaried position in the county government while a member of the planning board, nor serve more than two consecutive terms.

COMMENT

The change in the title of the Director of Planning is recommended in recognition of the director's responsibility for both planning and zoning functions within his office, although the Commission also found it necessary to provide that he should not control hearings on variances, special exceptions, and violations. The Commission recommends removal of mention of the Deputy Zoning Commissioner from the Charter not because it thinks no Deputy Zoning Commissioner is needed but because it believes no Charter designation of his office is necessary. Amendments recommended for section 801 would allow statutory provision of whatever deputies the Zoning Commissioner might need in light of the alterations in his duties the Commission recommends. The remainder of the changes recommended in the first paragraph of section 522 remove obsolete language and move from what is presently section 524.1 of the Charter the provisions which have superceded some of that language.

Section 522. (continued)

COMMENT (continued)

The second paragraph of section 522 changes the composition of the Planning Board and the terms of its members, both of which are presently established by ordinance. The Planning Board now has twelve lay members and four ex officio members. The Commission saw no need for ex officio members, most of whom seldom attend Planning Board meetings, and recommends slightly expanding the number of lay members in order to provide more people to help do the work of the Planning Board. The Commission recommends three-year terms to allow the timely retirement of members who do not do their fair share of the work, and recommends a limit of two consecutive terms in order to encourage the presence of new members reflecting changing opinion and sentiment in the populace.

The Commission recommends Council confirmation of the Planning Board's chairman and vice-chairman to give the Council some influence on the choice of a board which is important to the Council's work. Although the Commission recommends that the Charter leave to ordinance any provisions for the distribution of Planning Board members among districts, it is the intention of the Commission that choices for the Planning Board be made with the welfare of the whole county, rather than only a single district, in mind.

Section 522.1. Duties of the office of planning and zoning: limitation of powers.

(a) The office of planning and zoning shall have the responsibility and duty of planning for Baltimore County, including:

(1) Preparing, at least every ten years, and revising, a master plan.

(2) Preparing, at least every six years, recommending to the county council, and administering, a zoning map.

(3) Preparing and recommending to the county council rules and regulations governing the subdivision of land.

(4) Preparing and recommending to the county council zoning rules and regulations which, together with the zoning map, shall constitute a zoning code.

(5) Administering the zoning code.

(b)

(1) Except as otherwise provided in this Charter, all plans and zoning maps adopted, amended or repealed by the office of planning and zoning, the planning board, the zoning commissioner or any county officer, shall prior to taking effect as law, be approved by ordinance of the county council.

(2) All rules and regulations adopted, amended or repealed by the office of planning and zoning, the planning board or the zoning commissioner shall, prior to taking effect as law, be approved by ordinance of the county council unless the council shall, by legislative act, delegate the authority to give such approval.

Section 522.1. (continued)

COMMENT

This section is new to the Charter. Subsection (a) provides what is now provided by ordinance or followed in practice, but the Commission recommends its incorporation in the Charter in order to give stronger guarantees that the master plan and zoning map will be comprehensively reviewed periodically. Although subsection (a) assigns certain duties to the Office of Planning and Zoning, it does not forbid it to perform such other duties as may be assigned to it.

Subsection (b) provides some of the same limitations on the rule-making power of the Office of Planning and Zoning as are now provided in section 523 of the Charter, but allows the County Council to delegate the making of certain rules and regulations. The Commission found that in practice the Council had already delegated the power to make some rules and regulations despite the prohibition.

Section 522.2. Duties of the planning board.

Within the office of planning and zoning, the planning board, with the advice of the director of planning and zoning and his staff, and after public hearing, shall have the responsibility and duty of:

- (1) Preparing and adopting or amending a master plan;
- (2) Recommending to the county council for adoption, zoning maps, showing the boundaries of the proposed districts, divisions, and zones into which the county is to be divided, and;
- (3) Recommending to the county council for adoption zoning regulations, regulations governing the subdivision of land, and amendments to such regulations.

COMMENT

This section is new to the Charter and assigns to the Planning Board the most important duties proper to it which are now assigned by the code. The section does not forbid the Planning Board to perform other duties which may be assigned to it.

Section 522.3. Duties of the zoning commissioner.

The zoning commissioner shall have the following duties and responsibilities:

- (1) Enforcing the zoning laws and regulations as may be prescribed by law.
- (2) Holding hearings and deciding on requests for variances and special exceptions.

Section 522.3. Duties of the zoning commissioner. (continued)

(3) Approving such permits as may be assigned for his review by law.

All decisions and orders of the zoning commissioner pursuant to (1) and (2) above shall be made only after a public hearing and may be appealed only in the manner provided for in article VI of this Charter. All hearings of the zoning commissioner shall be hearings of record. All decisions of the zoning commissioner upon matters heard before him shall be rendered within sixty days of the end of the hearing.

COMMENT

This section is new to the Charter, and makes significant changes in the duties of the Zoning Commissioner. Under it, the Zoning Commissioner would no longer have responsibility for hearing reclassification cases, which are assigned to the Board of Appeals in the recommended section 523. Hearings of the Zoning Commissioner would be hearings of record, and decisions would have to be rendered within sixty days of their completion. All of these changes are recommended to facilitate timely decisions and prevent duplication of effort in zoning hearings. See also sections 523(c), 602, and 603.

Section 523. (Delete all of section 523, "Duties of the Office," as it presently exists and substitute the following:) The master plan and the zoning map.

(a) Definition and implementation of the master plan. The master plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the county. Upon receipt of the master plan from the office of planning and zoning, the county council shall accept or modify and then adopt it by resolution.

(b) Definition and implementation of the zoning map. The zoning map shall show the boundaries of the proposed districts, divisions and zones into which the county is to be divided consistent with the master plan. Upon receipt of the zoning map from the office of planning and zoning, the county council shall accept or modify and then adopt it by legislative act.

(c) Changes in the zoning map. Requests for changes in zoning classifications and districts shall be heard only by the county board of appeals in the manner provided for in article VI of this Charter.

COMMENT

This section number corresponds to an existing number in the Charter, but the text is all new. Because the master plan is a basic document which

Section 523. (continued)

COMMENT (continued)

should serve as a guide to orderly development in the County, the Commission recommends that a broad definition of it be given in the Charter. The Commission recommends that the County Council alter the master plan as necessary, then adopt it by resolution. It is not the intent of the Commission that all actions in the County should automatically be required to conform with every detail of the master plan because of this resolution. It would be up to the Council to define any enforcement mechanisms by legislative act. However, the Commission does want the development of a Master Plan to which the Council can and will make a commitment. The Council then can enact a zoning map consistent with the master plan, as provided in subsection 523(b), and the master plan will provide a reference document Council members can depend upon when they must resist pressures to draw zoning maps to conform with transient political demands.

Section 523(c) places the responsibility for hearings on reclassifications with the Board of Appeals. Many Commission members felt reclassification was essentially a legislative type of activity which belonged with a board appointed by the Council, if not with the Council itself. Moreover, since reclassification cases are frequently quite important, and likely to be appealed to the Board of Appeals even if heard at a lower level, the Commission decided a step would be saved by having the members of the Board of Appeals make the initial judgement.

Section 524. (Delete all of section 524 in the present Charter, and replace it with text presently in section 524.1, as indicated below.)

Section [524.1] 524. [Appointment and removal of director and deputy director of planning, zoning commissioner, deputy zoning commissioner and people's council.] People's Counsel.

[(a)] (Delete all of this subsection, which has been covered in the proposed section 522.)

[(b)] Notwithstanding any other provision of this Charter, [within thirty days after the effective date of this Charter amendment, the county executive shall appoint a] a people's counsel, who shall represent the interests of the public in general in planning and zoning matters as hereinafter set forth, shall be appointed by the county executive subject[, however,] to confirmation by the county council[, and]. [s]Such person so appointed shall continue to serve as people's counsel until such time as he [or she] resigns or [has been] is removed [pursuant to the provisions herein contained] from office.

(1) Qualifications. The people's counsel shall be a resident of Baltimore County, a member in good standing of the Maryland Bar, and actively engaged in the general practice of law for at least five [(5)] years prior to [his] appointment.

Section 524. (continued)

(2) Removal. The people's counsel may be removed at any time on the recommendation of the county executive and with the affirmative vote of [not less than five [(5)] members of the county council] two thirds of the total number of county council members established by this Charter.

(3) Powers and duties. The people's counsel shall have the following powers and duties:

A. He shall appear as a party before the zoning commissioner of Baltimore County, [his deputy,] the county board of appeals, [and the courts] any court, or any agency of the state or federal government on behalf of the interests of the public in general, to defend the comprehensive zoning maps as adopted by the county council, and in any matter or proceeding [now pending or hereafter brought] involving zoning reclassification and/or variance from or special exception under the Baltimore County Zoning Regulations, [as now or hereafter in force and effect,] in which he may deem the public interest to be involved. He shall have in such appearance, all the rights of counsel for a party in interest, including but not limited to the right to present his case, to cross examine, to object, to be heard, and to file and prosecute an appeal in his capacity as people's counsel from any order or act of the zoning commissioner of Baltimore County [or his deputy], or [of] from the county board of appeals to the courts as an aggrieved party pursuant to the provisions of section 604 of this Charter to promote and protect the health, safety and general welfare of the community.

B. He shall make such investigations as he may deem necessary to the intelligent performance of the duties imposed by subparagraph (A) of this section.

COMMENT

What is now section 524 in the Charter was designed to compensate for restrictions on the actions of the original Charter Board which no longer exist, so the Commission recommends its deletion. What the Commission has labeled as section 524 corresponds with what is now section 524.1 in the Charter. Subsection (a) has been removed because everything in it has been covered by Commission recommendations on earlier sections.

The Commission recommends specifying that the People's Counsel shall represent the interests of the public in general on Planning and Zoning matters in recognition of the dependence of zoning upon planning. The only other substantive change not merely designed to make the section consonant with recommendations made by the Commission in other sections is in "A," where the Commission recommends adding a statement that the People's Counsel may appear before agencies of the state and federal governments. There are instances in which decisions of such agencies might affect Baltimore County zoning maps, and although the People's Counsel may have the power to appear before those agencies under the Charter's current provisions, the Commission thought it best to remove any ambiguity.

Section 524.1. Requirements for hearings.

Whenever this Charter or any law or regulation passed pursuant hereto shall require any board, office, agency, officer, commissioner or other County governmental body to hold a public hearing relating to planning, zoning or developmental action or decision, the public hearing shall be held in accordance with the following procedures:

(1) In addition to any other notice required by law, notice of the hearing shall be given at least two weeks in advance of the hearing by publication in a daily newspaper of general circulation in the County;

(2) Such notice shall (i) contain the terms of, or a statement of the substance of, the proposed public action, (ii) specify the officer or employee of the County from whom additional information can be obtained and (iii) specify the time, place and method for presentation of views of interested persons.

In addition, the body or official holding the public hearing shall afford any interested person the opportunity to submit written recommendations and comments, copies of which shall be kept on file and made available for public inspection.

COMMENT

The minimum requirements for notice of hearings recommended for this section are based upon the Model Land Development Code. The Commission wants it to be clear that it considers these to be minimum requirements and recognizes that a longer notification period would be desirable for many types of hearings, and should be required by law.

Section 527. DIRECTOR'S NOTE: Section 527 is inconsistent with Commission recommendations in section 502, and could probably be deleted, but the Commission did not have an opportunity to vote on it.

Section 538. Composition; administration.

The department of libraries shall consist of the county board of library trustees, [the county librarian] the director of the library and all other officers, agents and employees in the public library system of the county. The board of library trustees shall [be constituted and shall do and perform such duties and functions as may from time to time be provided by state law.] consist of seven members who shall be appointed by the county executive for overlapping terms of five years. The board of library trustees shall appoint the director of the library, who will serve at its pleasure. It will have the same powers and duties as are provided in Article 77, section 173(a) of the Annotated Code of Maryland for boards of library trustees in counties which have not adopted a Charter form of government. [All references in this Charter to the head of an office or department shall be construed as including the county librarian as head of the department of libraries, but nothing in this Charter contained shall be held or construed as affecting or in anywise changing the organization, operation and administration of the county library system by the board of library trustees as provided by state law.]

Section 538. (continued)

COMMENT

The intent of the recommended change in this section is to bring the County's position into concert with state law and at the same time provide the library with some insulation from transitory political passions. The Charter presently allows the board of library trustees to be constituted by state law, but state law has been changed to require that charter counties themselves define the library's structure. The proposed amendment, however, makes no change in either the structure or the duties of the library which now prevail. The Commission also recommends a change in the title of the head of the library to conform with practice, although the change has no substantive import.

Section 541. Chief of police.

(a) Duties. The police department shall be administered by the chief of police of Baltimore County, [who shall also be responsible for the administration of the affairs of the jail bureau and the bureau of civil defense, and] who shall have and perform such other duties and functions as may from time to time be assigned [thereto] by directive of the county administrative officer or by legislative act of the county council.

COMMENT

Everyone who submitted testimony to the Commission concerning the jail, including the Police Department, agreed that it should not be the responsibility of the Police Department. The Commission also received testimony from several people, including the head of the bureau of civil defense, indicating that the bureau of civil defense operates most effectively when it is not part of the Police Department. However, the Commission declined to get into the detail of deciding where these bureaus should be placed and decided, instead, to delete the Charter's specification of their placement and leave it to administrative and statutory designation.

ARTICLE VI. COUNTY BOARD OF APPEALS [AND APPEAL TAX COURT].

Section 601. [County Board of Appeals:] Appointments; term; compensation.

There is hereby created and established a county board of appeals consisting of no less than three nor more than seven members who shall be appointed by the county council for three-year terms, [provided, however, that the first county board of appeals appointed pursuant hereto shall consist of one member appointed for a term of one year, one for a term of two years, and the third for a term of three years. Thereafter, all appointments or reappointments shall be for three year terms, except that] subject, however, to the requirement that as near as possible to one third of the terms shall end each year. An appointment to fill a vacancy occurring before the expiration of a term shall be for the remainder of the unexpired term. All members of the board shall be residents of Baltimore County and appointment shall be made so [that] not more than [two] three quarters of the members of the board shall be members of the same political party. [As compensation, each member of the board shall be paid at the rate of thirty-six hundred dollars (\$3600.00) per year, unless such compensation be changed as provided in section 606 of this article.] The county council shall by legislative act set the compensation of the county board of appeals; provided, however, that no reduction in salary shall affect the compensation of a member of the county board of appeals during his current term.

COMMENT

The Commission received some indication that the workload of the Board of Appeals was high enough to cause a backlog in cases and decisions, but is not able to anticipate exactly how heavy the workload will be under the changed responsibilities it recommends for the Board. Consequently, it recommends giving the Council some flexibility in deciding on the size of the Board of Appeals. The language provides that terms would continue to be staggered, as in current practice, and the partisan division of the Board of Appeals would remain within present limits. The recommended removal of any specific salary from the section is in accordance with principles noted earlier.

Section 601.1. Substitute members. (Delete entire section.)

COMMENT

The Commission saw no reason to designate some Appeals Board members as "substitute members." It recommends that all members have the same status and that provision be made, in section 603, for the Appeals Board to hold hearings in panels, so an appropriate odd number will be available to hear each case.

Section 602. Powers and functions of the county board of appeals.

The county board of appeals shall have and may exercise the following functions and powers[, which are hereby severally transferred from the board of zoning appeals, the board of license appeals and the county commissioners]:

(a) [Appeals from orders relating to zoning.] Zoning Matters.

(1) The county board of appeals shall hear appeals on the record from decisions of the zoning commissioner relating to variances and special exceptions.

(2) The county board of appeals shall hear all requests for changes in zoning classifications and districts, and such hearings shall be held in accordance with the requirements for hearings established in section 524.1 of this Charter.

(3) The county board of appeals shall have and exercise all the functions and powers of the board of zoning appeals of Baltimore County and of the county board of appeals described in Article 25A of the Annotated Code of Maryland as such functions and powers may be prescribed from time to time by law. All references in law to the board of zoning appeals shall be construed to refer to the county board of appeals created by this article. [As soon as the county board of appeals has been duly constituted by the appointment and qualification of its members as herein provided, the board of zoning appeals of Baltimore County shall cease to exist. All cases pending before the board of zoning appeals at such time and all cases subsequently arising which otherwise would have been subject to its jurisdiction shall be heard by the county board of appeals.] In all cases, the order of the county board of appeals shall be final unless an appeal [be] is taken therefrom in the manner provided in section 604 of this article.

(c) Appeals from orders relating to building. The county board of appeals shall[, in lieu of the county commissioners as heretofore,] hear and decide all appeals from orders relating to building.

COMMENT

Subsection (a)(1) provides that the Appeals Board will base its hearings on variances and special exceptions upon the record of the Zoning Commissioner's hearings rather than hearing cases de novo, as is now required. The Commission decided such a procedure was preferable to requiring each side to present a full case twice, and be prepared for changes in the case of its opponent the second time.

Subsection (a)(2) is consonant with section 523(c) presented earlier.

The amendments to subsections 602(a)(3) and 602(c) delete transitory language.

Section 603... Rules of practice and procedure.

Subject to the approval of the county council, the county board of appeals shall have authority to adopt and amend [from time to time] rules of practice and procedure to cover the conduct of its proceedings. Such rules may include matters relating to filing fees, meetings and hearings conducted by the board, the manner in which the chairman of the board shall be selected and the term for which he shall serve as chairman, and all other matters deemed appropriate or necessary for the board to conduct its proceedings. Said rules and regulations when approved by the county council shall have the force and effect of law. All decisions by the county board of appeals shall be made after notice and opportunity for hearing [de novo] upon the issues before said board. All hearings held by the board shall be open to the public, and the board shall cause to be maintained complete public records of its proceedings, with a suitable index.

COMMENT

The only change recommended for this section is the removal of some excess verbage and the requirement that hearings of the Board of Appeals be "de novo," which is consonant with earlier recommendations.

Section 603.1. Time period for rendering decisions: panels.

A. No later than ninety days from the date of the conclusion of its hearing, the county board of appeals shall render a written decision on any matter, order, appeal, or other issue presented to it pursuant to this article.

B. The board of appeals may provide by rule for hearings to be heard by panels composed of at least three members. All matters heard by the board shall be heard by an odd number of members.

COMMENT

This section, new to the Charter, provides that hearings may be held by panels rather than by the full Board of Appeals and that decisions must be made within ninety days of the completion of hearings. Because a tie vote on any case would be undesirable, the Commission also provided that cases must be heard by an odd number of members.

Section 606. Furthering legislation.

DIRECTOR'S NOTE: The Committee on Planning, Zoning, and Economic Development has proposed that the amendment shown below be made to section 606 to bring it into concert with recommended changes in section 601, but the Commission did not have an opportunity to vote upon it.

The county council shall have the power to enact furthering legislation not inconsistent with the provisions of this article to implement and define the powers and functions of the county board of appeals as herein specified. [The county council may by legislative act increase the compensation of the members of the county board of appeals provided in section 601 of this article and thereafter decrease such compensation, provided, however, that no such reduction shall affect the compensation of a member of the county board of appeals during his current term, and in no event shall the council have the power to decrease the compensation of members of the board below the figure provided in this Charter.] To the extent permitted by the public general laws of this state, the county council shall also have the power, by legislative act, to prescribe other appeals to be heard by the county board of appeals in addition to those specified in this article.

Section 607. Composition and function of appeal tax court.

DIRECTOR'S NOTE: Section 607 is obsolete and should probably be deleted, but the Commission did not have an opportunity to vote on it.

ARTICLE VII. BUDGETARY AND FISCAL PROCEDURES.

Section 701. Fiscal year.

[Unless and until changed in accordance with the provisions of state law, the fiscal year of the county shall be the calendar year. Its budget year shall correspond with the fiscal year.] The fiscal year of the county government shall begin on the first day of July and shall end on the last day of June unless the council shall adopt a different fiscal year in conformity with the general laws of this state.

COMMENT

The first object of the amendment proposed for section 701 is to bring the fiscal year specified in the Charter into conformity with present practice. The second is to specify that the fiscal year of the County should correspond with that of the state.

Section 702. Definition of terms used in this article.

(a) The term "county government" shall include: (1) all offices, departments, institutions, boards, commissions, agencies and authorities and their officers, agents and employees [who receive or disburse county funds.] established by this Charter or the public local laws and ordinances of Baltimore County, and (2) all offices, departments, institutions, boards, commissions, agencies and authorities and their officers, agents, and employees which receive or disburse county funds and are established by the Constitution or general statutes of this state.

COMMENT

The primary purpose of the amendment proposed in this section is to make certain the Revenue Authority is included within the definition of Baltimore County government. See also section 311.

Sec. 704. Formulation of current expense budget.

Not less than one hundred twenty days prior to the end of each fiscal year, the head of each office, department, institution, board, commission, authority and other agency of the county government shall furnish to the director of the budget estimates of the revenues and expenditures of their several operations for the ensuing fiscal year. Estimated revenues shall be detailed as to source, and estimated expenditures as to program or project. All such estimates shall be submitted with such other supporting data as the director of the budget may request. The data so submitted shall thereupon be reviewed by the county administrative officer, and the current expense budget compiled therefrom for transmission to the county executive for his approval.

COMMENT

This change is consonant with changes recommended above.

Section 705. Formulation of capital budget and capital program.

(a) Submission of data for referendum. In each year of a general election in the county, the county executive shall cause to be placed on the ballot for referendum all questions relating to the issuance of bonds or other evidences of indebtedness as may require the approval of the voters of the county as provided in section 718 of this article. Such questions shall be determined as follows:

(1).....

(2).....

(3) After approving or modifying such plan, the county executive shall submit the same to the county council, which shall have the power to approve, reduce or disapprove, but not to increase, the amount of borrowing therein proposed. The action of the council thereon shall be by ordinance which shall be exempt from the executive veto, and no question relating to such borrowing and which by law may require the authorization of the voters shall be placed on the ballot without first receiving such approval by the county council. [Said] The ordinance shall specify the purposes or classes of projects for which the funds are to be borrowed, and each question to be submitted to the voters shall include only one such purpose or class of projects. If it determines that a project is improperly classified the county council may, by a vote of two thirds of the total number of county council members established by this Charter, place the project in the existing appropriate classification. However, it may not create a new classification.

(b) At such time or times as the county administrative officer may direct, each office, department, institution, board, commission, authority or other agency of the county government shall submit to the director of the budget for transmission to the office of planning and zoning an itemized list of the capital projects which such agency proposes to undertake in the ensuing fiscal year and the next succeeding five fiscal years thereafter. After consideration by the planning board, the director of planning and zoning shall transmit to the director of the budget the list of projects recommended by said board to be undertaken in the periods aforesaid and its estimates of the cost thereof. The county administrative officer, with the assistance of the director of the budget, shall consider such recommendations with the other budget proposals and shall submit to the county executive, together with the current expense budget, a complete capital budget and capital program.

COMMENT

Commission members were aware that it was theoretically possible for an unpopular project to be placed in an inappropriate classification so it would be passed because of its association with popular or essential projects. Members of the County Council felt they should be able to prevent such an event. The Commission recommends the stated amendment to allow Council action but at the same time prevent the proliferation of ballot questions. It was not the intent of the Commission that the Council should re-classify projects on the grounds of popularity or political convenience, but only that the Council should be able to correct the misclassification of projects.

Section 706. Submission and contents of the county budget.

Not later than [sixty] seventy-five days prior to the end of the fiscal year the county executive shall submit to the county council:

.....
.....

COMMENT

The County Council must complete action on the budget one month before the end of the fiscal year, so the effect of the amendment to the first sentence of this section is to give the Council forty-five, instead of thirty, days to consider the budget. Council members gave varying opinions of how long the Council should have to consider the budget, but the argument that a new Council needed longer than 30 days to consider the budget even though an experienced one might deal with it more quickly was persuasive.

Section 707. Filing of proposed budget; copies.

The proposed county budget shall be filed with the secretary of the county council and a copy shall be delivered to each member of the council. At least three complete copies shall be open to inspection by the public and the press during regular business hours and under such conditions as may be prescribed by the county council. The budget message and supporting summary tables shall be reproduced in multiple copies, [and] a copy shall be made available to any interested person on request, and a copy shall be made available in each branch of the Baltimore County public library. The county executive may make corrections of errors or inadvertant omissions in the expenditures in the proposed budget within 15 days of its submission to the county council.

COMMENT

The Commission was sympathetic to complaints that there was no provision for taking care of errors or omissions in the budget found after it went to the County Council. However, it foresaw difficulty in defining "errors and omissions" in a way which would prevent utilizing any such capability for political manipulation. Its solution was to allow corrections only in expenditures and not in revenue estimates. Furthermore, it wished to insure that the Council would have ample time to consider any changes. It consequently decided to allow changes only during the first fifteen days of Council consideration of the budget.

Section 708. Public hearing.

[Upon receipt of the proposed county budget, t]The secretary of the county council shall cause to be published in [at least two] a daily newspaper[s published] of general circulation in the county a notice of the place and time of a public hearing or hearings on the budget by the county council. Such hearing or hearings shall be held not less than [fifteen] seven nor more than twenty days after the date of the filing of the proposed budget by the county executive.

Section 708. (continued)

COMMENT

The first amendment to this section was made because the Commission saw no reason the Council should have to wait until it received the budget to advertise its hearings. The second was made because the Commission thought the important point in advertising hearings was that hearings should be widely advertised, not that they should be advertised in one of the papers of small circulation which are published in the county.

The Commission made provision for the fact that it might be desirable to hold more than one hearing. It also was responsive to the complaints of councilmen that the Charter presently required them to hold hearings so late that, of necessity, most of the important decisions the Council would make on the budget had already been made when the hearings began.

Section 709. Action on the budget by the county council.

After the public hearing specified in the preceding section, the county council may decrease or delete any items in the budget except those required by the public general laws of this state and except any provision for debt service on obligations then outstanding or for estimated cash deficits. The county council shall have no power to change the form of the budget as submitted by the county executive, to alter the revenue estimates except to correct mathematical errors, or to increase any expenditure recommended by the county executive for current or capital purposes. The adoption of the budget shall be by the affirmative vote of [not less than four members of the county council] a majority of the total number of county council members established by this Charter on an ordinance to be known as the Annual Budget and Appropriation Ordinance of Baltimore County. With respect to county borrowing heretofore or hereafter approved by the voters as provided by section 718 of this article (notwithstanding any contrary provisions of borrowing ordinances heretofore approved by the voters), the county council, at any time or from time to time, after adoption of the budget [including any budget adopted prior to the effective date hereof,] or amendments thereto as provided by section 716 of this article, shall adopt bond issue authorization ordinances authorizing the issuance of bonds at one time, or from time to time, to provide the means of financing capital projects included in the budget as amended to the extent the same are to be financed from borrowing.....

COMMENT

The only amendments recommended for this section change the method for specifying a majority of the Council and delete transitory language.

Section 711. Transfer of appropriations.

(a) Transfers of funds from appropriations contained in a current expense budget to appropriations contained in a capital budget[,] may be authorized by the county administrative officer only with the approval of the county executive[,] and [at least four members of the county council] a majority of the total number of county council members established by this Charter.

(b) Inter-program transfers of no more than ten per cent of appropriations in a current expense budget between general classifications of expenditures within the same office, department, institution, board, commission, authority or other agency may be authorized by the county administrative officer. Inter-program transfers in excess of ten per cent of appropriations in a current expense budget between general classifications of expenditures within the same office, department, institution, board, commission, authority or other agency may be made by the county administrative officer only with the approval of the county executive and [with the approval of not less than four members of the county council] a majority of the total number of county council members established by this Charter. Inter-agency transfers in a current expense budget between offices, departments, institutions, boards, commissions, authorities or other agencies of the county government may be made during the last quarter of the fiscal year and then only on the recommendation of the county executive and with the approval of not less than [four members of the county council] a majority of the total number of county council members established by this Charter.

(c) Inter-project transfers of funds between specific projects contained in a capital budget appropriation may be authorized by the county administrative officer with the approval of the county executive[,] and [not less than four members of the county council] a majority of the total number of county council members established by this Charter.

(d) When any budget appropriation transfer is presented to the county council under this section, it may be presented by verbal motion and seconded and acted upon by a verbal vote. [and i]If the motion carries by the required number of votes the approval of the council shall be signified by the signing by the chairman of the county council of the document containing such transfer. A permanent record of each member's votes shall be maintained.

COMMENT

The Commission recommends the addition of the sentence shown in section 709(d) to insure that individual votes will continue to be recorded. The Charter does not now seem to require that this be done, even though it is current practice to do so.

Section 712. Supplementary and emergency appropriations.

(a) Supplementary. During any fiscal year, the county council, upon the recommendation of the county executive on the advice of the county administrative officer, may make additional or supplementary appropriations from unexpended and unencumbered funds set aside for contingencies in the county budget, or from gifts or grants received from sources not anticipated in the budget for the current fiscal year, provided that the director of finance shall first certify in writing that such funds are available for such appropriation. No supplemental appropriation shall exceed the amount of the funds so certified.

COMMENT

Allowing gifts or grants to be available for supplementary appropriations will relieve the county of its present burden of using them as "emergency" appropriations, which require a two-thirds vote of the Council and must be limited to 5% of all appropriations. Since substantial federal grants are sometimes available to the County, the limitation now causes unnecessary difficulty.

Section 715. Appropriation control and certification of funds.

No office, department, institution, board, commission, authority or other agency of the county government shall, during any fiscal year, expend[,] or contract to expend[,] any money or incur any liability[,] or enter into any contract[,] which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated or allotted for the same general classification of expenditure in the budget for such fiscal year[,] or in any supplemental appropriation as hereinabove provided[;], [and n]No such payment shall be made nor any obligation or liability incurred[,] except for small purchases in an amount less than one hundred dollars, unless the director of finance shall first certify that the funds for the designated purpose are available. Any contract, verbal or written, made in violation of this section shall be null and void, and if any officer, agent or employee of the county shall knowingly or willfully violate this provision, such action shall be cause for his removal from office by [at least four votes of the county council] a majority of the total number of county council members established by this Charter.

Nothing in this section or elsewhere in the Charter [contained] shall prevent the making of contracts of lease or for services providing for the payment of funds at a time beyond the fiscal year in which such contracts are made, provided that the nature of such transactions reasonably requires the making of such contracts [and provided further that any contracts for the purchase of real or leasehold property needed for any public purpose, where the purchase price of said property is in excess of \$5,000, and that any such contracts of lease which are for a term in excess of four years, any such contracts for services which are for a term in excess of two years, and any such contracts for services involving the expenditure of more than \$25,000 per year shall be presented to the county council and shall have no force or effect unless approved by the affirmative vote, on a verbal motion, of

Section 715. (continued).

not less than four members thereof, which approval shall be signified by the signature of the chairman of the county council on the document thus approved]. Any such contract must be reported to the county council before it is executed if the contract is (1) for the purchase of real or leasehold property where the purchase price of the property is in excess of \$5000; (2) for the lease of real or leasehold property for a term in excess of four years; (3) for services for a term in excess of two years; or (4) for services involving the expenditure of more than \$25000 per year. After a contract is reported to the county council, it may be executed after the first subsequent regular meeting of the council unless, by the vote of a majority of the total number of county council members established by this Charter, the council directs that the contract not be executed, in which event the contract shall not be executed until the county council approves such execution by a vote of a majority of the total number of county council members established by this Charter.

COMMENT

The Commission understood that the version of the last part of section 715 now in the Charter was inserted to prevent the drawing of contracts concluded to give county employees a financial return. The Commission concluded that, although the section did not succeed in its purpose, it did result in the Council spending a great deal of time on administrative detail as it reviewed contracts whose drawing it had already approved through the budgetary process. This reformulation of the section would allow the Council to select any contracts it wished to examine, but it would not force the Council to involve itself in routine detail.

Section 716. Restrictions on capital projects; amendment to capital budget after adoption of budget.

No obligations of the county shall be authorized in any fiscal year for or on account of any capital project not included in a county budget as finally adopted for such year or, subject to the limitations of section 713, for any prior year; provided, however, that upon receipt of a recommendation in writing from the county executive, the county council may, by the affirmative vote of [four members] two thirds of the total number of county council members established by this Charter, amend the county budget in accordance with such recommendation.

COMMENT

The amendment would make it more difficult to authorize funds for a capital project not included in the capital budget.

ARTICLE VIII. MERIT SYSTEM.

Section 801. County council to establish and maintain merit system; composition of exempt service.

[At its first annual legislative session after the effective date of this Charter, t]The county council shall enact a county personnel law establishing a merit system of personnel administration. The county personnel law shall provide for the division of all employees in the county government into the classified and the exempt service, the latter to consist of: (1) all elected officials, (2) the county administrative officer, the zoning commissioner [and his deputy], [the director of planning,] the heads of all offices and departments and the civil defense bureau, (3) all employees of the department of education and all employees covered by the state merit system, (4) the members of [the appeal tax court and] all boards and commissions (except otherwise classified employees serving thereon ex officio), (5) all professional consultants performing temporary or part-time services, (6) all attorneys at law employed in the office of law, (7) [not more than one confidential clerk or private secretary for the county executive, nor more than one for the county administrative officer] the personal staff of the county executive as provided in section 402(d)15 of this Charter and one full-time member of the personal staff of the county administrative officer, (8) the personal staffs of members of the county council and officers of the council employed pursuant to section 302(b) of this Charter. [(8)] (9) the county auditor [and], [(9)] (10) [such] seasonal [or occasional employees and such nonsupervisory employees paid on an hourly basis as may be specifically exempted from the effect of the county personnel law or from the plans, rules and regulations adopted pursuant thereto] and other temporary employees as defined in the county personnel law and (11) such other executive-level or policy-making positions as may be specifically placed in the exempt service upon recommendation of the county executive and with the approval of two thirds of the total number of county council members established by this Charter.

COMMENT

The first phrase deleted is transitory. The deletion of the deputy zoning commissioner from (2) is consonant with changes recommended in section 522. The deletion of the director of planning from (2) is editorial, since the Director of Planning is included under other language in (2).

The specification in (6) that attorneys are exempted when employed in the office of law was made because of the Commission's recognition that some lawyers working for the County might be working in some capacity not dependent on their status as members of the bar.

The change in (7) was made to give more flexibility in the selection of the staff of the county executive. It is consonant with changes recommended in section 402.

The addition of new language to take care of staff of the County Council in (8) was made necessary by changes recommended later in the section.

The changes in what the Commission has numbered as (10) were made either because the Commission felt the existing language was vague or because it thought an exemption should not necessarily be made, as, for instance, in the case of employees paid on an hourly basis. The Commission intends, through this change, to include permanent part-time employees in the merit system.

Section 801 (continued).

Comment (continued)

The addition of (11) to the section was made to provide the County with the opportunity to add positions which admittedly should be exempt but which the Commission might not be able to foresee, to exempt positions which are actually full-time but now charade as part-time positions in order to get an exempt status everyone admits they should have, and to exempt positions experience might later show should be moved from classified to exempt service. However, the Commission required a two-thirds vote of the County Council to create exempt positions because it did not want exemptions granted lightly.

Section 802. Contents of county personnel law.

The county personnel law shall provide for the following:

(a) [The administration of the affairs of the office established by this Charter and known as "The Office of Personnel" by a] A director of personnel who shall be qualified by special training and at least five years' experience in personnel administration, [in public service or private industry, or both, and who shall be appointed in the same manner as the heads of other offices and departments in the administrative services.] The director of personnel shall be responsible for personnel administration in Baltimore County and, unless changed pursuant to section 502, the administration of the office of personnel.

(b) A personnel [and salary advisory] appeals board appointed by the county executive subject to the approval of the county council and composed of registered voters of the county who favor the application of merit principles to public employment, and who shall receive no compensation for their services except reasonable and necessary expenses. The number and term of office of the members of the personnel [and salary advisory] appeals board shall be as provided in the county personnel law. [Said law may provide for the election of not more than one member of the board by the employees in the classified service and may also provide that the director of personnel shall serve ex officio as a member thereof, but no other members] No member of the board shall hold any [other] public office or be otherwise employed for profit by Baltimore County.

(c) Authority in the director of personnel to approve and certify all payrolls of employees in the classified service.

(d) Authority in the [personnel and salary advisory board to set up and revise a job classification plan, a compensation plan, and to establish rules and regulations for examinations, certifications and other necessary details of personnel administration.

(e) A provision that, upon the adoption of such plans, rules and regulations, the director of personnel shall transmit them to the county executive for submission to the county council for legislative action thereon. No such plan, rules or regulations shall have the force and effect of law unless and until the same be included in a public local law to be adopted by this county council in the manner provided in article III of this Charter.] director of personnel to prepare and, from time to time, amend a job classification plan and a compensation plan and to establish rules and regulations

Section 802. (continued)

for examinations, certifications and other matters of personnel administration; provided, however: (1) Job classification and compensation plans and amendments thereto shall be transmitted to the county executive for submission to the county council for legislative action, and no such plan or amendment shall have the force and effect of law, unless and until it is included in a public local law to be adopted by the county council in the manner provided in Article III of this Charter; (2) unless otherwise provided by the county council, any rule or regulation concerning examinations, certifications, or other matters of personnel administration may be established by the personnel director pursuant to this section without the necessity of a public local law, provided the rule or regulation has no fiscal or budgetary impact.

[(f)] (e) The disciplining of employees, including dismissal for cause by appointing officers.

[(g)] (f) Appeals to the personnel [and salary advisory] appeals board in [case of disciplinary actions by appointing authorities and from decisions of the director of personnel in cases involving examinations and examination ratings; provided, however, that if the director of personnel shall be a member ex-officio of the personnel and salary advisory board, he shall be disqualified from participating in any appeals from his own decisions.] all cases involving decisions applying and interpreting the county personnel laws, rules, regulations, policies, or procedures.

[(h)] The conditions under which employees at the time of the adoption of the county personnel law may acquire merit system status.]

[(i)] (g) Prohibition against any kind of assessment for political purposes upon employees in the classified service, and against their participation in any political activities or electioneering on county property during business hours.

[(j)] (h) Prohibition against any kind of discrimination in the employment, suspension or dismissal of employees in the classified services on account of race, color, creed, sex or political affiliation.

[(k)] (i) Penalties for the violation of this article and the laws, plans, rules and regulations adopted pursuant thereto.

[(l)] (j) Special rules and regulations[, to be first approved by the director of public safety, and] relating to the employment, promotion, suspension and dismissal of employees of the fire [bureau] department and the police [bureau] department.

[(m)] (k) Such other matters as may be necessary to fulfill the purpose of the merit system as hereby established, including adequate staffing and financial support for the needs of the office of personnel.

COMMENT

Subsection (a) retains the same meaning under the Commission's recommended amendments, but has been changed to accomodate more easily the recommended amendments to section 502.

Under 802(b), the Personnel and Salary Advisory Board is presently appointed by the executive without council approval, but the Commission wanted the Personnel Appeals Board to be approved by the Council in the hope that the Council would then have enough faith in its operation to allow it to

Section 802. (continued)

COMMENT (continued)

operate independently. In addition, since its jurisdiction over administrative matters has been removed under the Commission's recommendations, there seemed less justification for avoiding Council approval of appointments to it.

Because the Personnel Appeals Board would only hear grievances under the Commission's proposals, it was deemed inappropriate to have an employee representative or the Director of Personnel serve on it.

Part of the intent of what becomes subsection 802(d) under the Commission's recommendations is to give the Director of Personnel the additional authority to undertake certain tasks now given to the Personnel and Salary Advisory Board. The Commission could find no reason why the Office of Personnel could not carry out these functions without the aid of a board, and it thought it inappropriate to have a board which was formulating rules and regulations judge adherence to them during grievance procedures. Another purpose of the recommended amendment to section 802(d) is to insure that the County Council will be involved in any promulgations of the Office of Personnel which have an appreciable budgetary impact while leaving to the Director of Personnel the formulation of rules and regulations of an administrative nature too detailed to be of proper concern to the County Council.

The intent of amending what becomes section 802(f) is to insure that all personnel appeals ultimately go to the Personnel Appeals Board. This amendment was not intended to require that bargaining over contracts be arbitrated by the Personnel Appeals Board.

Section (h) is a transitory provision no longer necessary.

What becomes section 802(j) was amended to recognize that there is no longer a director of public safety.

Section 803. Appeals to the personnel [and salary] appeals board to be exclusive.

In case of any appeal to the personnel and salary advisory board, its decision shall be final [on all parties concerned], and there shall be no further appeal [therefrom] to the county board of appeals or to any court. Any question involving the jurisdiction of the personnel [and salary advisory] appeals board or the legality of its procedures may, nevertheless, be heard by the circuit court for Baltimore County or any other court with jurisdiction over the parties and the subject matter.

COMMENT

This section was amended to recognize that courts cannot be prevented from hearing claims that decisions of administrative bodies are arbitrary, capricious, or not based on evidence.

Section 804. [Abolition of board of police department examiners and board of fire department examiners]. Collective bargaining.

[Upon the adoption of the county personnel law as above provided, the board of examiners for the police department of Baltimore County and the board of examiners for the fire department of Baltimore County shall cease to exist, and all their powers, duties and functions shall be performed by the director of personnel and salary advisory board as may be provided in the county personnel law.] Nothing in this Charter or in the personnel law of the county shall be construed to prevent employees from bargaining collectively for wages, hours, and working conditions in accordance with such county labor laws as may be enacted.

COMMENT

Section 804 is presently obsolete. In the recommended version of section 804, the Commission wished to leave the means to achieve collective bargaining available, but it did not intend to require collective bargaining.

ARTICLE IX. CENTRALIZED PURCHASING.

Section 901. Responsibility for Purchasing.

The [director of central services] county purchasing agent shall be responsible to the county administrative officer for the enforcement of the county purchasing policies established in this article.

COMMENT

When combined with section 902, the recommended change in section 901 makes no difference in present organization but makes section 901 more compatible with recommended amendments to section 502.

Section 902. County purchasing policies and practices.

Unless changed pursuant to section 502, [T]the director of central services shall be the county purchasing agent and shall have the following purchasing functions which he may delegate to a deputy purchasing agent in his office and under his supervision:

.....

(f) The establishment, with the approval of the county administrative officer and by legislative act of the county council, of rules and regulations governing [emergency purchases and contracts and those involving services or material and equipment of an unusual or noncompetitive nature which shall not be subject to competitive bidding.] the circumstances under which the use of competitive bidding is not appropriate or feasible When such bidding is not appropriate, as announced in writing prior to any formal bid procedure, a contract shall be awarded only by competitive negotiations, unless such negotiations are not feasible. When neither competitive bidding nor competitive negotiations are feasible, as announced in writing prior to any formal bid procedure, contracts may be awarded by non-competitive negotiations. Whenever a contract is awarded by a process other than competitive bidding, a copy of the contract shall be given to the county council and, at the next legislative session-day following the award of the contract, the secretary to the county council shall formally announce to the council the nature of the contract and the parties to the contract. The announcement shall be recorded in a permanent record which shall be available for inspection by the public.

COMMENT

The recommended amended to the first sentence of section 902 is intended to make the section more compatible with section 502.

By the amendment of 902(f) the Commission wished to avoid present legal and/or semantic confusion about what constitutes an "emergency" or "material and equipment of an unusual or non-competitive nature," while still giving the County the flexibility to deal with contracts which should not be subject to competitive bidding. The requirement that the inappropriateness or lack of feasibility of competitive bidding be announced in writing when the county announces its desire for a contract has been proposed in order to prevent the

Section 902. (continued)

COMMENT (continued)

county from forcing vendors to go through competitive bidding, then choosing on the basis of previously unannounced criteria. The last two sentences recommended for the section are intended insure the publicizing of contracts in such a way that favoritism in the award process will be difficult to conceal.

Section 904. Competitive bidding.

Any single purchase or contract under the jurisdiction of the county purchasing agent and involving an expenditure of more than two thousand dollars (\$2000.00), except only [emergency purchases and those involving services or material and equipment of a non-competitive nature] one for which the use of competitive bidding is not appropriate or feasible as may be defined and governed by the regulations mentioned in section 902(f) hereof, shall be made from or let by sealed bids or proposals publicly opened after public notice for such period and in such manner as the purchasing agent or his authorized deputy shall determine.....

COMMENT

The change recommended for this section is consonant with the change recommended for section 902(f).

ARTICLE X. MISCELLANEOUS.

Section 1001.

(a). Prohibitions.

1. Except for any properly authorized salary or compensation, [N]no officer or employee of the county shall in any manner whatsoever [be interested] have an interest in or receive any economic benefit from [the profits or emoluments of] any contract, job, work or service for or with the county.

2. Except for any properly authorized salary or compensation, no such officer or employee shall [, upon more favorable terms than those granted to the public generally, accept any service or thing of value, directly or indirectly, from any person, firm or corporation having dealings with the county nor shall he receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the county, or by any person in connection with any dealings with the county, or by any person in connection with any dealings or proceedings before any branch, office, department, board, commission or other agency of the county.] receive, directly or indirectly, any part of any fee, commission, or other compensation paid or payable by the county, or paid or payable by any person in connection with any dealings or proceedings with or involving the county.

3. No officer or employee shall, upon more favorable terms than those granted to the public generally, accept any service or thing of value, directly or indirectly, from any person having dealings with the county.

(b) Rules of construction; exceptions by resolution of county council.

The provisions of this section shall be broadly construed and strictly enforced for the purpose of preventing those persons in public service from securing any [pecuniary] economic advantages, however indirect, from their public [associations] service other than [their] the compensation provided for them by law. [In order,] However, [to guard against injustice,] the county council may, by resolution, specifically authorize any county officer or employee to own stock in any corporation or to maintain a business connection with any person, firm or corporation dealing with the county if, on full public disclosure of all pertinent facts to the county council by such officer or employee, the council shall determine that such stock ownership or business connection [does not violate] is not inconsistent with the public interest.

(c) Penalties.

Any officer or employee of the county who violates any of the provisions of this section, or of section 1002, shall [forfeit his office, which forfeiture shall be self-executing upon sentencing after conviction thereof] on conviction, be punishable by imprisonment for not less than one month nor more than six months, and shall automatically forfeit his office or employment immediately upon conviction. During and for the period of any appeal, the appropriate governing body and/or official authorized by law to fill any vacancy created hereby may appoint a person to temporarily fill such

Section 1001. (continued)

(c) Penalties (continued)

vacancy, provided that if the vacancy is one for which automatic succession is provided by law, the person entitled to succeed shall temporarily fill the vacancy. If the conviction of an officer is reversed after judicial review or otherwise, he shall be automatically reinstated to his office for the remainder, if any, of the term of his office, and all forfeited pay and benefits shall be restored. If the conviction of an employee is reversed after judicial review or otherwise, he shall be automatically reinstated to his employment and all forfeited pay and benefits shall be restored.

If any person shall receive, offer, pay, refund or rebate any part of any fee, commission or other form of compensation to or from an officer or employee of the county in connection with any county business or proceeding, he shall, on conviction, be punishable by imprisonment for not less than one month nor more than six months. Any contract made in violation of this section may be declared void by the county executive or by resolution of the county council. The penalties in this section shall be in addition to all other penalties provided by law.

(d) Conflict of Interest.

The county council [may] shall adopt conflict of interest laws [as may be to the best interests of the county to implement the objects and purposes of this article.] not inconsistent with the provisions of this Charter. Such laws shall include a provision for the disclosure of the interest of any person in any matter before the county government and for the disqualification of that person from participating in decisions or other actions in which there is a conflict between his official duties and his private interests.

COMMENT

Most of the changes recommended for this section are intended to clarify what the Commission believed to be the aims of the section as it presently exists in the Charter. The Commission found several elements of section 1001 to be in need of clarification. For instance, a close examination of subsection 1001(a)1 reveals that a county employee is violating the Charter by accepting a salary. ("No officer or employee of the county shall....receive any economic benefit from the....emoluments of any....work or service for or with the county.")

Subsection 1001(d) requires special mention. The Commission found that under it a previous Council been able to exempt the Council and the Executive from the County's conflict of interest laws. (Baltimore County Code, section 2-6.) It is the intent of the Commission that this situation be remedied.

Section 1002.1

Any elected official who is convicted of or enters a plea of nolo contendere to any crime which is a felony, or which is a misdemeanor related to his public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall automatically forfeit his office immediately upon conviction. During and for the period of any judicial review, the appropriate governing body and/or official authorized by law to fill any vacancy in the elective office shall appoint a person to temporarily fill the elective office, provided that if the elective office is one for which automatic succession is provided by law, then in such event the person entitled to succeed shall temporarily fill the elective office. If the conviction is reversed or overturned, the elected official shall be automatically reinstated to the elective office for the remainder of the elective term of office and all forfeited pay and benefits shall be restored.

COMMENT

This section provides for the automatic removal from office of county officers and employees who are convicted of violating certain laws and for their replacement. The language is taken largely from the Maryland Constitution.

Section 1010. Supremacy of the Charter.

In case of any conflict between any provision in this Charter and any law enacted by the county council or any rule or regulation adopted by the executive branch of the county government, this Charter shall prevail.

COMMENT

The Commission decided a reiteration of the supremacy of the Charter was necessary in light of the ordinances passed by earlier County Councils which seemed to conflict with the Charter.

Section [1010] 1011. Custody of papers and records.

Section [1011] 1012. Separability.

Section [1012] 1013. Citation.

ARTICLE XII.
MANNER OF TERMINATING THIS CHARTER
AND
MAKING AMENDMENTS THERETO

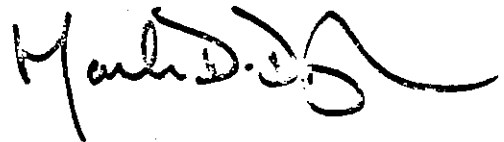
Section 1202. Amendment.

Amendments to this Charter may be proposed by act of the county council approved by [not less than five of its members] two third of the total number of county council members established by this Charter, and such act shall be exempt from the executive veto.....

TO: Commission on Charter Revision of Baltimore County
RE: Minority Report Relating to Planning and Zoning

The undersigned, Mark D. Dopkin, a member of the Planning, Zoning and Economic Development Subcommittee of the Commission on Charter Revision, opposes proposed amendments to Section 522.3 of the Report, which provides that hearings held before the Zoning Commissioner be "of record". The overwhelming testimony given to the Committee, the practical experience of the members of the Committee active in this area, and the recommendation of the Committee to the Commission was that the fact that the hearings before the Zoning Commissioner were not of record was a significant advantage to the individual citizens and community groups who were usually in a position of opposition to the action requested to be taken by the Zoning Commissioner. The argument for making the hearing of record has been that the current system requires citizens and community groups to appear before the Zoning Commissioner and then incur the additional expenditure of time and money to appear before the Board of Appeals. I respectfully submit that the opposite is the case. Under the current system, the citizen has an opportunity to appear and to voice his or her objections or concern without the necessity of engaging legal counsel or being constrained by rules of evidence in giving testimony. Since statistics indicate that an overwhelming majority of cases do not go beyond the Zoning Commissioner level, the current system allows for an informal airing of the issues with a minimum expenditure of time and money. This is a valuable procedure which should be retained. John Gurley, the Chairman of the Committee, concurs with and endorses the views stated herein.

Respectfully,

A handwritten signature in black ink, appearing to read "Mark D. Dopkin", with a stylized flourish at the end.