

Baltimore County
CHARTER REVIEW COMMISSION

FINAL REPORT — APRIL 30, 1990



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Baltimore County Charter Review

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SECTION "A"

INTRODUCTION and SUMMARY

The Baltimore County Charter Review Commission was appointed on July 24, 1989. Announcement of the appointment of the Commission was made at a Reception hosted by the County Executive and County Council in Courtroom No. 5 of the Old Courthouse.

An organizational meeting of the Charter Review Commission was held on September 12, 1989, at which specific assignments were made and rules of procedure adopted.

In order to expeditiously and comprehensively undertake its charge, the Commission divided the Charter Review responsibility into six committees, each with its own committee chairperson and volunteer support staff. Each committee was responsible to review specific Charter provisions, as well as any other agenda items the committee so determined in connection with their review. There were forty-seven committee meetings held prior to adoption of the six Committee's Final Reports. Minutes of each committee meeting were transcribed and made available to committee members, as well as to the Charter Review Commission Chair.

Each committee considered the input from the public hearings held in the County Council Chambers on October 3, 1989 and November 1, 1989, correspondence directed to the Charter Review Commission which specifically related to that committee's area of responsibility, testimony from elected officials (both former and current), interested members of the public, bond counsel for the county, county department heads and personnel, and other invited guests. Each committee was required to have a minimum two-thirds of its membership to constitute a quorum, and the lesser of a majority of the committee or three-quarters of those present were necessary for the Committee to approve any Charter change recommendation. Committee meetings were held from October of 1989 through January of 1990, and Final Reports of each committee were submitted to the Charter Review Commission Chair prior to the end of January of 1990.

The full Commission began its review of the various committee reports on February 15, 1990, at which meeting the reports of the Legislative Matters and Planning and Zoning/Economic and Community Development Committees were considered. Consistent with procedures adopted to govern the Commission's review, all matters favorably reported out of committee were automatically included on the full Commission agenda. Any other matters could be included on an agenda of the full Commission, provided a commission member made such request in writing not less than three days prior to the date of the meeting, and submitted in writing the specific language of the Charter matter they desired to be included as an agenda item.

Subsequent full Commission meetings were held on February 21, 1990, for consideration of the reports of Personnel Matters and the Merit

System and Government and Ethics Committees, and on February 27, 1990 when the reports of the Fiscal, Budgetary and Purchasing Matters and Executive Organization and Effectiveness Committees were considered.

Consistent with the procedures previously adopted, a majority of the Commission members were required for a quorum of the full Commission, and the affirmative vote to approve a recommended change was the lesser of a majority of the Commission or two-thirds of those present provided the quorum requirement was satisfied.

At its meetings on February 15, 21 and 27, 1990, the Commission tentatively approved, disapproved or amended all agenda issues submitted for full Commission review. Minutes of each of these full Commission meetings were made available to the public, as was the tentative agenda for our final Commission meeting scheduled for March 13, 1990. The purpose of the tentative votes and tentative agenda was to give the public opportunity to react to specific changes upon which tentative action had been taken by the entire commission.

A final public hearing was held in the County Council Chambers on March 6, 1990. Although we only had the benefit of three speakers at the October 3, 1989 public hearing, and five speakers at the November 1, 1989 public hearing, approximately two hundred and fifty citizens of our County crowded the Council Chambers on March 6, 1990, and sixty-five persons addressed the full Commission at this hearing. Minutes of this public hearing were prepared and distributed to the full Commission prior to our final meeting on March 13, 1990.

Although the Charter Review Commission allowed voting of Commission members by proxy, to be eligible to so vote, a commission member had to attend the public hearing on March 6th, as well as had to deliver their signed proxy ballot to the Commission Chair no later than 6:45 p.m. on March 13, 1990. The proxy ballot consisted of the tentative agenda for the March 13, 1990 meeting, on which provision had been made for voting "FOR" or "AGAINST" the Commission's tentative recommendations. The only matters upon which proxy votes were counted were those matters which had been tentatively approved at the meetings of February 15, 21 and 27, 1990, and only if such recommendations were considered in the exact language as tentatively approved prior to March 13th.

The specific Charter change recommendations, and comments related thereto, are included verbatim immediately following the explanation of text and comments, beginning on page . There will be no attempt to specifically cover all of the recommendations in this summary section of the Charter Review Commission's Final Report. This summary merely attempts to highlight the major changes which have been recommended for consideration, and describe the general approach which the Commission took in exercising its Charter Review responsibility.

As indicated in the comments of County Council members and others, the Commission believed that "If it ain't broke, don't fix it", and this

approach was generally followed in the Commission's review. The Commission's recommendations also reflect a strong commitment to an executive form of county government, checked and balanced by a strong legislative body.

In the area of Executive Organization, the Charter Review Commission recommends elimination of the two consecutive term limitation on the County Executive, elimination of a specific term of office for the County Administrative Officer, allowance of additional exempt status staff for the county executive beyond the confidential secretary now allowed in our Charter, and elimination of the cap of eighteen on the number of county departments and offices.

Although it was suggested that the Commission should broaden the opportunity for exempt status employees within county government to include such policy making positions as Department Deputy Directors, Bureau Chiefs, high ranking Police and Fire personnel, this suggestion was rejected by the Commission. Such change might risk unproductive political influence on the operation of county government.

The Commission also declined to recommend more direct executive influence by the County Council. The suggestions that the Council be allowed to add to the capital budget and adjust revenue estimates based upon information from the County Auditor's Office, were both rejected. The Commission also failed to recommend any increase in the size of the County Council, which increase might potentially dilute the Council's impact on county government. It was determined that a Council District of approximately one hundred thousand people was not excessive, and that the increased workload due to constituent concerns and legislative review, should be handled by increasing the Council staff.

The Commission also rejected the suggestion of a county-wide Council President. No increase in the size of the Council was being recommended by the Commission, which increase might warrant the establishment of the office of Council President, nor does the Council generally operate by Committees. Finally, the potential political ramifications of a county-wide Council President candidate aligning with a County Executive candidate in the election, if both were successful, might risk significant damage to the traditional independence of the Baltimore County Council.

Before leaving our legislative body, the Commission does recommend changing the selection process in the event of a Council vacancy, which recommendation allows for greater influence by the central committee members most directly involved in the Council District of the vacating Council member.

In the area of Fiscal, Budgetary and Purchasing Matters, the Commission recommends elimination of the necessity for the preparation of two audit reports, one by the County Auditor's Office and the other

by the County's external auditor. This recommendation, strongly supported by Herb Wirts, does not eliminate the requirement of the performance of two audits. It would provide for cooperation between the County Auditor and the external auditor in resolving any differences in their opinions/comments on the annual financial statement prepared by the Office of Finance.

Additional changes involving the fiscal area include recommendations that bond ordinances submitted to the voters not include references to specific periods when the capital projects shall be undertaken, and that the County Council be allowed to retroactively eliminate such periods for projects previously approved by the voters. These changes, recommended by County Bond Counsel, are necessary in order to avoid arbitrage rebate and adverse tax consequences possible as the result of recent federal tax law changes.

The Commission has recommended additional authority for bond procedures presently used by the County, the authority for which is now currently being inferred or implied by county government. The Commission also recommends that the County Council, by legislative act, determine what contracts or leases must be specifically approved by the Council.

An issue on which the Commission failed to reach agreement concerns the impact of "privatization" financing on Baltimore County's overall indebtedness. There was a Commission effort to work out a recommendation to include long-term debt on real and personal property subject to a security interest within the debt limitations of Section 717 of the Charter.

Quite late in our Commission Review process, however, County Bond Counsel raised so many concerns respecting the possible unintended implications of the wording of our proposed amendment that we were forced to abandon our effort. This is a matter, however, that the Commission recommends be considered in the future, either formally or on an informal basis.

In the area of Personnel Matters and the Merit System, beyond rejecting any change in the exempt status for policy making employees, the most significant recommendation involves elimination of all references throughout Baltimore County's Charter to binding arbitration. This recommendation is made in light of the Court of Appeals holding in Griffith v. Wakefield, 298 Md. 311, which invalidated Sec. 544 of our Charter.

In addressing the area of Planning and Zoning/Economic and Community Development, and to emphasize the importance of Baltimore County's Master Plan, the Commission recommends requiring progress reports every two years on the Master Plan's implementation. The Commission, however, has recommended no change in the status of the Master Plan as advisory in nature and subject to zoning.

In an effort to respond to concern regarding processing of zoning and related development matters, the Commission recommends that the Charter limitation of only one Deputy Zoning Commissioner be eliminated, and further that the County Council be allowed to increase the membership of the Board of Appeals, up to eleven members.

With respect to these recommendations, it should be recognized that increasing the number of Deputy Zoning Commissioners or Board members will not be helpful unless the facilities available to the Board of Appeals and Zoning Office and their support staff are likewise addressed. Adding hearing officers will only process additional work if there are adequate facilities and support staff available.

With respect to the Board of Appeals, an increase in the membership of the Board might allow for the establishment of panels with specific responsibility for certain types of appeals matters, thus allowing members to develop particular expertise. Some panels could be assigned to hear only zoning matters and county review group appeals, while different panels might hear other appeals, such as retirement matters and license appeals.

In the area of Government and Ethics, significant reorganization of Article X is recommended. The Commission is also recommending that in addition to a County Conflict of Interest Law, a Code of Ethics be required. Baltimore County already has such an Ethics Code, but it is not a Charter requirement at this time.

In addition, the Commission recommends the elimination of penalties of one to six months incarceration for violations of Article X, in lieu of Council authority to enact from time to time such penalties as the Council deems appropriate. Under the Commission's recommendations, the County Council would also have the power to grant immunity from prosecution to witnesses in any criminal prosecution for Article X criminal violations.

These comments have only attempted to highlight the Charter Review recommendations in a very summary fashion. There are a number of housekeeping changes, language updates, and other recommendations being made. There are also a significant number of these recommended changes that are related and that could be grouped on the referendum as a single ballot issue. Even if this were done, however, if favorable consideration were given to all of the Charter Review Commission recommendations, the 1990 Ballot would be substantial.

Through its deliberations, the Charter Review Commission has been concerned that the number of changes being recommended for consideration might overwhelm the electorate by reason of their number alone. An electorate that feels so overwhelmed, may lose interest in informing themselves as to the specific Charter issues involved and, fearing that their vote could not intelligently be made, might reject all of the Charter Review recommendations on the ballot. If this were

to happen, the potential benefit to our County of the time, effort and expense of this Charter Review process would be lost.

It is suggested that consideration be given to prioritizing those Charter Review Commission recommendations favorably considered by the County Executive and County Council, and to including some in the 1990 Referendum and postponing others to the 1992 Referendum or beyond.

The County Executive and County Council might also consider how best to educate the voters as to those Charter changes determined to be included in the 1990 Referendum. Certainly the press should be involved, especially the local community papers. It might be suggested that, in the months immediately prior to the election, the local papers devote a column each week to one or more of the related Charter issues, so that the citizens could study the recommended changes in a piecemeal and timely manner. Copies of the Charter Review Commission Reports could be made available in the public libraries and to all the community associations registered with the Communications Director for Baltimore County.

The County Executive and the County Council might also include Charter issues as part of their prepared remarks in connection with speaking engagements at various clubs and organizations, as well as their own news releases. Perhaps one or more cable t.v. shows could be scheduled with the County Executive and different members of the County Council during the months immediately preceding the 1990 election. Members of the Charter Review Commission could also be available, upon request, to serve as speakers at meetings of organizations and groups throughout the County.

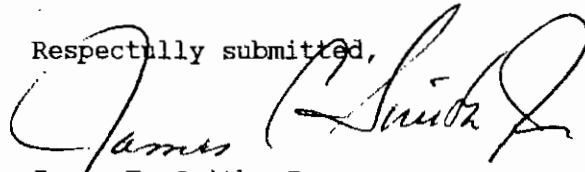
On a personal note, although initially it seemed that our Charter Review would be a difficult task to accomplish in the time allowed, such was not the case. The reason for this was the excellent cooperation by everyone involved in the Charter Review process. Each Committee Chairperson effectively handled the responsibilities of their respective committee and enjoyed the full cooperation of the committee membership. The Ex-officio members of the Commission also cooperated completely in their committee service and contribution to the Charter Review process.

Special thanks is due to the volunteer secretaries for each committee, to the members of the County Attorney's Office who provided support services to the Committees, to the very able Commission recorders, Tom Peddicord and Nancy West, to Judy Sussman, the County Executive Liaison, and to Tom Toporovich, the County Council Liaison, to Arnold Jablon, our County Attorney, for his total cooperation with respect to budget matters and overall Charter Review Commission coordination, to Bob Hughes, who handled all publicity for the various Commission meetings and public hearings, to Sue Zack, who coordinated the extensive and necessary photocopying during the entire Charter Review process, to Beth Gasiorowski, my own law clerk, and to Sandi Seitz, my secretary, who handled the many phone calls to my office and served as

volunteer committee secretary. A final and particular thanks is due Kathi Weidenhammer, the Charter Review Commission secretary, who prepared the minutes of our full Commission meetings and our Public Hearings, and did so both competently and timely, no easy task in light of our schedule.

The Charter Review experience was obviously a satisfying one for the Commission members, as evidenced by their meeting attendance, participation and contribution to a thorough and timely review of our Charter. It was my privilege to serve on the Charter Review Commission, and I know my sentiment is shared by every Commission member.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James T. Smith, Jr.", written in dark ink.

James T. Smith, Jr.
Chairman

SECTION "B"

COMMITTEES
of the
CHARTER REVIEW COMMISSION

CHARTER REVIEW COMMISSION
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Daniel Brewster	Robert Knatz
Rhoda Dorsey	Thomas Koch
Eugene Gallagher	Frank Robey - Ex-Officio

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Secretary: Barbara Schuler
Support Staff: Debbie Patchak

ASSIGNMENT: Article IV & V

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ASSIGNMENT: Article V (Sections 514-519), Article VII & Article IX

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Article VI & Article XII

SECTION "C"

EXPLANATION of TEXT and COMMENTS

EXPLANATION OF TEXT AND COMMENTS

The text which follows constitutes the main body of the Charter Review Commission Report. Sections in which amendments are proposed are presented in standard legal form, in which capitals indicate 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" to give a brief explanation of the reason for or the intent of the amendment shown.

SECTION "D"

ARTICLE II. THE COUNTY COUNCIL

Section

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205

Vacancies

1

LEGISLATIVE MATTERS

ARTICLE II. THE COUNTY COUNCIL

Sec. 205. Vacancies

A vacancy occurring in the office of councilman prior to the expiration of his term shall be filled within {forty-five} THIRTY days after the vacancy occurs by appointment by the county executive of the person whose name shall be submitted to him in writing by the state central committee {of Baltimore County} MEMBERS representing the political party to which the previous member belonged, AND WHOSE LEGISLATIVE DISTRICT IS WHOLLY OR PARTIALLY INCLUDED IN THE COUNCILMANIC DISTRICT IN WHICH THE VACANCY HAS OCCURRED. If the previous incumbent was not a member of a political party, then the county executive shall appoint the person selected by the remaining members of the county council. The member so appointed shall reside in the same councilmanic district as his predecessor and shall serve the unexpired term of his predecessor and until his successor shall qualify.

COMMENT

The Commission recommends that Section 205 be changed in order to bring it into conformity with the current situation for the filling of vacancies in the office of councilman. As originally adopted, Section 205 reflected a system in which councilmembers were elected county-wide. With district elections now in place, the Committee believes that local input is needed in the process of filling vacancies. Additionally, the time for submitting a name to fill a vacancy has been reduced from forty-five to thirty since thirty is sufficient.

SECTION "E"

EXECUTIVE ORGANIZATION AND EFFECTIVENESS

ARTICLE IV. THE EXECUTIVE BRANCH

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EXECUTIVE ORGANIZATION AND EFFECTIVENESS

ARTICLE IV. THE EXECUTIVE BRANCH

Sec. 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} THIRD 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 shall be paid an annual salary pursuant to Section 405 of this Charter.

COMMENT

The Commission recommends that the two consecutive term limitation imposed upon the County Executive be repealed as unfair and a possible subversion of the will of the people.

Additionally, the Commission recommends that the date for the qualification of the Executive be changed from the first Monday in December following election to the third Monday; the reasoning is that the two week difference allows for a smoother transition from one administration to another.

(c) Temporary absence of county executive.

(1) 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 to serve as acting county executive.

(2) 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 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.

COMMENT

The Commission recommends that the existing section be divided into two paragraphs for clarity.

(d) Duties of the office.

(12) To sign on the county's behalf all deeds, contracts and other instruments {which prior to the adoption of this Charter required the signature of the president or any member of the board of county commissioners}, and to affix the county seal thereto;

(14) To prepare and issue, or cause to be prepared and issued, rules and regulations {of the character which prior to the adoption of this Charter were prepared or issued by the county commissioners}, provided that before taking effect all such rules and regulations shall be approved by the county council;

(15) To appoint a {confidential clerk or secretary who shall be known as} PERSONAL STAFF, SUBJECT TO BUDGETARY CONSTRAINTS, ONE OF WHOM SHALL BE "Secretary to the County Executive".{" who} THE SECRETARY TO THE COUNTY EXECUTIVE shall have and may exercise all powers and functions {heretofore conferred on the secretary of the board of county commissioners} ASSIGNED BY THE COUNTY EXECUTIVE, including but not limited to the power to attest the signatures of all county officials;

COMMENT

The Commission recommends deletion of archaic language in paragraphs (12) and (14). The change in paragraph (15) will allow the County Executive to determine the number of his personal staff, subject to budgetary constraints; the reasoning is that the current provision limits the Executive too severely. A comparison change has been made to Section 801(7) to reflect the changes made in paragraph (15).

Sec. 403. County administrative officer.

(b) {Term of office.} APPOINTMENT. {The term of office of the county administrative officer shall be four years beginning on the first day of June in the year following the election of a county executive provided in this Charter.} The county administrative officer shall SERVE AT THE PLEASURE OF THE COUNTY EXECUTIVE UPON CONFIRMATION OF THE COUNTY COUNCIL. A COUNCIL VOTE FOR OR AGAINST CONFIRMATION SHALL OCCUR WITHIN SIXTY (60) DAYS OF SAID NOMINATION OR THE APPOINTMENT SHALL STAND AS IF APPROVED. {continue to hold office until his successor shall qualify.}

(c) Vacancy. A vacancy in the office of county administrative officer shall be filled by appointment {for the balance of the unexpired term. Such an appointment shall be made} in the same manner and subject to the same qualifications as an original appointment.

Sec. 404. Removal of appointive officers in executive branch.

(a) County administrative officer. The county executive may remove the county administrative officer {during the term for which he shall have been appointed; provided, however, that at least thirty days before such removal becomes effective, the county executive shall notify, in writing, the county administrative officer of his reasons for such removal and shall simultaneously submit a copy of such notice to the county council. The county administrative officer may reply in writing and may request a public hearing before a joint meeting of the county council and the county executive. Such hearing shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested, the county executive may remove the county administrative officer from his office. Simultaneously with the filing with the county council of his notice of removal of the county administrative officer, the county executive may suspend the county administrative officer from his office for the ensuing thirty days, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary. In the event of the removal of the county administrative officer, he shall receive his salary for the next three calendar months following the filing of the notice of removal as aforesaid.} AT ANY TIME.

COMMENT

The Commission recommends that the County Administrative Officer serve at the pleasure of the Executive, (subject to confirmation by the County Council within 60 days of nomination) rather than for a term of years, and be subject to removal by the Executive at any time.

In deleting a specific reference to severance pay in the case of removal of the administrative officer, the Commission recommends that the County Council take action to create a severance pay policy for all administrative personnel.

ARTICLE V. THE ADMINISTRATIVE SERVICES

DIVISION 1. OUTLINE OF ORGANIZATION

Sec. 502. Composition, restrictions on creation of additional offices and departments.

The administrative services shall consist of the offices and departments enumerated in sections 503 and 504, provided that offices and departments may be created, merged or abolished by legislative act proposed by the county executive and passed by a majority plus one of the total number of county council members established by this Charter, {but} WITH the total number of offices and departments {shall not exceed eighteen.} BEING DETERMINED BY BUDGETARY REQUIREMENTS. 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.

Sec. 503. Offices.

There shall be the following offices in the administrative services:

- (1) Office of law.
- (2) Office of personnel.
- (3) Office of finance.
- (4) Office of the budget.
- (5) Office of central services.
- (6) Office of planning and zoning.
- {(7) Office of data processing and management information.}

Sec. 504. Departments.

There shall be the following departments in the administrative services:

- (1) Department of public works.
- (2) Department of permits and licenses.
- (3) Department of recreation and parks.
- (4) Department of {traffic engineering.} ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
- (5) Department of education.
- (6) Department of libraries.
- (7) Department of health.
- (8) Department of {welfare.} SOCIAL SERVICES.
- (9) Police department.
- (10) Fire department.
- (11) Department of aging.
- (12) DEPARTMENT OF COMMUNITY DEVELOPMENT.

Sec. 524.1. People's Counsel.

(b) {Notwithstanding any other provision of this Charter, within thirty (30) days after the effective date of this Charter amendment, the} THE county executive shall appoint a people's council who shall represent the interests of the public in general in zoning matter as hereinafter set forth, subject, however, to confirmation by the county council, and such person so appointed shall continue to serve as people's counsel until such time as he or she resigns or has been removed pursuant to the provisions herein contained:

{SUBDIVISION 7. OFFICE OF DATA PROCESSING AND MANAGEMENT INFORMATION. }

{Sec. 524.2. Director.

The office of data processing and management information shall be administered by a director, who shall be appointed solely on the basis of his qualifications for the duties of his office. He shall be responsible directly to the county administrative officer.

Sec. 524.3. Duties and functions of the office.

The office of data processing and management information shall be responsible for supervising a systems and programming operation, the output of a data processing installation, planning and developing interdepartmental integral systems of records retention and retrieval, the machine-billing functions heretofore discharged by the office of finance, and shall have and perform such other duties and functions as may be assigned thereto by directive of the county administrative officer or by legislative act of the county council. The personnel needs of said office shall be established by the director thereof, subject to the approval of the administrative officer.}

COMMENT

The Commission recommends that the number of County offices and departments be subject to budgetary considerations, rather than set in the Charter at an arbitrary number. Section 502.

Sections 503 and 504 are recommended for change to reflect the current status of County governmental organization.

Archaic language should be deleted from Section 524.1 concerning the People's Counsel. Sections 524.2 and 524.3 are proposed for repeal as obsolete; the Office of Data Processing Management Information no longer exists.

DIVISION 3. DEPARTMENTS IN THE ADMINISTRATIVE SERVICES

SUBDIVISION 1. DEPARTMENT OF PUBLIC WORKS

Sec. 525. Director of public works.

The department of public works shall be administered by the director of public works who shall {be a professional engineer registered under the laws of this state, and shall have had responsible charge of engineering works over a period of at least ten years prior to his appointment. He shall} have such {other} qualifications as may be provided by law. He shall be appointed solely with regard to his qualifications for the duties of his office and shall be responsible directly to the county administrative officer.

COMMENT

The Commission recommends that the Charter not contain a requirement that the Director of Public Works be a professional engineer; the reasoning is that the Director is more of an administrator than an engineer, and such qualification provisions properly belong not in the Charter but in the Baltimore County Code.

Sec. 526. Functions of department of public works.

The department of public works shall have and perform such functions and duties as may be provided from time to time in the public local laws of Baltimore County, with the exception, however, of all functions of the zoning commissioner and those relating to building permits and building and zoning laws and regulations. The department shall have such other functions as may be provided by directive of the county administrative officer or by legislative act of the county council not inconsistent with this Charter or the provisions of applicable law.

IN ADDITION THERETO, THE DEPARTMENT OF PUBLIC WORKS SHALL BE RESPONSIBLE FOR TRAFFIC SAFETY AND ENGINEERING AND IS HEREBY GRANTED FULL POWER AND AUTHORITY AND DIRECTED TO PROMULGATE AND ADOPT SUCH RULES AND REGULATIONS RELATING TO THE STANDING OR PARKING OF MOTOR VEHICLES AND MOVEMENT OF VEHICULAR AND PEDESTRIAN TRAFFIC AS MAY BE NECESSARY OR DESIRABLE TO CREATE AND MAINTAIN THE SAFE AND EXPEDITIOUS MOVEMENT OF TRAFFIC THROUGHOUT BALTIMORE COUNTY: PROVIDED, HOWEVER, THAT NO RULE OR REGULATION PROMULGATED BY THE DIRECTOR UNDER SUCH POWER AND AUTHORITY SHALL BE DEEMED VALID OR EFFECTIVE UNTIL THE EXPIRATION OF FORTY-FIVE DAYS WRITTEN NOTICE OF THE PROMULGATION OF THE SAME TO THE COUNTY COUNCIL. THE COUNTY COUNCIL SHALL AT ALL TIMES HAVE THE POWER TO REPEAL, AMEND, OR MODIFY ANY RULES AND REGULATIONS PROMULGATED IN ACCORDANCE WITH THIS PROVISION AND TO ENACT, AMEND, OR REPEAL LAWS RELATING TO SUCH MATTERS ON ITS OWN INITIATIVE.

Sec. 530. Effect on existing boards.

The functions heretofore discharged by the electrical administrative board, the plumbing board, {the bureau of standards,} and all other boards and agencies connected with the functions of the department of permits and licenses shall be administered as units of said department. Nothing in this Charter contained shall be held or construed as preventing the county council, by legislative act permitted by general law, from reorganizing, reconstituting or abolishing any of such boards or agencies.

SUBDIVISION 4. {DEPARTMENT OF PUBLIC SAFETY} BUREAU OF CIVIL DEFENSE

{Sec. 534. Director of traffic engineering.

The department of traffic engineering shall be administered by a director of traffic engineering, who shall be the traffic engineer of Baltimore County. He shall be responsible directly to the county administrative officer.

SUBDIVISION 7. DEPARTMENT OF HEALTH

Sec. 535. Functions and duties of department of traffic engineering.

The department of traffic engineering shall be responsible for traffic safety and engineering and is hereby granted full power and authority and directed to promulgate and adopt such rules and regulations relating to the standing or parking of motor vehicles and movement of vehicular and pedestrian traffic as may be necessary or desirable to create and maintain the safe and expeditious movement of traffic throughout Baltimore County; provided, however, that no rule or regulation promulgated by the director under such power and authority shall be deemed valid or effective until the expiration of forty-five days written notice of the promulgation of the same to the county council. The county council shall at all time save the power to repeal, amend, or modify any rules and regulations promulgated in accordance with this provision and to enact, amend, or repeal laws relating to such matters on its own initiative.

The department of traffic engineer shall also have and perform such other duties and functions as may be from time to time assigned thereto by directive of the county administrative officer or by legislative action of the county council.}

Sec. 539. Composition; functions; administration under state and county law.

(e) The county board of health shall consist of seven members, to be appointed by the county executive for terms of three years from the {first} THIRD Monday in December next succeeding their appointment, and they shall hold office until their successors qualify. The executive shall appoint said members annually in groups of two and three. {He shall initially appoint three members for a term expiring on the first Monday of December, 1963, and two members for a term expiring on the first Monday of December, 1964, and two members for a

term expiring on the first Monday of December, 1965.} In the event of a vacancy caused by death, resignation or otherwise, the county executive shall appoint a person to fill the vacancy for the balance of the term.

COMMENT

A new paragraph is recommended to be to Section 526 to reflect the current responsibility of the Department of Public Works for traffic safety and engineering. In connection with this change, Sections 534 and 535 are recommended to be deleted as obsolete, and the title of the subdivision is changed to reflect these deletions.

Section 530 is proposed for amendment to delete archaic language. In similar fashion, archaic language is deleted from Section 539(e). A substantive amendment is proposed to change the inception date for the term of board of health members; the change conforms to the change made in Section 402(a).

SUBDIVISION 8. DEPARTMENT OF {WELFARE} SOCIAL SERVICES

Sec. 540. Composition; functions; administration under state and county law.

The department of {welfare} SOCIAL SERVICES shall consist of the board of {welfare} SOCIAL SERVICES, the director of {welfare} SOCIAL SERVICES and all offices, agents and employees under their authority and supervision. The members of the county board of {welfare} SOCIAL SERVICES shall be appointed and shall do and perform such duties and functions as may from time to time be provided by state law. The county executive shall serve as a member of said board ex officio instead of a county commissioner as heretofore. In addition to all duties and functions heretofore performed by the board of {welfare} SOCIAL SERVICES it shall be responsible for the operation and development of the county home and such other related {welfare} SOCIAL SERVICES activities as may be assigned thereto by directive of the county administrative officer or by legislative act of the county council not inconsistent with general law. All references in this Charter to the head of an office or department shall be construed as including the director of {welfare} SOCIAL SERVICES as head of the department of {welfare} SOCIAL SERVICES, but nothing in this Charter contained shall be held or construed as affecting or in anywise changing the administration of the county {welfare} SOCIAL SERVICES program in accordance with the requirements of state law.

COMMENT

Section 540 should be amended to reflect the fact that the Department of Welfare is now known as the Department of Social Services.

SUBDIVISION 9. POLICE DEPARTMENT.

Sec. 541. Chief of police.

(a) Duties. The police department shall be administered by the chief of police of Baltimore County, who shall have and perform such other duties and functions as may, from time to time, be assigned by directive of the county administrative officer or by legislative act of the county council. {Unless and until changed pursuant to section 502 of this Charter, the chief of police shall also be responsible for the administration of the affairs of the jail bureau and the bureau of civil defense.}

COMMENT

Section 541(a) should be changed to reflect the fact that the Sheriff of Baltimore County is now responsible for the affairs of the Jail Bureau. Additionally, civil defense is no longer the responsibility of the police department.

SECTION "F"

PERSONNEL MATTERS AND THE MERIT SYSTEM

ARTICLE V. THE ADMINISTRATIVE SERVICES

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ARTICLE V. THE ADMINISTRATIVE SERVICES

{DIVISION 5. BINDING ARBITRATION

Sec. 544. Resolution of labor disputes between fire fighters.

- (a) In order to prevent strikes, job actions, and other disruptions that might impede the protection of the public health, safety and general welfare, if the certified employee organization or organizations, representing fire fighters within the fire department, and the employer have not reached a written agreement concerning terms and conditions of employment by March 1 of any year, either party may request arbitration by a board of arbitration, as herein provided, which request must be honored.
- (b)- The board of arbitration shall be composed of three members, one appointed by the county executive and one appointed by the certified employee organization or organizations representing the fire fighters involved. These members shall be selected within four days of the request for arbitration, the third member shall be selected within four additional days by the two arbitrators previously chosen and in accordance with the procedures of the American Arbitration Association from a list furnished by the association. In the event that the two arbitrators previously chosen are unable to agree on a third arbitrator, the American Arbitration Association shall then select said third arbitrator. The third arbitrator selected in the foregoing manner shall act as chairman of the board of arbitration. The board of arbitration thus established shall commence the arbitration proceedings within seven days after the chairman is selected and shall make its decision, by a majority vote, within fifteen days after the commencement of the arbitration proceedings. For good cause, the chairman may extend the time requirements set forth herein.
- (c) Within three days after the selection of the board of arbitration, each party shall provide for each member of the board of arbitration and to all other parties a detailed itemization of the last proposal made by that respective party during the negotiations, as to each issue before the board individually. A party may amend its last proposal at any time prior to the close of the hearing commenced pursuant to subparagraph (f) of this section.
- (d) The board of arbitration shall identify the major issues in the dispute, review the positions of all parties and shall take into consideration those factors which are normally utilized in the determination of wages and other benefits in the collective bargaining process. These

factors shall include, but shall not be limited to, the following: The wages, benefits, hours and other working conditions of employees performing similar services in other jurisdictions in Maryland, in other political subdivisions in other states, and in the private sector; the special nature of the work performed by the fire fighters, including hazards of employment, physical requirements, educational qualifications, job training and skills, shift assignments and the demands placed upon such employees as compared to other employees; cost of living data; and the financial condition of Baltimore County, which shall include a consideration of both available financial resources and the sources of additional financial resources.

- (e) The board of arbitration shall have the power to administer oaths, compel the attendance of witnesses, and require the production of evidence by subpoena.
- (f) The board of arbitration after hearing witnesses and considering and receiving such written evidence as may be submitted shall by written decision, order the implementation of the last proposal of one of the respective parties, as to each issue before the board individually, said proposal being previously submitted in accordance with subparagraph (c) of this section.
- (g) The decision of the majority of the board of arbitration thus established shall be final and binding upon the Baltimore County Executive and the Baltimore County Council and upon the certified employee organization or organizations involved in the proceedings. No appeal therefrom shall be allowed. Such decision shall constitute a mandate to the county executive with respect to such matters which can be remedied administratively by him and as a mandate to the county council with respect to matters which require legislative action necessary to implement the decision of the board of arbitration.
- (h) With respect to matters which require legislative action for implementation, such legislation shall be enacted within forty-five days following the date of the arbitration decision and such legislation shall be made effective as of the date set by the arbitration decision, notwithstanding any other provision of Article VII.
- (i) With respect to terms and conditions of employment of fire fighters which require expenditure of funds, such amounts, if any, as may be determined by the board of arbitration shall be included in the current expense budget submitted to the county council by the county executive pursuant to section 706(a) of article VII, shall not be decreased or deleted by the county council pursuant to section 709 of article VII, shall not be subject to prior approval by the county council pursuant to section 715 of article VII, and shall be exempt

from the executive veto pursuant to section 308(g) of article III.

- (j) The cost of the arbitration proceedings provided for herein shall be born equally by the parties involved.}

COMMENT:

The Court of Appeals of Maryland invalidated Article V, Section 544 in the case of Griffith v. Wakefield, 298 Md. 381 (1984), and the Commission recommends that Section 544 be deleted entirely from the Charter.

ARTICLE VII. BUDGETARY AND FISCAL PROCEDURES

Sec. 706. Submission and contents of the county budget.

Not later than seventy-five days prior to the end of the fiscal year, the county executive shall submit to the county council a current expense budget, a capital budget and capital program and a budget message containing the elements set forth in this section.

- (a) Contents of the current expense budget. The proposed current expense budget shall contain not less than the following information:
- (1) A statement of all revenue estimated to be received by the county during the ensuing fiscal year, classified so as to show the receipts by funds and sources of income;
 - (2) A statement of debt service requirements for the ensuing fiscal year;
 - (3) A statement of the estimated cash surplus, if any, available for expenditure during the ensuing fiscal year, and any estimated deficit in any fund required to be made up in the ensuing fiscal year.
 - (4) An estimate of the several amounts which the county executive deems necessary for conducting the business of the county to be financed from and not to exceed estimated revenues for the ensuing fiscal year{. The estimates for the fire department shall include such amounts, if any, as may be determined by a board of arbitration convened pursuant to section 544 of article V};

COMMENT:

The Court of Appeals of Maryland invalidated Section 544 in the case of Griffith v. Wakefield, 298 Md. 381 (1984), and the Commission recommends that the reference to Section 544 referred to in Section 706(a)(4) be deleted from the Charter.

Sec. 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 item 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 {and except for such amounts established by a board of arbitration convened pursuant to section 544 of article V.} 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 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 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. All of said ordinances shall be exempt from the executive veto. The Annual Budget and Appropriation Ordinance shall be adopted by the county council on or before the first day of the last month of the fiscal year currently ending, and if the county council fails to do so, the proposed budget submitted by the county executive shall stand adopted, and funds for the expenditures proposed in the current expense budget shall stand appropriated as fully and to the same extent as if favorable action thereon had been taken by the county council.

COMMENT:

The Court of Appeals of Maryland invalidated Section 544 in the case of Griffith v. Wakefield, 298 Md. 381 (1984), and the Commission recommends that the reference to Section 544 referred to in Section 709 be deleted from the Charter.

Sec. 715. Appropriation control and certification of funds.

No office, department, institution, board, commission, 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. No such payment shall be made nor any obligation or liability incurred, except for small purchases in an amount less than one hundred dollars, or such amount as may be set by legislative act of the county council, 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 a

majority of the total number of county council members established by this Charter.

Nothing in this section or elsewhere in this Charter shall prevent the making of contracts of lease or contracts for services providing for the payment of funds at a time beyond the fiscal year in which the contracts are made, provided that the nature of such transactions reasonably requires the making of such contracts. Any contract, {except a contract established pursuant to a final decision of a board of arbitration convened pursuant to section 544 of article V,} must be approved by 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 \$5,000;
- (2) For the lease of real or leasehold property in excess of \$25,000 in the aggregate;
- (3) For services for a term in excess of two years or involving the expenditure of more than \$25,000 per year.

COMMENT:

The Court of Appeals of Maryland invalidated Section 544 in the case of Griffith v. Wakefield, 298 Md. 381 (1984), and the Commission recommends that the reference to Section 544 referred to in Section 715 be deleted from the Charter.

ARTICLE VIII. MERIT SYSTEM

Sec. 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, 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,} DEPUTIES, the heads of all offices and departments and 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,
- (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 APPOINTED PURSUANT TO SECTION 402(d)(15),
- (8) The county auditor, and
- (9) 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.

COMMENT:

With respect to Section 801(2), the reference to plural deputy zoning commissioners is for consistency with the amendment recommended to Section 522.1. The Committee decided that the language "Director of Planning" was redundant language and should be deleted from the Charter.

With respect to Section 801(7), the Commission determined that the County Executive should have additional staff, subject to budgetary approval of the County Council as proposed in Commission recommendations to Section 402(d)(15), and that this staff personnel should be in the Exempt status.

Sec. 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 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.
- (b) A personnel and salary advisory board 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 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 of the board shall hold any other public office.
- (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 to⁴ 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 law to be adopted by this county council in the manner provided in Article III of this Charter.
- (f) The disciplining of employees, including dismissal for cause by appointing officers.
- (g) Appeals to the personnel and salary advisory board in case of disciplinary actions by appointing authorities and from decisions of the director of personnel in cases involving examinations and examination rating; 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.
- {{(h)}} (h) The conditions under which employees at the time of the adoption of the county personnel law may acquire merit system status.
- {{(i)}} (h) 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)}} (i) Prohibition against any kind of discrimination in the employment, suspension or dismissal of employees in the classified service on account of race, color, creed, sex or political affiliation.
- {{(k)}} (j) Penalties for the violation of this article and the laws, plans, rules and regulations adopted pursuant thereto.
- {{(l)}} (k) 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} and the police {bureau} DEPARTMENTS.
- {{(m)}} (l) 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:

With respect to Sections 802(h) and 802(1), the Committee unanimously decided that this language was obsolete and as a housekeeping matter should be deleted from the Charter. In addition, the word "Department" should be added in place of the word "bureau" in Section 802(1) as they are not now known by that term.

In light of deletion of original subparagraph "(h)", remaining subparagraphs must be re-lettered respectively "(h)" through "(1)".

SECTION "G"

FISCAL, BUDGETARY AND PURCHASING MATTERS

ARTICLE III. THE LEGISLATIVE BRANCH

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NON-SUBSTANTIVE CHANGES

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ARTICLE III. THE LEGISLATIVE BRANCH

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 following the close of each fiscal year of the county, {prepare and submit to the county council and the county executive} **CONDUCT** 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. **THE COUNTY AUDITOR MAY ALSO CONDUCT A FINANCIAL AUDIT OF ANY ORGANIZATION FUNDED IN WHOLE OR IN PART BY COUNTY FUNDS, IF DIRECTED BY A MAJORITY OF THE COUNTY COUNCIL. THE COUNTY AUDITOR SHALL COOPERATE WITH THE EXTERNAL AUDITOR IN AUDITING AND EXPRESSING AN OPINION ON FINANCIAL STATEMENTS PREPARED BY THE OFFICE OF FINANCE. THE COUNTY AUDITOR SHALL PREPARE AND SUBMIT TO THE COUNTY COUNCIL AND THE COUNTY EXECUTIVE AN ANNUAL REPORT ON INTERNAL ACCOUNTING CONTROL, ADMINISTRATIVE AND OPERATING PRACTICES AND PROCEDURES, AND OTHER PERTINENT FINANCIAL AND COMPLIANCE MATTERS.** {Such audit shall include a report thereon, together with such explanatory comments as the auditor may deem appropriate. Copies of the complete audit shall be open to inspection by the public and the press in the county auditor's office and each branch of the Baltimore County Public Library shall be published in a newspaper of general circulation in the county.} The county auditor's duties may include operational and performance auditing of any office, department or agency funded in whole or in part by county funds, as assigned and directed by a majority of the county council by resolution. All records and files pertaining to the receipt and expenditure of county funds by all officers, agents and employees of the county, and all records and files pertaining to the organization, management and performance of the functions and activities of any office, department, or agency funded in whole or in part by county funds, and all offices, departments, institutions, boards, commissions, and other agencies thereof shall, at all times be open to the inspection of the county auditor. He shall promptly bring to the attention of the council, at a monthly legislative session-day, and to the attention of the

county executive any irregularity or improper procedure which he may 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:

Certain changes in this section are companion matters to the changes in Sections 312 and 516(c). The new wording provides for one annual financial report in Baltimore County. It also pertains to the County Auditor's authority to conduct financial audits.

At present, there are two financial reports issued annually in Baltimore County; one is pursuant to Sections 312 and 516(c) of the Charter and the other is pursuant to Section 311 of the Charter. The financial statements and the notes to the financial statements used in both of the present reports are identical.

The immediate past County Auditor, Herb Wirts, recommended that both the External Auditor and the County Auditor continue to conduct independent financial audits of Baltimore County but that only one financial report be required containing the opinion of both the External and County auditors.

The Commission recommends that the County Auditor be required to issue an annual report on internal accounting control, administrative and operating practices and procedures, and other pertinent financial and compliance matters which in the accounting profession is referred to as a management letter.

The Commission recommends that the County Auditor's authority to conduct financial audits be broadened to include authorities.

The Commission further recommends that the County Auditor be authorized to conduct financial audits of any organization funded in whole or in part by County funds if so directed by a majority of the County Council. The new wording is similar to existing language in Section 311 which authorizes operational and performance audits of any office, department or agency funded in whole or part by county funds.

Section 312. {Independent Audit} EXTERNAL AUDITOR

The financial audit for all offices, departments, institutions, boards, commissions, 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 shall be made following the close of each fiscal year 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 each fiscal year ending in an odd number {of} BY the county executive with the advice and consent of the county council. **THE EXTERNAL AUDITOR SHALL COOPERATE WITH THE COUNTY AUDITOR IN AUDITING AND EXPRESSING AN OPINION ON FINANCIAL STATEMENTS PREPARED BY THE OFFICE OF FINANCE.** {The completed 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 one hundred eighty days following the close of each fiscal year.} 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, and other agencies thereof shall be open to the inspection of the {accountants} **AUDITORS** conducting the 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:

This change is a companion matter to the changes in Section 311 and 516(c).

The new wording provides for the cooperation of the County Auditor and External Auditor in formulating an opinion on financial statements prepared by the Office of Finance.

The title to Section 312 is being changed from "Independent Audit" to "External Auditor" to more accurately define the certified public accountant retained by the County on a contractual basis to conduct the County's annual financial audit.

ARTICLE V. THE ADMINISTRATIVE SERVICES

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

(C) {To submit at least once a year to the County Council a complete financial statement showing the assets, liabilities and financial condition of the county.} **TO SUBMIT AT LEAST ANNUALLY TO THE COUNTY COUNCIL A SET OF COMPREHENSIVE FINANCIAL STATEMENTS ON THE COUNTY GOVERNMENT PREPARED IN ACCORDANCE WITH THE LATEST GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR LOCAL GOVERNMENTS SHOWING THE ASSETS, LIABILITIES, FINANCIAL CONDITION, AND OPERATING RESULTS OF THE COUNTY ALONG WITH APPROPRIATE NOTES, COMMENTS, AND**

OPINIONS BY THE EXTERNAL AND COUNTY AUDITORS. COPIES OF THE ANNUAL FINANCIAL REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC AND THE PRESS NO LATER THAN ONE HUNDRED EIGHTY DAYS FOLLOWING THE CLOSE OF EACH FISCAL YEAR. COPIES OF THE ANNUAL FINANCIAL REPORT SHALL BE PLACED IN EACH BRANCH OF THE BALTIMORE COUNTY PUBLIC LIBRARY AND A NOTICE STATING THAT THE REPORT IS AVAILABLE FOR INSPECTION IN THE OFFICE OF FINANCE, THE COUNTY AUDITOR'S OFFICE, AND EACH BRANCH OF THE BALTIMORE COUNTY PUBLIC LIBRARY SHALL BE PUBLISHED ANNUALLY IN A NEWSPAPER OF GENERAL CIRCULATION IN BALTIMORE COUNTY.

COMMENT:

This change is a companion matter to the changes in Sections 311 and 312.

The Commission recommends that there be one annual financial report for Baltimore County prepared and submitted by the Director of Finance with opinions by the External and County Auditors. The requirement that the financial report be made available to the public and press within 180 days is being transferred from Sections 311 and 312 to this section because financial statements are the responsibility of management; and, therefore, it is more logical that this requirement be placed in this section.

ARTICLE VII. BUDGETARY AND FISCAL PROCEDURES

Section 705. Formulation of capital budget and capital program.

(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. The ordinance shall specify the purposes or classes or 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. **THE ORDINANCE NEED NOT INCLUDE A REFERENCE TO THE PERIOD DURING WHICH CAPITAL PROJECTS TO BE FINANCED BY THE BORROWING ARE TO BE UNDERTAKEN.** If it determines that a project is improperly classified, the county council may, by a vote of a majority plus one of the total number of county council members established by this Charter, place the project in the existing or a new appropriate classification.

(4) THE COUNTY EXECUTIVE MAY INCLUDE IN THE PLAN SUBMITTED TO THE COUNTY COUNCIL PROPOSALS TO MODIFY BORROWING ORDINANCES PREVIOUSLY APPROVED BY THE COUNCIL AND BY THE VOTERS AT REFERENDUM IN ORDER TO ELIMINATE ANY REFERENCE THEREIN TO TIME PERIODS DURING WHICH CAPITAL PROJECTS ARE TO BE UNDERTAKEN. ANY PROPOSED MODIFICATION SHALL BE BY ORDINANCE WHICH SHALL BE ENACTED IN THE SAME MANNER AS DESCRIBED IN SEC. 705(a)(3) ABOVE. THE COUNTY COUNCIL MAY APPROVE A SINGLE MODIFICATION ORDINANCE TO MAKE MODIFICATIONS TO MORE THAN ONE PREVIOUSLY APPROVED BORROWING ORDINANCE. ANY MODIFICATION ORDINANCE SHALL BE SUBJECT TO REFERENDUM APPROVAL AS REQUIRED BY SEC. 718 OF THIS ARTICLE.

COMMENT:

The proposed changes amending paragraph (a)(3) and adding new paragraph (a)(4) address the need to allow the County to more closely configure its bond authorization ordinances to current capital improvement program requirements as opposed to the current requirement to relate the timing of projects to the timing of the original bond referendum ordinance. The new language will enable the County to address arbitrage and rebate calculation difficulties and complexities that have arisen as a result of recent federal tax law changes dealing with the issuance of tax exempt securities.

The language amending Section 705(a)(3) will be applicable to future referendum ordinances. New language Sec. 705(a)(4) provides for retrospective corrective action for authorized but unissued amounts from prior referendum ordinances. This retrospective modification procedure will require the same approval actions as the initial authorizations, including approval at referendum.

Sec. 715. Appropriation control and certification for funds.

No office, department, institution, board, commission, 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 involved 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. No such payment shall be made nor any obligation or liability incurred, except for small purchases in an amount less than one hundred dollars, or such amount as may be set by legislative act of the county council, 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 a majority of the total number of county council members established by this Charter.

Nothing in this section or elsewhere in this Charter shall prevent the making of contracts of lease or contracts for services providing for the payment of funds and at a time beyond the fiscal year in which the contracts are made, provided that the nature of such transactions reasonably requires the making of such contracts. Any contract, {except a contract established pursuant to a final decision of a board of arbitration convened pursuant to section 544 of article V,} must be approved by 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 \$5,000.00 **OR SUCH AMOUNT AS MAY BE SET BY LEGISLATIVE ACT OF THE COUNTY COUNCIL;**
- (2) For the lease of real or leasehold property in excess of \$25,000.00 in the aggregate, **OR SUCH AMOUNT AS MAY BE SET BY LEGISLATIVE ACT OF THE COUNTY COUNCIL;**
- (3) For services for a term in excess of two years or involving expenditure of more than \$25,000.00 per year, **OR SUCH AMOUNT AS MAY BE SET BY LEGISLATIVE ACT OF THE COUNTY COUNCIL.**

COMMENT:

The addition of the language in subsections (1), (2) and (3) of this section will allow the County Council to enact legislation which will set the type and amounts of contracts to which the County is a party which require County Council approval. This change will enable contract approval requirements to keep pace with changes in the economy (i.e., inflation, changes as reflected by the Consumer Price Index, etc.) and to alleviate the increasing volume of small contracts which now require individual council approval.

Sec. 720. Contents of bond issue authorization ordinance.

The bond issue authorization ordinance referred to in section 709 of this article shall include a statement of the purpose or purposes of the issue or issues, and if the purpose is to finance one or more capital projects, it shall describe each of them sufficiently for purposes of identification. The ordinance shall estimate the cost of the project or projects and the portion thereof to be defrayed from sources, specifically named, other than the proposed bond issue or

issues. The ordinance shall also include the aggregate amount of the proposed issue or issues and the procedure for establishing the amount of any one issue; a statement showing that the proposed issue or issues are within the legal limitation on the indebtedness of the county or the Metropolitan District, as the case may be; the probable useful life of the project or average probable useful life of the projects to be financed; the date or dates of the issue bonds or the procedure for establishing such dates; the dates of the first and last serial maturities or the procedure for establishing such dates; the dates on which the interest shall be paid or the procedure for establishing such dates; a declaration that the principal of and the interest on the bonds are to be paid by ad valorem taxes on real estate and tangible personal property and intangible property subject to taxation by the county without limitation of rate or amount, and, in addition, upon such other intangible property as may be subject to taxation by the county within limitations prescribed by law {except for self-liquidating bonds, including those issued under the authority of The Metropolitan District Act}; and that the full faith and credit of the county are pledged to such payments. The ordinance shall also recite the procedure for the public sale of the bonds, **THE SALE PRICE OF THE BONDS, WHICH MAY BE AT, ABOVE OR BELOW PAR, OR THE PROCEDURE FOR DETERMINING THE SAME, THE MANNER OF EXECUTION AND AUTHENTICATION OF THE BONDS, WHICH MAY BE BY MANUAL OR FACSIMILE SIGNATURE OR SEAL, THE FORM OF THE BONDS (AND ANY COUPONS APPERTAINING THERETO), WHICH MAY BE REGISTRABLE OR NON-REGISTRABLE AS TO PRINCIPAL OR INTEREST, WITH OR WITHOUT COUPONS, OR BOOK ENTRY IN FORMAT,** and shall contain such other matters relating to the authorization, issuance or sale of the bonds as the county council shall deem desirable.

COMMENT:

The proposed language attempts to accomplish two objectives. First, it re-incorporates certain references previously included in Sec. 719 so that each section will now deal with only a single subject. That is, Sec. 719 references solely the term of bonds and Sec. 720 will reference only the contents of the bond issue authorization ordinance including the form of the bond instruments. Second, the changes provide for explicit authority for sales procedures which heretofore may have been inferred or unclear.

Sec. 719 {Form and} **Term of bonds.**

All bonds shall be {in serial form and} payable, {as consecutively numbered, in} UNDER AN annual installment{s} PLAN {the first of} which shall {be payable} COMMENCE PAYMENTS not more than two years from the date of issue.

{Bonds shall be authenticated by the manual signature of the director of finance or an authorized deputy or deputies appointed for such purpose, and shall bear the facsimile signature of the county executive and a facsimile of the seal of the county attested by the facsimile signature of the secretary to the county executive. Bonds may be registrable or non-registrable as to principal or interest. All interest coupons transferable by delivery shall be attached to the bonds and shall be authenticated by the facsimile signature of the county executive.} **THE ANNUAL INSTALLMENT PLAN MAY BE IMPLEMENTED BY THE ISSUANCE OF SERIAL MATURITY BONDS OR BONDS HAVING MANDATORY SINKING FUND REQUIREMENTS.** All bonds shall be made payable within the probable useful life of the improvement or undertaking with respect to which they are to be issued, or, if the bonds are to be issued for several improvements or undertakings, then within the average probable useful life of all such improvements or undertakings. In the case of a bond issue for several improvements or undertakings having different probable useful lives, county council shall determine the average of said lives, taking into consideration the amount of bonds to be issued on account of each such improvement or undertaking, and the period so determined shall be the average period of useful life. The determination of the county council as to the probable useful life of any such improvement or undertaking shall be conclusive. No bonds shall mature and be payable more than forty years after their date of issuance except bonds issued under the authority of The Metropolitan District Act, as amended.

COMMENT:

This revision eliminates archaic language references and provides specific language clarifying the County's authority to make debt service payments on an installment basis for term debt with sinking fund requirements as well as annual serial debt.

Sec. 721. Supplemental legislation by county council.

The county council may adopt budget and fiscal laws not inconsistent herewith or with the applicable provisions of the Constitution and public general laws of this state to implement the objects and purposes of this Article. Any such laws may include, but shall not be limited to, the definition of the various funds included in the county budget (**WHETHER OR NOT REFERRED TO OR MANDATED BY OTHER PROVISIONS OF LAW**), their reorganization,{and} consolidation **OR DISSOLUTION** to the extent permitted by law, a requirement of down payments on capital projects from current funds, the establishment of a reserve for permanent public improvement, the procedure for the sale of bonds, notes and other

evidences of indebtedness of the county, and all such other matters as may in the judgment of the county council promote the orderly administration of the fiscal affairs of the county and protect its credit.

COMMENT:

The proposed language explicitly states the County's authority to reorganize its fund structure and to dissolve previously created funds irrespective of authorizing source. This language explicitly states what, in certain circumstances, may have been viewed only as implicit authority under current law. A significant motivation for this proposed change is again a response to federal tax law changes whereby arbitrage and rebate calculations not only apply to interest income on new issue proceeds, but also to sinking fund balances.

NON-SUBSTANTIVE CHANGES

Sec. 717. Borrowing limitations.

Unless and until otherwise provided by legislative act of the county council within the limitations provided by public general law, the aggregate amount of bonds and other evidences of indebtedness outstanding at any one time shall not exceed ten per centum upon the {accessible} **ASSESSABLE** basis of the county; provided, however, that:

- (a) Tax anticipation notes or other evidences of indebtedness having a maturity not in excess of twelve months,
- (b) Bonds or other evidences of indebtedness issued or guaranteed by the county payable primarily or exclusively from taxes levied in or on, or other revenues of, special taxing areas or districts heretofore or hereafter established by law, and
- (c) Bonds or other evidences of indebtedness issued for self-liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services,

shall not be subject to, or be included as bonds or evidences of indebtedness in computing or applying the per centum limitation above provided. All bonds or other evidences of indebtedness issued under the authority of The Metropolitan District Act (The Acts of the General Assembly of Maryland of 1924, Chapter 539, as amended) shall be construed as exempt, under clauses (b) and (c) above, from the per centum limitation in this Section provided, but shall continue as

heretofore to be subject to the per centum limitation as from time to time provided in said Act.

Sec. 901. Responsibility for purchasing

{The} **THERE** shall be a county purchasing agent who shall be responsible to the county administrative officer for the enforcement of the county purchasing policies established in this article.

Sec. 904. Competitive bidding.

Any single purchase or contract under the jurisdiction of the county purchasing agent and involving an expenditure of more than seven thousand five hundred dollars or such amount as may be set by legislative act of the county council, except only 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. Such purchases and contracts shall be made from or awarded to the lowest **RESPONSIVE AND** responsible bidder who shall give security or bond for the performance of his contract as determined by the purchasing agent or his deputy; provided, however, that no such purchase or contract shall be made or awarded within a period of three business days from the date of the public openings of bids. In all cases, the county shall reserve the right to reject any and all bids. All construction, maintenance and repair work shall be subject to the requirements of competitive bidding provided in this section, unless such work is to be done directly by the county through the use of its own laboring force. All materials and supplies used by the county laboring force shall be purchased in accordance with the provisions 21. of this article.

SECTION "H"

PLANNING AND ZONING/ECONOMIC AND COMMUNITY DEVELOPMENT

ARTICLE V. THE ADMINISTRATIVE SERVICES

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522.1	Duties of office; limitation of powers	1-2
524	Reorganization of office	2

ARTICLE VI. COUNTY BOARD OF APPEALS

601	Appointment; terms; compensation	2-3
604	Appeals from board decisions	3-4

ARTICLE V. THE ADMINISTRATIVE SERVICES

Sec. 522. Organization of office and 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, a planning board, a zoning commissioner and ONE OR MORE deputy zoning commissionerS. The county executive shall appoint the director of planning and zoning, the zoning commissioner, and {the} ONE OR MORE deputy zoning commissionerS, subject to confirmation by the county council. The director of planning and zoning shall serve until he shall resign or be removed upon the recommendation of the county executive approved by a majority plus one of the total number of county council members established by this Charter. The zoning commissioner and EACH deputy zoning commissioner shall serve terms expiring June 1 of the year following the election of a county executive provided by this Charter or until their successors are appointed and confirmed, but they may be removed at any time upon the recommendation of the county executive approved by a majority plus one 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. At least one planning board member shall reside in each councilmanic district. No member of the planning board shall hold any other salaried position in the county government while a member of the planning board.

COMMENT

The Commission recommends the Charter provide for more than one deputy zoning commissioner as may be needed in the future.

Sec. 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 {.}; MONITORING THE IMPLEMENTATION OF THE MASTER PLAN; AND PREPARING AT LEAST EVERY TWO YEARS A REPORT TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL ON THE PROGRESS ACHIEVED TOWARD IMPLEMENTATION OF THE 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, and administering the subdivision rules and regulations as adopted.

(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) THE MASTER PLAN SHALL BE ADOPTED AS PROVIDED BY SECTION 523 OF THIS CHARTER. All OTHER plans, {except any master plan,} zoning maps, and rules and regulations recommended for adoption, amendment or repeal by the offices of planning and zoning, the planning board or the zoning commissioner shall, prior to taking effect as law, be approved by legislative act of the county council.

COMMENT

The Commission recommends the Charter require the office of planning and zoning monitor the implementation of the master plan and prepare a report at least every two years to the county executive and to the county council. The addition is recommended because the Commission desires to emphasize the importance of the master plan as a meaningful guide for the development of Baltimore County.

The revision to paragraph (b) is a housekeeping amendment recommended to clarify the intent of the existing language.

Sec. 524. Reorganization of office of planning and zoning.

Notwithstanding any other provisions of this Charter, the county council shall have the power by legislative act to reorganize the office of planning and zoning, to define the duties of the director of said office, to establish the powers, duties and compensation of the planning board, and to establish the duties and responsibilities of the zoning commissioner and deputy zoning commissionerS so that planning and zoning functions shall be conducted in the best interests of the county and its future development and growth.

COMMENT

The reference to plural deputy commissioners is for consistency with the amendment recommended to Section 522.1.

ARTICLE VI. COUNTY BOARD OF APPEALS

Sec. 601. Appointment; terms; compensation.

(A) There is hereby created and established a county board of appeals consisting of seven members who shall be appointed by the county council. Each member of the county council shall have the right to nominate one person to serve on the board of appeals. The first board of appeals appointed after this amendment shall consist of two members appointed for a term of one year, two members appointed for a term of two years and three members appointed for a term of three years. Thereafter, all appointments or reappointments shall be for three-year terms except that 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 appointments shall be made so no more than five (5) of the members of the board shall be members of the same political party. 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. The board of appeals as constituted at the time of this amendment shall remain in effect until changed as provided in this section of the Charter.

(B) UPON THE FINDING OF THE COUNTY COUNCIL THAT THE WORKLOAD OF THE BOARD OF APPEALS HAS INCREASED SO TO REQUIRE ADDITIONAL MEMBERS TO FULFILL THE BOARD'S RESPONSIBILITIES, THE COUNTY COUNCIL MAY BY LEGISLATIVE ACT EXPAND THE MEMBERSHIP NOT TO EXCEED ELEVEN MEMBERS. THE LEGISLATION SHALL PRESCRIBE THE METHOD AND DURATION OF APPOINTMENT OF SUCH ADDITIONAL MEMBERS, PROVIDED THAT EACH ADDITIONAL MEMBER SHALL BE APPOINTED BY THE COUNTY COUNCIL FOR A TERM NOT TO EXCEED THREE YEARS; AND PROVIDED THAT APPOINTMENTS SHALL BE MADE SO THAT NO MORE THAN A MAJORITY PLUS ONE OF THE MEMBERS OF THE BOARD SHALL BE MEMBERS OF THE SAME POLITICAL PARTY.

COMMENTS

The Commission recommends the Charter permit the county council to increase the membership of the board of appeals if required by increased workload. Consistent with existing Charter provisions, the Commission recommends the Charter retain a ceiling on the number of members and recommends the Charter maintain a limit of members appointed from the same political party as a majority plus one. The existing ceiling is seven members, which would be increased to not more than eleven members, in which event no more than six members could be of the same political party.

Sec. 604. Appeals from decisions of the board.

Within thirty days after any decision by the county board of appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the circuit court of Baltimore County, which shall have the power to affirm the decision of the board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require. Whenever such appeal is taken, a copy of the notice of appeal shall be served on the board by the clerk

of said court, and the board shall promptly give notice of the appeal to all parties to the proceeding before it. The board shall, within {fifteen} THIRTY days after the filing of the appeal, UNLESS OTHERWISE ORDERED BY THE COURT, file with the court the originals or certified copies of all papers and evidence presented to the board in the proceeding before it, together with a copy of its opinion which shall include a statement of the facts found and the grounds for its decision. Within thirty days after the decision of the circuit court is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the courtS of appeal of this state. The review proceedings provided by this section shall be exclusive.

COMMENT

The Commission recommends this revision so that the procedure for appeal as set forth in the Charter is consistent with the requirement of Rule B7, Maryland Rules.

SECTION "I"

GOVERNMENT AND ETHICS

ARTICLE X. MISCELLANEOUS

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GOVERNMENT AND ETHICS

ARTICLE X. MISCELLANEOUS

SEC. 1000. CODE OF PUBLIC ETHICS.

THE COUNTY COUNCIL SHALL ADOPT AND MAINTAIN A CODE OF PUBLIC ETHICS AND CONFLICT OF INTEREST LAW FOR BALTIMORE COUNTY NOT INCONSISTENT WITH THE PROVISIONS OF THIS CHARTER. SUCH LAW SHALL INCLUDE 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 INTEREST. THE COUNCIL SHALL HAVE THE POWER AND AUTHORITY TO MODIFY AND AMEND, FROM TIME TO TIME AS DEEMED APPROPRIATE, ANY CODE OF ETHICS AND CONFLICT OF INTEREST LAW SO ADOPTED AND MAINTAINED.

COMMENT

The Commission recommends a new provision at the beginning of Article X which will require that the County Council adopt and maintain a Code of Ethics and Conflict of Interest law. Although such a conflict of interest law currently is required by the Charter, the Commission believes that a statement is needed as to a Code of Ethics; current Section 1001(d) contains the requirement for a Conflict of Interest law and is recommended for repeal with the substance of Section 1001(d) included in this Section 1000.

Sec. 1001. Personal interest of county officers and employees in county business.

(a) Prohibitions.

{1. Except for any salary or properly authorized compensation, no officer or employee of the county, whether elected or appointed, shall in any manner whatsoever have an interest in or receive any economic benefit from any contract, job, work or service for or with the county.

2. Except for any salary or properly authorized compensation, no officer or employee shall 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, firm or corporation 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 of thing of value, directly or indirectly, from an person, firm or corporation having dealings with the county.}

1. EXCEPT FOR ANY LEGALLY AUTHORIZED COMPENSATION AS AN OFFICER OR EMPLOYEE OF THE COUNTY, WHETHER ELECTED OR APPOINTED, NO SUCH OFFICER OR EMPLOYEE SHALL IN ANY MANNER WHATSOEVER, DIRECTLY OR INDIRECTLY, HAVE ANY INTEREST IN OR RECEIVE ANY FURTHER ECONOMIC BENEFIT FROM ANY CONTRACT, JOB, DECISION, WORK OR SERVICE FOR, FROM, BY OR WITH THE COUNTY.

2. EXCEPT FOR ANY LEGALLY AUTHORIZED COMPENSATION, NO OFFICER OR EMPLOYEE OF THE COUNTY, WHETHER ELECTED OR APPOINTED, 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.

COMMENT

The Commission has reorganized the three current general prohibitions on outside service or compensation into two sections for clarity.

(b) Rules of construction; exceptions by resolution of county council. The provisions of this {section} ARTICLE X shall be broadly construed and strictly enforced for the purpose of preventing those persons in public service from securing any economic advantages, however indirect, from their public service other than the compensation provided for them by law. However, the county council may, by resolution, specifically authorize any county officer or employee TO DO BUSINESS DIRECTLY WITH THE COUNTY OR to own stock in any corporation or to maintain a business connection with any person, ENTITY, firm or corporation {dealing} DOING BUSINESS 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 is not inconsistent with the public interest.

COMMENT

The Commission recommended several changes to Section 1001(b).

The first change clarifies that the liberal construction and enforcement provision applies to the entire Article X, not merely this lone section. The second change is substantive and authorizes the County Council to allow an employee to do business with the county, in addition to its power currently to authorize an employee to own stock in or maintain a business connection with a company doing business with the county. The third recommendation includes "entity", as well as a person, firm, or corporation as a party with whom a County officer or employee may maintain a business connection upon full disclosure to the County Council.

which the county is a party or for use in any investigation authorized by or under this Charter.}

SEC. 1003. FREEDOM OF INFORMATION.

ALL INFORMATION REGARDING THE OPERATION OF COUNTY GOVERNMENT, WITH THE EXCEPTION OF PERSONNEL RECORDS AND RECORDS OF CRIMINAL INVESTIGATION OR CONFIDENTIALITY AS DETERMINED BY LAW, SHALL BE OPEN FOR INSPECTION. REASONABLE ACCESS REGULATIONS SHALL BE PROMULGATED BY THE COUNTY EXECUTIVE OR DESIGNEE. THIS SECTION SHALL NOT APPLY TO ANY PAPERS PREPARED BY OR FOR USE OF COUNSEL IN ACTIONS OR PROCEEDINGS TO WHICH THE COUNTY IS A PARTY OR FOR USE IN ANY INVESTIGATION AUTHORIZED BY OR UNDER THIS CHARTER.

{Sec. 1004. Inspection of books, accounts and papers.

All books, accounts, papers and records of any office or department, except police books and papers and individual personnel records, shall at all times be open to the inspection of any resident of the county or representative of the press, subject to such reasonable rules and regulations in regard to the time and manner of such inspection as the county executive, with the approval of the county council, may make. Public inspection of police records may be permitted to the extent authorized by the county council or otherwise in accordance with law. This Section shall not apply to any papers prepared by or for use of counsel in actions or proceedings to which the county is a party or for use in any investigation authorized by or under this Charter.}

COMMENT

The Commission recommends the deletion of two Sections (1003 and 1004) dealing, respectively, with the right of a citizen to have access to county records, and to inspect county records. The Commission recommends a new Section 1003 to replace these Sections; this new Section contains a general freedom of information provision.

Baltimore County
CHARTER REVIEW COMMISSION

Hon. Dennis F. Rasmussen
County Executive

Hon. William R. Evans
Chairman, County Council

Hon. James T. Smith Jr.
Associate Judge, Circuit Court for Baltimore County
Commission Chairman

July 24, 1989

The Honorable James T. Smith, Jr., Chairman
Baltimore County Charter Review Commission
Towson, Maryland 21204

Judge Smith, Members of the Commission:

The foresight of those who served on the original Charter Board of Baltimore County is evident from a careful reading of that document more than 30 years after its adoption and implementation in 1957.

Elected in November of 1954, members of the Charter Board obviously gave careful and thoughtful consideration to the preparation of our "Home Rule" charter, which was presented to the voters in November of 1956. The Board carefully studied and analyzed the machinery and process necessary for the provision of county government to its citizens, and the product of its labor is the document which primarily governs us yet today.

Our Charter is a "living" document. Indeed, Charter section 402(d) (7) and Charter section 1005 pointedly underscore the need for periodic revision in order to maintain the viability of our government and the effectiveness of its Charter and code of laws.

In order to ensure that the goals and objectives we share for all Baltimore County citizens can continue to be achieved through the 1990's, we request that you undertake a review of our Charter and make any recommendations for possible changes that you deem necessary and appropriate. We would appreciate the submission of your final report on or before May 1, 1990.

On behalf of the citizens of Baltimore County, we thank you for your efforts dedicated to this important task.



Dennis F. Rasmussen
County Executive



William R. Evans
Chairman, County Council

Timetable for Charter Review

September/October: Public Hearings were held October 3, 1989, and November 1, 1989, for the purpose of receiving input to the commission regarding matters that should be reviewed, and public opinion with respect to specific Charter provisions or revisions. Committees are holding individual sessions, with specifically invited speakers, knowledgeable and experienced in the area of each specific committee's charter review responsibility, for the purpose of eliciting suggestions of matters which should be reviewed by the specific committee.

November/December/January: The committees are conducting work sessions to consider those agenda items it has determined to review, utilizing administration, council personnel, and the county attorney assigned to the specific committee for information and research. By the middle of January 1990, the committee shall have determined any recommendations it intends to present to the full commission with appropriate commentary relating to such recommendations, which determination shall be included in a report prepared from the middle of January to the end of January of 1990. At the end of January of 1990, the committee should adopt the final committee report and recommendations for submission to the full commission.

February: The full commission shall consider the various committee reports and recommendations, as well as any individual commission suggestions on charter review matters at work sessions held during this month.

March: Another public hearing shall be held in the first of March, tentatively March 6, 1990, for public reaction and comment upon the various committee reports and/or deliberations of the full commission during the month of February. The full commission shall also continue with work sessions during the month of March to the end of adopting final recommendations and preparation of a final report.

April: The recommendations and report of the committee shall be finalized in the first ten days of April, with a written report of the commission's recommendations and commentary prepared during the middle of April for final adoption by the committee by the end of April and submission to the county executive and Baltimore County Council by May 1, 1990.

CHARTER REVIEW COMMISSION

September 12, 1989

AGENDA

- 1) Call to order/introduction of Charter Review Commission Members and Ex-Officio Members
- 2) Introduction of Members of County Attorney's Staff who will serve as legal research resource
- 3) Consideration of merger of Planning and Zoning and Economic and Community Development Committees as one Committee
- 4) Appointment of Commission Members to Committees
 - a) Dual appointment of Members of Government and Ethics Committee
- 5) Appointment of Committee Chairpersons
- 6) Committee Assignment of Ex-Officio Members
 - a) Administrative/Secretarial Appointments
 - i) Mary Garland - Executive Organization and Effectiveness
Fiscal, Budgetary and Purchasing Matters
Personnel Matters and the Merit System
 - ii) Kathi Weidenhammer - Legislative Matters
Government and Ethics
Planning and Zoning/Economic and Community Development
 - iii) Judy Sussman - Baltimore County Executive Liaison
 - iv) Tom Toporovich - Baltimore County Council Liaison
- 7) Designation of Charter Review Commission Recorders:
 - i) Tom Peddicord - Executive Organization and Effectiveness
Legislative Matters
Government and Ethics
 - ii) Nancy West - Fiscal, Budgetary and Purchasing Matters
Personnel Matters and the Merit System
Planning and Zoning/Economic and Community Development
- 8) Assignment of specific Charter provisions to Commission Committees:
 - a) Executive Organization and Effectiveness -
Article IV and Article V
 - b) Fiscal, Budgetary and Purchasing Matters -
Article V (Sections 514 through 519), Article VII
and Article IX
 - c) Legislative Matters
Article II, Article III, Article V (Section 510),
Article VI and Article XII
 - d) Government and Ethics -

Article X, entire Charter

- d) Personnel Matters and the Merit System
Article V (Section 544), and Article VIII
 - e) Planning and Zoning/Economic and Community Development
Article V (Sections 522 through 524.1) and
Article VI (Sections 602 and 603)
- 9) Adoption of procedures for Charter Review Commission
- a) Quorum - majority of Commission Members
 - b) Affirmative vote needed to pass matter - lesser of
(1) majority of Commission or (2) two-thirds of
those present, provided quorum requirement is
satisfied
 - c) Publicity re: scheduling of meetings - Bob Hughes
 - d) Conduct of meeting/ Roberts Rules/ invited speakers
 - e) Minutes/tape recordings
 - f) Public Hearings - 10/3/89; 10/31/89 and 3/6/90
 - g) Work Sessions
 - h) Location of meetings - Courtroom No. 5 (Old Courthouse)
 - i) Adoption of Charter Review Commission Report/Recommendations
 - j) Minority Reports/Commentary
- 10) Adoption of Procedures for Commission Committees
- a) Quorum - two-thirds of Committee
 - b) Affirmative Vote needed to pass matter - lesser of (1)
majority of Committee or (2) three-quarters of those present,
provided quorum requirement is satisfied
 - c) Publicity re: schedule of meetings - Bob Hughes
 - d) Conduct of Meetings/Invited Speakers/Others
 - e) Minutes/tape recordings
 - f) Work Sessions
 - g) Periodic status reports by Committee Chairperson to
Charter Review Commission Chairperson
 - h) Location of meetings
 - i) Adoption of Committee Final Report/Recommendations
 - j) Minority Reports/Recommendations
- 11) Comments - Members of the Baltimore County Council
- 12) Miscellaneous Matters
- a) Committee schedule of meetings
- 13) Adjournment

MINUTES OF THE
CHARTER REVIEW COMMISSION MEETING
September 12, 1989
Courtroom #5, Courthouse

This meeting of the full Charter Review Commission (CRC) convened at 8:06 p.m. Opening comments by the Commission Chairman, Judge James T. Smith, Jr. Agenda distributed to members, who introduced themselves:

Hon. James T. Smith, Jr.,	Tom Carbo
Chairman	Malcolm Spicer, Esq.
Leonard Sachs	Hon. James Sfekas
Charles Thompson, Jr., Esq.	Hon. Leonard Jacobson
Charles Hentz	Wendy Judge
John Hohman	Charles Rush
Dr. Walter Amprey	Thomas Koch
Hon. Edgar Silver	Arnold Jablon, Esq.
Joseph Potter	Eugene Gallagher
Frank Barrett	Frederick Dewberry
Henry Lewis	Bonnie Dyer

The several members who were not present had telephoned the Chairman prior to meeting that they would be unable to attend 9/12/89 CRC meeting.

Ex Officio Members in attendance:

Stanley Guild	Judy Sussman	Tom Toporovich
Timothy Fagan	Bob Infussi	Herbert Wirts
Frank Robey		

Meeting attended by Members of Baltimore County Council:

Ronald Hickernell	Melvin Mintz
Dutch C. A. Ruppertsberger	Barbara Bachur
William Evans	Norman Lauenstein
Dale Volz	

Also in attendance were the following attorneys/ representatives from the Office of Law:

James Helfman	Nancy C. West	Ruth Solomy
Michael McMahon	Michael Moran	

Not attending but also representatives of the Law Office:

Paul Snyder and Jack Sturgill

The above members of the Law Office agreed to help CRC on as-needed basis re legal research, opinions, memorandums, etc. that Commission may need with reference to conflict with State law, constitutionality, etc. and any other concerns of the CRC or individual committees. These attorneys each will select a committee and thereby an area; any questions, etc. that come out of that particular committee/area would be directed to that attorney who would then research and respond. Such requests to

be made through committee chairperson or through the CRC Chairman if full commission made initial request.

Reporters in attendance: Larry Carson and Lonnie Ingram

ITEM: Merging of Planning & Zoning and Economic & Community Development Committees

In early letter, Chairman Smith had set out seven committees; just a suggestion. Upon review of Charter and involvement of Charter in the subject areas, in his opinion, insufficient material to justify committee for just Economic Development. Clear relationship between Planning & Zoning and Economic & Community Development. While matters exist in Economic Development to be considered by CRC and by a committee, cannot stand alone.

Chairman Smith requested any comments contrary to that suggestion; there were no contrary views expressed by members. Therefore, Chairman Smith merged these two areas into one committee.

Advised members to be alert as to newspaper items relative to CRC tasks; example given: recent article regarding development process and Board of Appeals, which also involves Planning & Zoning.

ITEM: Appointment of CRC Members to committees (referenced tentative list put together by Chairman Smith):

Referenced item 4(a) on agenda; responsibility of Government & Ethics Committee is significant and important, but from substance standpoint, unlikely that a lot of time will be required regarding that area; therefore, Chairman Smith suggested dual appointment of said committee members to other committees. There would be four members on the Govt. & Ethics Committee.

Comments were invited regarding this suggestion; there were no objections expressed.

ITEM: Regarding Commission Members:

Emphasized that, while CRC members may attend any committee meeting in which they have an interest, will only be voting members of his/her assigned committee. All meetings will be open to the public. Committee function is to review specific area of responsibility and any other areas felt pertinent.

Example: Article V falls under Executive Organization, but Personnel Matters may believe that directors of departments may be something they should look at.

Purpose of Charter articles listed in Agenda is to give guidance to committees and to give focus.

One final point regarding committee structure: Committees will do initial groundwork. Correspondence regarding a particular area, etc., will go to the chairperson of that particular committee. Individual committees will prepare reports and recommendations.

Full commission will take those reports/recommendations and will have another public hearing to get public input to those recommendations. Commission will have own work sessions on reports/recommendations before the final vote on recommendations to County Council and County Executive. Serving on a particular committee does not preclude input into what the CRC will ultimately recommend.

ITEM: Chairpersons (as designated on committee list):

Donald Hutchinson - Executive Organization
Tim Hickman - Purchasing/Fiscal/Budget
Mac Spicer - Legislative
Gene Gallagher - Government and Ethics
Judy Baer - Planning & Zoning /Econ Dev

ITEM: Committee assignments of Ex Officio Members (non-voting members; will serve as resource to committees/full commission):

Frank Robey - Executive Organization
Judy Sussman /Tom Peddicord /Tom Toporovich -Legislative
Stanley Guild /Herb Wirts - Budget/Fiscal/Purchasing
Bob Infussi - Government & Ethics
Bob Infussi - Personnel Matters/Merit System
Tim Fagan - Planning & Zoning /Econ & Comm Dev

ITEM: Administrative/Secretarial Appointments:

Kathi Weidenhammer and Mary Garland to serve function of taking highlights of meetings; minutes will be recorded but not transcribed unless specific request made by member or public, etc.; to work with three specific committees as designated.

Those minutes to be sent to members of the committee, Judge Smith, and recorder assigned to that committee. Will also help in preparation of committee reports/recommendations and in preparation of final report/recommendations.

personal opinion, would legalize at least part of process of creating new positions in the County because as has been learned in course of discussion, 1,500 to 1,800 part-time employees exist in the County; out of hand; through this process, which goes through County Council, puts out in open and everyone knows the situation. Reasoning behind recommendation.

Lengthy discussion then followed regarding this recommended change to Charter; in response to question raised re could this change to exempt status be made 4 or 5 levels down, F. Dewberry responded that this could be possible, if the Admin Officer so recommended; L. Jacobson expressed problem with giving advise and consent to Council over act of Admin Officer; F. Dewberry responded that checks and balances was a provision wanted by the Committee; additional employees are needed; has been done in past through part-time employees; believes this change is necessary and would be done in light of day; L. Jacobson: this is allowing Admin Officer to amend the Charter with approval of Council? F. Dewberry responded that the recommendation is to put provision within Charter for him to make change.

Chairman Smith: Had problem with wording of this amendment; does amend composition of exempt service, which are examples of exempt service; it's a limitation, listing those people or positions that qualify for exempt service; possible language along lines of another class of employee that qualifies as exempt service, such other personnel as are exempt by legislative act of County Council upon request; not quite sure why Admin Officer is being given this authority.

A. Jablon: Way Charter was written, County Executive did not run day-to-day government; County Exec has taken hands-on operation of government; explains language as written.

Chairman Smith: Asked if reference as stated precludes Co Exec from having right to make these recommendations; A. Jablon: can be done as suggested. Chairman Smith further added that he believes re-wording is necessary to get away from possibility of this being considered carte blanche right to amend; F. Dewberry responded that he had no problem with that.

C. Foos: Felt that at least County Council would have opportunity to look at new positions being created; M. Spicer: believes there are language problems and substance problems; there is list of exempt categories, e.g., department heads, heads of offices, members of boards/commissions, etc.; to just leave language to say "personnel" is too broad; and would it allow for one particular position to be made exempt. F. Dewberry addressed this; several issues were discussed in committee; deputy admin officers which have been created creates problem; this approach seemed best to address this issue, as well as Police, Fire and other management level positions.

ITEM: Comments from Members, Baltimore County Council (begun in order of districts represented)

Ronald Hickernell (1st)

Comments expressed by Councilman Hickernell included appreciation for willingness of members to serve; area of public employment and lack of control by Administration over County employees who refuse to accept responsibility in providing service to the public; questioned mechanism of merit system (effectiveness or lack thereof); requests that CRC revisit that area of public service; ability to impress upon County employees importance of public trust, etc.; also County Council and membership and possible need to expand Council to nine members, inclusive of eight individual district-elected Council members with at-large Chair elected by citizens; hard decision to make but worth contemplating. Comments regarding control of fiscal budget by the Executive and the County Council; need for balance between the two; possibility that control vested in Executive by Charter is too strong; Council members cannot ignore individuals or communities; needs to be finely tuned balance of fiscal powers including Capital budget. Closing comments: if one of the above is accomplished, citizens will be well served.

Norman Lauenstein (5th)

Congratulated CRC members; commented on our Charter and how well it has worked and is working; newer and more refined than City Charter; final fiscal authority rests with Council; real protection to taxpayer to control free spending. Comments re elected chairperson; for good of County this should be done; should possibly have more authority; look at Charter re who is in command beyond Executive and Admin Officer (Director of Budget is third in line; he also serves as Deputy Admin Officer; have one other Dep Admin Officer); this needs refinement; Configuration of department heads; no strong desire to confirm other than Planning Director, Police Chief, Fire Chief; other departments would be inclined that Executive should "pick his team." Amount of spending may be looked at; over \$5,000 for any purchase of real property goes to Council; basically limits spending; there will be a move to increase that amount; also Personnel matters - what is a full time employee, merit system; otherwise Charter is working well.

Barbara Bachur (4th):

Congratulated members of commission on accepting important job; should treat Charter seriously; foundation of Government; a few brief remarks, including size of counsel; work very well as 7 member body; perceives need to expand

but not beyond nine; mixed feelings on elected chairperson; is not going to stress one way or another; of particular concern is Board of Appeals; very good system on Board of Appeals; good members who do excellent job; Executive and Legislative bodies need to maintain integrity of those bodies; do not expand Board's powers into Comprehensive Zoning process; will stand ready to answer any questions and to hear about any concerns and considerations.

William Evans, Chairman (6th)

Will be brief; will reiterate comments of colleagues re importance of task; some suggestions include: re County Council, qualifications in Charter may be vague; maybe should be more specific, particularly in filling vacancy; re districts, seven is a workable number; however, might want to expand to nine; study feasibility of Council chair being elected; re referendum issue: study number of signatures necessary to petition referendum; number should be increased; re administrative services, should we permit creation of more than 18 departments; maybe we need more since County has grown; should Council confirm department heads; should Zoning hearings be made hearings of record; may be time to look at Zoning Office; may be time to look at Board of Appeals as appellate body; may not obviate need for de novo hearings in all instances but maybe appropriate instances where necessary; re presumptive correctness of CRG appeals; community not prepared for appeals hearings; Board decisions should be issued in 90 days; re budgetary and fiscal procedures, look at contract limits; \$5,000 maybe should be increased; look at surpluses; merit system; consider condensing classifications; Executive pay scale; is merit system contrary to Government or is Government better served; will send copies of comments to CRC members; Charter has worked well; was drafted well.

Melvin Mintz (2nd)

Commended CRC members; exciting task; few brief comments; possibly will send written comments; size of County Council; would suspect that seven members works very well; involved with larger bodies; our Council works well; surplus and creative ways of using surplus; day of legislative meetings; presently first and third Monday of every month, excluding summer and December; possibly extra day between work session and councilmanic meeting.

Dutch C. A. Ruppertsberger (3rd)

Will be brief; four issues to discuss: Council size and chairman; body of seven people where you need majority in most instances of four -possibly more efficient; if

anything, instead of increasing size of Council, increase staff size; re county-wide chairman, would have to increase Council by two; independence of Council needed; would make appearance of county-wide ticket; re Budget, regarding contracts, would suggest that figure be raised; Council would still have power to look at contract amount through County Auditor; Executive's ability to hire people, particularly re scarcity of engineers and difficulty to compete in private sector; Executive should have flexibility; re Board of Appeals, possibility of Zoning Commissioner having hearings of record; excellent Board of Appeals; Commission may want to look at matter of only one de novo hearing; laws may not exist to permit communities to be heard the way they feel they should be.

Dale Volz (7th):

Basically what is being heard are general concerns of all Council members; does not know if boards and commissions were mentioned and input Council may have at that level; everything else has been said at this point; Council will be happy to receive recommendations from the Commission.

ITEM: Per County Executive, County Attorney Jablon advised members that, if any committee needs input from any department head, will have full cooperation.

ITEM: Chairman Smith continued with agenda:

Judy Sussman is serving as County Executive's liaison; Tom Toporovich will serve in same capacity as County Council liaison; Charter Review Commission Recorders: Nancy West and Tom Peddicord.

Re the Recorders: will help the committees as well as full commission in the drafting of reports/recommendations and any commentaries to be included in same; will do housekeeping changes; will make sure recommended changes tie in with other Charter sections; will work with committees; Tom Peddicord with the Exec Organization, Legislative Matters; Government & Ethics; and Nancy West with the remaining three committees.

ITEM: Procedures for Commission:

Re Quorum - 32 voting members on the Commission; have approximately 25/26 at this meeting; suggest that quorum, to be able to conduct business, be lesser of a majority of commission members = 17 (invited comments with respect to that; E. Silver

moved; A. Jablon seconded; all in favor; none opposed; to be 17) or 2/3 of those present; if only 17, would be 2/3 of 17.

Gene Gallagher: Comment re composition of Commission; mandatory attendance to remain on Commission.

Chairman Smith: Started with 47 members; now starting with 32. Should resignation occur, would accept same, and ask Council and Executive to appoint replacement to keep number at 32.

L Jacobson: While 32 member commission, 12 members could pass.

Chairman Smith: But only if 17 members attend. Regarding this meeting, all who did not attend telephoned in advance; invited any further discussion; all in favor of above; none opposed.

ITEM: Publicity regarding scheduling of hearings:

Bob Hughes has agreed to serve in that capacity; Chairman Smith will provide him with schedule of meetings, locations, etc. Any questions regarding commission will be referred to Chairman Smith; wants to get together with chairpersons as to when they want to have their meetings; release schedule to libraries, articles in newspapers, etc. Wants opportunity for public to be informed and aware.

Commission will be inviting speakers as tonight; e.g., Chamber of Commerce, League of Women Voters, etc.; also suggestions from commission members re people we might want to hear from.

Public hearing process: Committees meeting in their particular areas with specific speakers; when reports are submitted to commission, another public meeting so public has something to which to react; Work Session; Final Report.

Full commission - limited number of meetings.

Committee - one or two of input; public meetings; work session

ITEM: Public hearings/dates:

Would suggest only three public hearings; understands from past, never a tremendous turnout for any public hearing in 1978; would limit number;

Have them in central location and have only two at the beginning to get input from which to work and then possibly one or two after reports and work sessions for reaction of public;

Tentative beginning of October and end of October; possibly use Council Chambers for location; location with which public should be familiar.

No objections to above.

Question: Can meetings be started at 7:30 p.m.?

Chairman Smith: Yes. Tonight was done to accommodate Council members dovetailing with public hearing; 7:00 p.m. is even better time.

Question: Will there be written summary to committee of each public meeting?

Chairman Smith: No. Notes by each member will have to be taken. Would like at least full commission meetings to be in Courtroom #5.

ITEM: Minority Reports /Commentary:

After commission report is adopted, if there is a minority report, meaning one or more commission members feel strongly, could be included as part of report in minority report fashion; also, could include discussion in the Commentary to go along with recommendations. If there is a strong "other opinion," will consider how to handle it.

ITEM: Procedure for Commission Committees:

Suggestions regarding quorum re committees: 2/3 of committee; lesser of majority of committee or 3/4 of those present; chairman votes with committee; chairman votes in commission also.

L. Jacobson: Questions 2/3 for commission versus 3/4 for committee; committees are smaller.

Chairman Smith: Should be significant opinion or consensus for the Commission to recommend change. Require larger number in smaller group to make recommendation to Commission.

A. Jablon: Council has final word on what goes to voters; what we suggest to Council will have greater weight, the greater the vote.

Chairman Smith: When vote is close on committee, can give both sides to the commission and permit commission to consider it.

Motion made and seconded on quorum of committee; all in favor; none opposed.

ITEM: Status Report

Will keep Council and Executive informed as to process. Should be kept informed so reactions can be given consideration if any to be received from them. Chairman Smith will attend as many committee meetings as possible.

L. Jacobson: Discussed location of committee meetings versus use of Courtroom #5 for full commission meetings.

Chairman Smith: Location of committee meetings will be left up to the Chairperson of each committee.

Most other items on agenda are for information, thought, etc.

One other item: Budget - does exist to cover printing costs, cost for recorder, etc. Any budget requirements for each committee should be discussed.

M. Moran questioned date for Commission report to County Council.

Chairman Smith: May 1, 1990.

J. Sussman: Questioned deadlines for committees to come back to commission.

Chairman Smith: January 1 - or right after the first of the year, he wants committees to get back; reason for two public hearings in October. Then first of March, public hearing for citizen reaction; continue work session; draft final report.

There being no further business, this meeting of the Charter Review Commission adjourned at 9:54 p.m.

Respectfully submitted,


Kathleen C. Weidenhammer

CHARTER REVIEW COMMISSION

AGENDA

February 15, 1990

- 1) Call to order/re-introduction of Charter Review Commission members and Ex-Officio members.
- 2) Review of Charter Review Commission procedures.
- 3) Mac Spicer, Committee Chairperson - Summary presentation of Legislative Matters Committee Report
- 4) Consideration of the following recommendations:
 - a) Section 601 - to allow County Council to increase number of members of Board of Appeals, not to exceed nine;
 - b) Section 205 - provision for filling vacancy on the Baltimore County Council prior to expiration of term
- 5) Jim Sfekas, Committee Chairperson - Summary presentation of Planning and Zoning/Economic and Community Development Committee Report
- 6) Consideration of the following recommendations:
 - a) Section 522 - allowing for more than one Deputy Zoning Commissioner per legislative act;
 - b) Section 522.1 - providing for two year review and report regarding implementation of Master Plan;
 - c) Section 522.1 - providing for adoption of Master Plan pursuant to Section 523;
 - d) Section 524 - housekeeping consistent with recommendation of allowing for more than one Deputy Zoning Commissioner;
 - e) Section 601 - to allow County Council to increase number of members of Board of Appeals, not to exceed eleven, with procedures for their appointment;
 - f) Section 604 - thirty day allowance, rather than fifteen days, for the Board to file with the Circuit Court matters which have been further appealed to the Circuit Court.
- 7) Miscellaneous Matters
- 8) Adjournment

MINUTES OF THE
CHARTER REVIEW COMMISSION MEETING
February 15, 1990
County Council Work Session Room

This meeting of the Charter Review Commission was convened at 7:05 p.m. Opening comments by Chairperson, Judge James T. Smith, Jr.; agenda and additional copies of documents regarding this evening's meeting were distributed. Members present introduced themselves; following are those members who ultimately were present:

Hon. James T. Smith, Jr.,	Judith L. Bushong
Robert Barton, Esq.	Daniel Brewster
Tom Carbo	Frederick Dewberry
Rhoda Dorsey	Bonnie Dyer
Hon. Charles Foos	Eugene Gallagher
Mark Fiedler	Tim Hickman
Donald P. Hutchinson	John Hohman
Arnold Jablon, Esq.	Hon. Leonard Jacobson
Robert Knatz	Joseph Potter
Charles Rush	Hon. James S. Sfekas
Malcolm Spicer, Esq.	Charles Thompson, Jr., Esquire

Commission members not in attendance:

Dr. Walter Amprey	Frank Barrett
Barbara DeGuilmi	L. Robert Evans
Wendy Judge	Thomas Koch
Henry Lewis	Leonard Sachs
Hon. Edgar Silver	Otis Warren

Ex-officio members present included:

J. Timothy Fagan	Stanley Guild, Jr.
Thomas Peddicord, Esq.	Frank C. Robey, Jr.
Judith M. Sussman	Thomas Toporovich

Nancy C. West, Esq., Office of Law
Kathleen C. Weidenhammer

Chairperson Smith then related to CRC members his suggestions for proceeding with individual committee recommendations following the agenda (copy attached) distributed at start of meeting.

Each committee chairperson to present in summary fashion work of that committee; will call each recommendation and each chairperson will move that Commission favorably consider recommended change to particular section of Charter.

Discussion to follow; then will amend if necessary; tentative at this point; J. Smith further explained goal this evening is to make tentative decisions which will be subject to public hearing on March 6 and then come back and make final decisions of matters tentatively approved and any matters to be added. Although not

in favor of same, matter may even be tabled, if expert or advice from someone more familiar with area is needed. At this point, it was determined that there was a quorum present and voting could take place.

J. Sussman: Questioned agenda for public hearing; J. Smith responded that anything is subject of that hearing.

D. Brewster: Requested discussion re provisions for voting on March 13/14 if someone called out of town, etc; J. Smith responded that this would be done on final vote, provided individual member has attended prior meetings and participated; no specific procedure given at this time; to be addressed.

M. Spicer, Chairperson, Legislative Matters Committee (LMC): Mentioned that there was material on conference table for any members who did not have copy; also nonsubstantive changes for pages 3, 6 and 7 of committee report and also minority report which was not available when originally filed.

LMC had nine meetings; M. Spicer then summarized areas considered but not recommended for change, including increasing number of Council members; providing for County-wide election of Council chairperson; local elections to odd years; review of Council district lines; changing day of Council sessions; qualification of Council members; number of signatures needed to petition bill to referendum; and number of signatures needed to petition Charter amendment.

The above were considered but no changes made; reasons contained in report; e.g., concluded could not do legally as result of State constitution, etc.

Two areas of recommended change: Section 601 -Board of Appeals

While this section was considered by another committee, LMC recommendation fairly simple -allow Council by legislative act to increase number of members of Board of Appeals (CBA) to nine rather than current seven; M. Spicer commented that his vote on this issue had been to leave increase open-ended but LMC thought it should be limited.

Section 205: Vacancies on County Council

Occupied lot of time re should nor should not be changed; then coming up with acceptable method of filling such vacancy. At present, County Executive (Co Exec) appoints person whose name is submitted by State Central Committee (SCC) members of that party to which previous Council member belonged; all SCC members participate in process; Co Exec's role is ministerial; at time of adoption of this method, Council members ran County-wide; Charter amendment changed that to Council member running from each district. Feeling that vacancy should permit more participation by people within that Council district; reduce number of SCC

members making nomination (described on pages 6 and 7 /new pages 6 and 7 of commentary); e.g., for Democrats, instead of 36 SCC members coming up with one person, there would be: 6 members in the 1st District; 11 in the 2nd; 21 in the 3rd; 10 in the 4th; 10 in the 5th; 25 in the 6th; and 10 in the 7th. For Republicans, instead of 23, there would be 4 in the 1st; 7 in the 2nd; 13 in the 3rd; 6 in the 4th and 5th; 15 in the 6th; and 6 in the 7th; would also reduce timeframe in which recommendation must be made from 45 days to 30 days. Co Exec would select and nominate from recommended candidates only; Council would then be given power to appoint or reject.

At this point, M. Spicer ended his summary of recommended changes.

J. Smith: Suggested deferral of consideration of change to 601 until Commission has heard from Planning & Zoning /Economic & Community Development Committee (P&ZC), other committee which considered this Section of Charter, which likewise addressed number of CBA members. Then moved on to Section 205.

M. Spicer: Moved that Commission approve changes recommended to Charter Section 205; seconded by C. Rush.

J. Bushong: Does not understand material from LMC; believes full understanding of issues is essential for vote.

J. Smith: Explained format for recommended changes; deletions of current provisions bracketed; additional language in all caps; if entire section is being amended, entire section may be bracketed and new section recommended set forth in all caps.

M. Spicer: Explained LMC material distributed, including 11-page commentary and fact that no substantive changes occurred; mostly typos. Also explained attachments to commentary (several recommended changes and proposal finally accepted by LMC).

Discussion then followed regarding this proposed change in filling Council vacancies. L. Jacobson requested further explanation as to which SCC members would be involved in procedure; T. Toporovich added that this would involve those SCC members appearing on ballot in that particular councilmanic district; has nothing to do with area of residence.

D. Hutchinson: Recommended that Commission decide if concept is correct; existing language is simple and straight to point. Submitting two names to Co Exec gives responsibility to make determination and significant influence over appointment of Council member; should that be done? Does it make newly-appointed Council member perhaps not his or her own person but responsible to the Co Exec; this is significant change, worth conversation before getting involved with particulars.

Further discussion followed between CRC members regarding feasibility of providing Co Exec with at least two names. T. Toporovich further explained districts as existing when Charter was drafted; however, in 1972 district elections occurred; explained that only those in councilmanic district who appear on ballot would have say.

G. Gallagher: Agreed with D. Hutchinson; does not like recommendations going to Co Exec with his yes or no and then to County Council; people in district should have right to send forth that name.

J. Smith: Understands that LMC is trying to localize to councilmanic district involved those who would make initial recommendation for replacement, rather than it being entire Baltimore County SCC. Discussion again ensued regarding how it would be determined re which SCC members would participate in the recommendation for replacement; J. Potter added that it had been previously mentioned that this had occurred only twice since 1957; why are we changing it? T. Toporovich added that this is because there have been changes made since original Charter.

D. Hutchinson: (1) would concur with Chairman that the vacancy should be filled by members of SCC that come from legislative districts that make a part or all of the of the councilmanic district in question; would give local control; and (2) differs with LMC report; does not believe members of Council should reject what local people want; will of local people should be known.

Discussion ensued re language which would clearly explain which SCC members would participate in filling vacancy; M. Spicer: the SCC members whose legislative district is wholly or partly included in the councilmanic district in which vacancy has occurred.

J. Smith: Asked if there was motion to amend committee report; if anyone wanted to address any other aspect of 205. Tentative vote: in favor -8; opposed -10; amendment fails. In favor of committee's recommendation to adopt LMC report -3; opposed 15. Amendment to existing law, existing Charter provision; delete "of Baltimore County"; insert "members whose legislative district is wholly or partly included in the councilmanic district in which the vacancy has occurred" then back up "representing political party to which previous member belonged." D. Brewster: that was his amendment; Fiedler seconded; in favor -16; opposed -2. Recommendation passes.

At this point, CRC is recommending the existing language with the deletion of Baltimore County and the substitution in lieu thereof of "the State Central Committee members whose legislative

district is wholly or partly included in the councilmanic district in which the vacancy has occurred." Recommendation goes to the Co Exec; Co Exec must appoint that person; only one nominee recommended. The only change to Section 205 is as was moved and approved by the vote of the Commission; tentative approval.

C. Rush: Strike 45 days and make it 30; believes too long to leave Council seat vacant; J. Hohman: Questioned if this was enough time; D. Hutchinson: can be made within 30 days.

J. Smith: Any further discussion? Upon vote, all CRC members voted in favor of reducing from 45 days to 30 days and amendment passed.

J. Sfekas, Chairperson, Planning & Zoning /Economic & Community Development Committee (P&ZC)

J. Sfekas began by stating that this committee did not send out lengthy report along with recommendations; therefore, he acknowledged those CRC members who comprised this committee, citing J. Bushong, who attended all P&ZC meetings and R. Barton, worked on compiling what was finally report as distributed to CRC members. P&ZC was advised by N. West and M. McMahon; gave excellent help and service; also T. Fagan, who helped throughout process, as well as the secretarial and stenographic services provided by the undersigned.

Then began summary of recommended changes: P&ZC talked to many people; had seven meetings, many of them late meetings in which many issues were discussed but which do not appear in detail in final report. P&ZC spoke with incumbents in various offices involved in planning and zoning; Chairman Hackett and CBA member L. Schmidt; entire evening just on matter of conditional zoning; had former Zoning Commissioner and one former director of Office of Planning, E. DiNenna and G. Gavrelis; spent part of evening with present County Attorney; Chairman of Economic Development Commission and Community Development Commission had input into what P&ZC put together.

Recommended Changes: dealing with Planning & Zoning, Section 522. Merely to allow for appointment of more than one Deputy Zoning Commissioner (DZC); increased volume in office. Second paragraph of Section 522 deals with Planning Board; P&ZC concluded that it is not necessary or desirable that Planning Board status be changed; working well; had testimony to effect that attendance is close to 80 percent; leave well enough alone. Rejected recommendation that Zoning Commissioner be elected.

Section 522.1: deals with duties of Planning & Zoning, limitation of powers; only change recommended -- (a)(1) --include a provision to monitor the implementation of Master Plan and to prepare at least every two years a report to the Co Exec and Council on

progress achieved toward said implementation; felt this was element in Charter re duties of Office of Planning & Zoning; need exists to monitor and report, not only the Co Exec and Council but to the public as to how Master Plan is being implemented; strengthens Master Plan; not changing basic nature which is a guide; have had many hours of deliberation; have concluded that it continues to be a guide, which needs to be carefully prepared and monitored and reported on. RE: section (b) within 522.1: merely clears up language; not substantive change; clarifies way in which Master Plan is approved.

Section 523 -Again, P&ZC spent many hours on whether there should be any change in basic nature of Master Plan; concluded that way it is now is way to go; not to change; all in agreement that Master Plan continues to be guide; Zoning maps as finally approved by legislative act of County Council are implementation of the Master Plan in greater detail.

Section 524 -Reviewed by P&ZC; found present powers given to Council allow flexibility to effect changes in Planning & Zoning, etc.; should not be disturbed.

Section 524.1 -People's Counsel (PC) -many discussions about whether PC should in any way be limited in authority and power it presently enjoys; considerable discussion re PC's right to appeal; final conclusion -office is important; public perception of office is important; should not be perceived as tampering with representative of community and should not disturb provisions involved. P&ZC rejected recommendation received re election of PC.

Administrative recommendations -whether PC should be part of Planning & Zoning; P&ZC felt this was again something that is within power of Council to reorganize Planning & Zoning; advised by T. Fagan that while budgets of ZC and PC are submitted by Planning & Zoning, are considered separate and apart; no present conflict exists, no friction or problems; therefore not necessary to disturb Charter arrangements at this time.

Section 601 -County Board of Appeals (CBA) -P&ZC realized that original mandate did not include review of 601 dealing with appointment, terms and compensation of CBA; however, felt appropriate to consider based on lengthy discussions with W. Hackett and considerable time spent on entire area; realize and have been advised that present success of CBA in keeping up with workload is primarily due to dedication of current CBA membership, particularly W. Hackett; however, due to increased workload, concluded that advisable to allow for increase in number; should have cap; concluded that cap should be 11. Practical problem encountered in allowing for same ratio re representation on CBA by minority party; attempted to provide same ratio as presently exists.

As far as remaining provisions re CBA, felt that present system of having ZC deal with petitions as they come in, not on record; continue as it is; community groups can express opinion at ZC level; cost and expenses are kept down (re hiring attorneys, experts, preparing documents, etc.); may be abuse at ZC level, but fact remains that greater justification for continuing system is in fact need to allow community at large to have opportunity to appear before ZC and do this prior to need to engage attorneys, etc.; also felt that cost to County of having hearings before ZC on record and establishing record before ZC was cost-prohibitive factor or at least serious fiscal issue to be considered; hearings before CBA are de novo; should continue as such under this committee's recommendation; assured by CBA Chairman that any existing backlog was result of lack of hearing room, etc.; assured by Chairman and CBA members that there was no need for change.

Section 604 -again, a non-substantive change; to bring in line with Maryland Rules, B-7, and change from 15 days to 30 days time allowed for appeal from CBA decision.

Additionally, spent one entire session on question of conditional zoning; felt there was merit to proposal, as presented in documentation prepared by J Arnold as part of input to Master Plan; finally concluded that Council already can do this if in fact this was desired at later date; perception of public in talking to them about conditional zoning is that mischief was being considered; such a change is not being considered at this time.

This basically concluded report by P&ZC.

J. Smith: First recommendation -change to 522; delete limitation to one DZC and allow one or more.

J. Sfekas: Moved that this recommendation be adopted that the language be changed to permit one or more DZC's; A. Jablon seconded.

J. Potter: Any consideration given to putting limitation on number of DZC's?

J. Sfekas: Was considered and decided not necessary; thought limitation was necessary on CBA but not DZC; can be done as need arises by request; can be done administratively.

J. Smith: In favor of recommendation as to Section 522 - unanimous, and Motion passed.

522.1 -providing in Charter for monitoring of implementation of Master Plan -report.

L. Jacobson: Moved

G. Gallagher: Seconded

In Favor -Motion passed by unanimous vote.

524 -housekeeping -to make DZC plural in this section; Moved by G. Gallagher; seconded by A. Jablon; in favor -unanimous; Motion passed.

601 -County Council can increase number on CBA; moved and seconded to consider 11 member limit.

Discussion then followed regarding method by which ratio could be maintained relative to CBA membership as it relates to minority party; L. Jacobson suggested should be no more than majority plus 1 would be from same political party; A. Jablon asked why authority cannot be given to Council to determine number; why limit to 9 or 11; however, agreed with L. Jacobson's suggestion was good.

J. Sfekas: Essentially it was felt that making it unlimited would motivate Council into asking for two from each district; although additional members may be needed, there should be limit; compromised at number 11.

J. Smith: Also involves fiscal consideration.

Discussion followed, at comment by J. Potter, re whether or not this change would affect (a) as far as new members would be concerned. Would Council, if determined that additional members needed, prescribe method of appointment for that number that is being increased only?

D. Hutchinson: By existing language, each appoints only one member; still guarantee that each will have at least one appointee.

J. Potter: Raised question of all additional members coming from same councilmanic district; J. Smith commented that terms would be phased in; not to exceed three years; worked out by Council.

C. Foos: Responded to J. Potter's comment re appearing to be distorted language -wanted to show continuity of Charter as written. Issue was again brought up regarding ratio of Board members relative to minority party; A. Jablon suggested majority plus 2. T. Toporovich, D. Hutchinson and C. Foos commented on this issue. After much discussion, including suggestion to

indicate actual membership by number from each party, depending upon total makeup of CBA, moved and seconded and approved to go with language re majority plus 1.

Again, discussion followed re whether or not entire section would require change if this recommendation was adopted; J. Smith: asked for any additional discussion on section (b); reiterated that CRC would not go back to LMC's recommendation of 9, but would rather be voting on increase to 11.

Recommendation to change this section as amended by Jacobson amendment was then moved, seconded and unanimously approved by CRC.

J. Sfekas: Moved that Section 604, changing appeal time from 15 days to 30 days, be adopted.

M. Fiedler: Seconded.

Brief discussion followed in response to C. Thompson's question re why appeal to Court of Appeals should even be in Charter; believed by M. Spicer that language is not necessary; A. Jablon added that appeal process is in 25A; J. Sfekas commented that if this language was deleted, people would think a right was being taken away; non-substantive change could be made; making Court of Appeals to read "courts of appeal," thereby covering both Court of Special Appeals and Court of Appeals; vote then ensued on recommendation as amended; unanimously passed.


Miscellaneous matters: J. Smith encouraged CRC members to familiarize themselves with reports for next meeting on Wednesday, February 21. Also, if any changes, etc., CRC members to contact N. West and/or T. Peddicord relative to specific language; three days needed before next meeting to get on agenda.

A. Jablon moved to adjourn meeting of February 15.

G. Gallagher seconded that motion.

Meeting was adjourned at 9:25 p.m.

Respectfully submitted,



Kathleen C. Weidenhammer

Attachment: Copy of 2/15/90 Meeting Agenda

CHARTER REVIEW COMMISSION

AGENDA

February 21, 1990

- 1) Call to order/re-introduction of Charter Review Commission members and Ex-Officio members.
- 2) Minutes of Meeting of February 15, 1990.
- 3) Review of Charter Review Commission procedures.
- 4) Distribution of correspondence received since adoption of Committee Reports and Recommendations.
- 5) Gene Gallagher, Committee Chairperson - Summary presentation of Government and Ethics Committee Report
- 6) Consideration of the following recommendations:
 - a) Section 1000 - to add new Charter requirement that County Council adopt and maintain a Code of Public Ethics and Conflict of Interest Law, (now provided in Section 1001(d)) and matters relating thereto;
 - b) Section 1001(a) - reorganized Prohibitions from three subsections to two subsections;
 - c) Section 1001(b) - reorganized Subsection (b) and added information which must be disclosed;
 - d) Section 1001(c) - eliminated specific penalties and provided for such penalties as are adopted from time-to-time by the County Council;
 - e) Section 1001(d) - housekeeping to delete this Subsection which is proposed to be included in new Section 1000.
 - f) Section 1002 - to provide that elected official immediately forfeits his office and all pension benefits after the date of a crime upon conviction or entry of a plea of nolo contendere;
 - g) Section 1003 clarifying and condensing language of present Section 1003 and Section 1004 and re-titling Section as "Freedom of Information";

- h) Section 1004 housekeeping to delete this Section which is proposed to be included in revised Section 1003.
- 7) Fred Dewberry, Committee Chairperson - Summary presentation of Personnel Matters and the Merit System Committee;
- 8) Consideration of the following recommendations:
- a) Section 541(a) - deletion of obsolete language referring to duties no longer the responsibility of the Police Chief;
 - b) Section 544 deletion of Section in its entirety in light of Court decision invalidating the Charter initiative on binding arbitration;
 - c) Section 706(a)(4) deletion of special reference to binding arbitration requirements;
 - d) Section 709 - deletion of special reference to binding arbitration requirements;
 - e) Section 715 - deletion of special reference to binding arbitration
 - f) Section 801(2) - deletion of redundant reference to the Director of Planning;
 - g) Section 801(10) - new subsection to authorize the County Administrative Officer, subject to County Council approval, to provide for other exempt service positions in County government;
 - h) Section 802(b) deletion of prohibition of paying compensation to Personnel and Salary Advisory Board;
 - i) Section 802(h) - deletion of language applicable to the beginning of Charter government only;
 - j) Section 802 need housekeeping amendment to re-letter paragraphs "i" through "m" as "h" through "l" if approve recommendations deleting current paragraph "h";
 - k) Section 802(1) - deletion of prior approval of Director of Public Safety for fire and police personnel regulations and deletion of reference to "Bureau", and substitution of "Department" in reference to the fire and police;

- 1) Section 1203 adding new section to allow housekeeping type amendments to Charter by legislative act of the Council.
- 9) Don Hutchinson, Committee Chairperson - Summary presentation of the Executive Organization and Effectiveness Committee
- 10) Consideration of the following recommendations;
 - a) Section 402(a) deletion of prohibition of County Executive serving more than two consecutive terms;
 - b) Section 402(a) changing the date that the County Executive qualifies for office from the first to the third Monday of December;
 - c) Section 402(c) - dividing present one paragraph into two paragraphs (language unchanged);
 - d) Section 402(d)(12)(14) - deletion of archaic language;
 - e) Section 402(d)(15) allowing the County Executive to appoint personal staff beyond the confidential clerk or secretary presently provided in the Charter and deleting archaic language;
 - f) Section 403(b) deleting a specific term of service for the County Administrative Officer and providing that said officer shall serve at the pleasure of the County Executive, upon confirmation by the County Council;
 - g) Section 403(c) - housekeeping deletion of method for filling vacancy in term of County Administrative Officer consistent with the recommended change to Section 403(b);
 - h) Section 404(a) - deletion of method of removal of County Administrative Officer consistent with the recommended change to Section 403(b);
 - i) Section 502 - deletion of limitation on more than eighteen (18) County offices and departments in County government;
 - j) Section 503(7) deletion of office of Data Processing and Management Information as an office in the area of Administrative Services;

k) Section 504(4) - deletion of the Department of Traffic Engineering and substitution in lieu thereof, the Department of Environmental Protection and Resource Management;

l) Section 504(8) - deletion of term "Welfare", and renaming the Department "Social Services";

m) Section 504(12) addition of Department of Community Development;

n) Section 524.1(b) deletion of language applicable to effective date of Charter Amendment;

o) Section 524.2 and 524.3 deletion of these Sections as Office of Data Processing and Management Information no longer exists;

p) Section 525 - deletion of requirement that the Director of Public Works be a professional engineer;

q) Section 526 including in the Department of Public Works duties formerly exercised by the Department of Traffic Engineering;

r) Section 530 - deletion of non-existent "bureau of standards";

s) Section 534 deletion of reference to Department of Traffic Engineering director and duties (responsibilities included in recommended change above to Section 526);

t) Section 539 deletion of archaic provisions applicable to initial Charter only;

u) Section 540 - Renaming Department of "Welfare" as "Social Services";

v) Section 541(a) deletion of jail and civil defense as responsibilities of the Police Department;

w) Section 544 - deletion of "Division 5. Binding Arbitration" in light of Court decision declaring Charter referenda invalid.

11) Miscellaneous Matters

12) Adjournment

MINUTES OF THE
CHARTER REVIEW COMMISSION MEETING
February 21, 1990
County Council Work Session Room

This meeting of the Charter Review Commission (CRC) was convened at 7:10 p.m. At the start of the meeting, CRC members once again introduced themselves. Following are those members present at this evening's meeting:

Hon. James T. Smith, Jr.	Frank Barrett
Robert Barton, Esquire	Daniel Brewster
Tom Carbo	Frederick Dewberry
Bonnie Dyer	L. Robert Evans
Fiedler, Mark	Hon. Charles Foos
Eugene Gallagher	Tim Hickman
Donald P. Hutchinson	Arnold Jablon, Esq.
Charles Thompson, Jr., Esq.	John Hohman
Hon. Leonard Jacobson	Wendy Judge
Robert Knatz	Thomas Koch
Henry Lewis	Joseph Potter
Charles Rush	Leonard Sachs
Hon. James Sfekas	Malcolm Spicer, Esq.
Otis Warren	

Commission members not in attendance:

Dr. Walter Amprey	Judith L. Bushong
Barbara DeGuilmi	Rhoda Dorsey
Hon. Edgar Silver	

Ex-officio members present:

J. Timothy Fagan	Stanley Guild, Jr.
Robert M. Infussi	Thomas Peddicord, Esq.
Judith M. Sussman	Thomas Toporovich

Nancy C. West, Esq., Office of Law
Kathleen C. Weidenhammer

At the outset of the meeting, Chairman Smith moved to waive the reading of the minutes of the February 15 meeting; copies of the minutes to be sent to each CRC member on Friday, 2/23/90, and voted on at the next CRC meeting. Seconded; motion passed.

Chairman Smith then briefly reviewed the procedure to be followed; summary report by each committee chairperson of matters on agenda; discuss and consider each recommendation; motion to approve. CRC to vote on amendments, tentative approval/disapproval of agenda items. After public hearing, will take final votes -input from Commission and any reactions/comments from public hearing.

Chairman Smith then added that this meeting is not for participation by the public; CRC will welcome that participation at meeting of March 6.

With respect to handouts, these included agenda of tonight's meeting; correspondence received by Chairman Smith after reports were completed; additional input from public; copies of recommendations to be considered.

At Chairman Smith's suggestion, the CRC then moved to Agenda item #7. R. Evans was not in attendance at start of meeting this evening; due to problem with mails, did not receive copy of initial mailing from Chairman Smith; therefore was not aware of either 2/15/90 meeting or this evening's meeting. Was on his way to meeting; therefore suggestion to move to Item #7 at this time.

F. Dewberry, Chairperson -Personnel Matters and Merit System Committee (PMC)

Named individuals who served on this committee, including ex-officio members. Also expressed appreciation to Nancy West and Ruth Salomy of the Law Office, and Bette duBois, who transcribed and distributed materials; to the various people who worked with them, including representatives of Personnel Salary & Advisory Board, nurses association; the Labor Commissioner, AFSCME, BCCEA, various Fire Department groups, Police Department groups, SMC representative; also, Tom Toporovich who testified personally and not on behalf of the Council. The PMC also considered suggestions made by all Council members. Invited everyone testifying to review 1978 Charter recommendations and comment; invited County Executive's office to comment; were passed on by Arnold Jablon, on behalf of Frank Robey. PMC considered 34 individual recommendations which are enumerated on pages 10 and 11 of the committee's report.

Briefly, those considered but opposed included those issues noted on page 10 of the committee's report.

Decided that certain matters fall outside the Charter as noted on page 10 of committee's report.

Determined certain matters to be administrative, not Charter, as noted on page 11 of committee's report.

Considered certain matters noted on page 11 of the report were not appropriate for Charter amendment.

Considered certain matters noted on page 11 of report not to be within purview of Personnel Matters Committee.

F. Dewberry continued with the amendments the PMC committee is proposing, following agenda:

Section 541(a) -re Chief of Police and deletion of obsolete language --will state at this time that he will pass this particular item on to D. Hutchinson and his Executive Committee;

both addressed same issue; both have same recommendation but Exec Committee has used language as contained in supplement to Code.

Chairman Smith: Will withdraw consideration of item 8(a); F. Dewberry: will withdraw consideration of this item.

Section 544 -resolution of labor disputes between firefighters; recommending complete elimination of this section; Court of Appeals invalidated this in Griffith v. Wakefield (1984); move that this be deleted entirely from Charter.

Seconded by A. Jablon.

Chairman Smith: Should not the Title, Division V, Binding Arbitration, also be included in brackets and therefore deleted?

F. Dewberry: Agreed.

Chairman Smith: Moved to amend recommendation just to include title.

Seconded by A. Jablon.

J. Hohman: Not in favor of motion to amend; should all be included?

F. Dewberry: There are several areas where this section is referenced; will be recommended that it be deleted; have to first recommend deletion of entire section.

Chairman Smith: If this deletion passes, housekeeping changes should pass with no problem.

J. Potter: Just wanted to say -this is just Division V and Section 544?

Chairman Smith: Yes. Then vote was taken on amendment to include heading and description of Section 544. Motion passed to amend as stated.

Vote taken on approval of recommendation as amended; Motion passed; recommendation approved as amended as to Section 544.

Section 706(a)(4) -deletion of reference to binding arbitration requirements.

Chairman Smith: Housekeeping deletion; consistent with vote just taken.

F. Dewberry: Submission of contents of county budget: reference to portion dealing with Fire Department budget and "board of arbitration...pursuant to Section 544; Since 544 deleted, this

should be deleted. The deletion of language in this section as indicated was moved; seconded; and, with no discussion, unanimously approved; Motion passed as to Section 706(a)(4).

Section 709: Again, this was housekeeping to delete reference to "...board of arbitration..." within this section pursuant to prior approval of deletion of Section 544. Moved; seconded; and, with no discussion, Motion was passed as to Section 709.

C. Foos: Commented that punctuation will need cleaning up; F. Dewberry stated that it was his assumption that this would be done in final report, which statement was confirmed by Chairman Smith, that typing, grammatical, etc. adjustments would be made.

Section 715: Once again, this recommendation entailed a deletion of reference to binding arbitration contained within this section; Motion made by A. Jablon; seconded by L. Jacobson; unanimous vote of Commission to approve this recommendation.

Motion passed as to Section 715.

Section 801: To delete obsolete language; add new provision. Deleted language in Section 801(2) -to eliminate reference to Director of Planning; PMC determined this to be redundant language; already provided for in Charter as Director of Planning as head of office/department; not necessary to spell out. Motion made by F. Dewberry; seconded by J. Hohman.

J. Sfekas: In view of what was done, deputy should be made plural, paragraph 2. Motion so made by J. Sfekas. A. Jablon also pointed out that we should take out word "for"; Chairman Smith then presented Motion to amend to delete word "for" and pluralize deputy; seconded by Thompson; vote was unanimous in favor; Motion to amend as stated passed.

Vote then taken on recommendation as amended; vote was unanimous in favor; Motion re section 801(2) passed as amended.

F. Dewberry: Section ~ 801, new language, new item 10: "County Administrative Officer, subject to legislative act of County Council, may amend the composition of the exempt service as defined herein."

The PMC unanimously decided that new section should be added to permit legislature to expand exempt service employees; to adequately address following issues raised: whether Deputy Administrative Officers should be included as exempt; whether Deputy Chief of Police and Police Colonel and like officers in Fire Department should be added; and also other management level employees. Seemed to be matter of discussion and concern; would permit Admin Officer, subject to legislative act of Council, to amend composition of exempt service as defined; in F. Dewberry's

personal opinion, would legalize at least part of process of creating new positions in the County because as has been learned in course of discussion, 1,500 to 1,800 part-time employees exist in the County; out of hand; through this process, which goes through County Council, puts out in open and everyone knows the situation. Reasoning behind recommendation.

Lengthy discussion then followed regarding this recommended change to Charter; in response to question raised re could this change to exempt status be made 4 or 5 levels down, F. Dewberry responded that this could be possible, if the Admin Officer so recommended; L. Jacobson expressed problem with giving advise and consent to Council over act of Admin Officer; F. Dewberry responded that checks and balances was a provision wanted by the Committee; additional employees are needed; has been done in past through part-time employees; believes this change is necessary and would be done in light of day; L. Jacobson: this is allowing Admin Officer to amend the Charter with approval of Council? F. Dewberry responded that the recommendation is to put provision within Charter for him to make change.

Chairman Smith: Had problem with wording of this amendment; does amend composition of exempt service, which are examples of exempt service; it's a limitation, listing those people or positions that qualify for exempt service; possible language along lines of another class of employee that qualifies as exempt service, such other personnel as are exempt by legislative act of County Council upon request; not quite sure why Admin Officer is being given this authority.

A. Jablon: Way Charter was written, County Executive did not run day-to-day government; County Exec has taken hands-on operation of government; explains language as written.

Chairman Smith: Asked if reference as stated precludes Co Exec from having right to make these recommendations; A. Jablon: can be done as suggested. Chairman Smith further added that he believes re-wording is necessary to get away from possibility of this being considered carte blanche right to amend; F. Dewberry responded that he had no problem with that.

C. Foos: Felt that at least County Council would have opportunity to look at new positions being created; M. Spicer: believes there are language problems and substance problems; there is list of exempt categories, e.g., department heads, heads of offices, members of boards/commissions, etc.; to just leave language to say "personnel" is too broad; and would it allow for one particular position to be made exempt. F. Dewberry addressed this; several issues were discussed in committee; deputy admin officers which have been created creates problem; this approach seemed best to address this issue, as well as Police, Fire and other management level positions.

R. Barton: Aside from language, requested explanation of process of approval by County Council (F. Dewberry responded to this that the Admin Officer would make appointment, subject to Council approval by legislative act); and asked if process is followed, could the Co Exec and Council extend to exempt, for example, all employees of particular department/office, say Recreation & Parks. In response to second part of question, F. Dewberry responded that the County Council would have to vote on this recommendation, in the light of day; could be recommended.

Extensive discussion followed re what this amendment would ultimately do, including impact on collective bargaining, what would happen to person occupying position which was made part of exempt service (A. Jablon responded that another position would be found for that person); M. Fiedler: afraid this would politicize process /classified service; far reaching; could go down even further in ranks of PD where you don't want politicized positions; classified employees and merit system established by Charter; does not believe need exists to expand ability of Co Exec to change exempt service; questions raised regarding budget submissions and whether changes could be made in that way (S. Guild responded that changes to exempt status could not be made through budget submission); D. Hutchinson commented that if attempt is being made to address those employees such as bureau chiefs /deputy directors, just take them out of merit system; specify those positions; does not believe this will address problem of part-time employees.

F. Dewberry: had requests and discussions re exempt service v. merit system; which people should be exempt, etc; committee came up with this provision to leave to Administration's judgement, subject to legislative approval of County Council. In response to Chairman Smith's question re which level positions would be included, D. Hutchinson responded that it appeared to include the Colonel level in PD and Deputy Chiefs in FD.

Discussion then followed, introduced by M. Spicer, regarding incumbent in position which was recommended and approved as exempt and effect on that person; was clarified that this person would have no option; F. Dewberry responded that this person would be protected by Council who would see that person's benefits and status were protected as long as he/she was in that position. A. Jablon: Would be protected as to benefits, but may not be same position.

J. Hohman: Added that this was why Council approval was included; happening through attrition, if at all. R. Barton: Asked if there was any testimony before PMC re talented classified employees leaving if management positions were subject to becoming exempt? F. Dewberry responded that they had no testimony to this effect.

Chairman Smith: Suggested to amend to read: Such deputy directors and bureau chiefs as are exempted upon request of County Exec by legislative act of County Council, passed by a vote of majority of County Council plus one.

A. Jablon: This also has to address Co Exec's prerogative to staff his own office; not in the Charter; he should make decision as to number of staff he should or should not have. Chairman Smith asked if this could be addressed.

A. Jablon: This should be combined in one section, one amendment; include executive staff; will all be subject to Council review and budget process.

D. Brewster: F. Dewberry indicated at outset that this change would address part-time employees; does not solve this problem at all; part-time situation will continue; section being pulled together to exempt certain management type personnel with approval of County Council; would suggest that language be put in to say "part-time employee."

Discussion followed by C. Thompson and T. Carbo re definition of deputy chiefs and deputy directors; management level positions affected; to include supervisory employees.

Chairman Smith: Would entertain any interest in tabling this issue; would like to see individuals making different suggestions with respect to language to meet with N. West to draft what encompasses general discussion here; to withdraw from tonight's agenda and have anyone who wants input to contact Chairman Smith; to consider at subsequent meeting.

J. Hohman moved to table this item; seconded by Chairman Smith; Motion was passed by majority vote of CRC to table further discussion of amendment as to addition of B01(10) to future meeting, with A. Jablon abstaining.

Section B02(b) -recommending deletion of language; compensation for services except reasonable and necessary expenses; Personnel & Salary Advisory Board -prohibited from receiving any salary at this time; not putting in provision that they receive salary, but this prohibition should be removed.

Discussion ensued between C. Foos and A. Jablon re significance of this change; C. Foos -why not have concerned and dedicated citizens doing voluntary service; A. Jablon -does not prohibit any other group from receiving salary; this only removes this particular prohibition.

Motion made; seconded by J. Sfekas; Motion failed due to lack of majority vote as to amendment to Section 802(b).

Section 802(h) -F. Dewberry: Eliminating obsolete provision; condition under which employees at time of personnel law may acquire merit system status; recommend elimination; seconded.

Chairman Smith: Clarified that this language was no longer needed; F. Dewberry advised that it only applied at the adoption of Personnel law; does not affect future employees in any way.

Vote taken on this amendment; Motion passed as to deletion of Section 802(h).

The CRC next voted on a housekeeping amendment and Motion by F. Dewberry to re-letter paragraphs (i) through (m) within Section 802 as (h) through (l); seconded; Motion passed by unanimous vote.

Section 802(l) of Charter -F. Dewberry -Motion to remove obsolete language referencing director of public safety and changing "bureau" to department. This is to bring Charter in line with current existing conditions (departments instead of bureaus); simply housekeeping. Motion seconded by G. Gallagher; Motion passed upon vote by CRC.

Section 1203 -F. Dewberry: Motion to add new provision /new section 1203; to permit changes to Charter by legislative act for grammatical errors, deletion of obsolete language, language invalid as mandated by Courts, etc; to enable change instead of entire Charter change; can be then done once a year or whenever decided; only in the way of housekeeping items. Motion seconded.

Discussion followed. C. Rush: asked how obsolete language was updated. Advised that this would entail a substantial number of changes; A. Jablon then cited several places within Charter containing grammatical or typographical errors; J. Sfekas inquired if this would include gender neutrality changes; T. Toporovich cited provision existing in Charter to handle gender neutrality question; J. Sfekas added that present provision of Charter indicates that if Charter says "he" this means he or she. G. Gallagher then commented that he finds this proposal "frightening"; to give judgement of 7 people in County to change Charter; put their judgement against 300,000 voters.

F. Dewberry added that the PMC did not want to see all housekeeping amendments listed on ballot; rather consolidate; this is reason why this was recommended.

C.Thompson: Considered concerns expressed by G. Gallagher; if General Assembly passes law, that applies to all counties; if

courts rule in certain case, that would also apply; suggesting that the Charter be amended to comply with these rulings.

M. Spicer: Can that be accomplished by annotation, citing Wakefield and 544; stays in language; it's annotated; when things change down road, it's still on books.

Chairman Smith: At this point, would entertain motion to table this item; will have to work on language to get ideas across; favorable to general idea but want language reworked; Motion so made to table; seconded; upon vote by CRC, Motion passed to table amendment re addition of new section 1203 to future meeting.

Anyone interested in this matter is to contact him in writing with suggestions; will be on future agenda.

This ended the Personnel Matters and Merit System Committee report.

The CRC then returned to Item #5 on Agenda: Summary presentation by G. Gallagher, Chairperson -Government & Ethics Committee (GEC):

GEC careful review in looking at Charter in general:

(1) throughout the Charter, the word "shall" is used, both in terms of what the Co Exec should do; the County Council should do; etc.; but nowhere does it say what will happen if that particular entity does not do what the Charter says "shall" be done; GEC did not address this, but suggested it might be something the CRC Chairman might want to propose to Commission to look at; no provision or ways of enforcing "shall."

(2) whether or not Charter convention should be held periodically; State sets timetable for convention; Federal government sets no timetable; GEC feels that County Charter should reflect Federal position; no timetable should be in place; present system of putting question on ballot should continue.

G. Gallagher continued to explain that other committees were handling their respective sections of Charter; members were spread out among those committees; nothing in the Charter in general that needed attention. Also, GEC looked at charters of 13 counties in Maryland, Virginia and Pennsylvania; J. Helfman went to National Institute of Municipal Law Officers to get model of ethics charter section; model is Baltimore City's; much too lengthy; intent in looking at Charter was to limit it; model after Federal constitution; keep clean and neat. Committee conducted seven meetings; expressed appreciation to B. Infussi, J. Helfman and T. Peddicord, as well as M. Campagna and S. Sietz for assistance provided.

Section 1000 -G. Gallagher: New section; transfers section 1001(d) to top since this seemed to be important to set direction for remaining provisions within Section 1000 on; transferred 1001(d) to top and reworked language; Moved that new Section 1000 be adopted. Seconded by C. Foos.

Discussion: New section provides that Council has to adopt Code of Public Ethics and conflict of interest; almost included in 1001(d); moving to section 1000; incorporated language previously within conflict of interest section.

C. Thompson pointed out that State law requires public ethics law; C. Foos agreed that the Council is mandated to adopt Code of Ethics as did A. Jablon. C. Foos asked if we were going further than the State. Discussion followed regarding the meaning of this provision; that it is almost reflection of Section 1001(d); State law has mandated that we do it; this makes it County law.

Chairman Smith: Puts in Charter that Baltimore County will always have Code of Ethics; if State law were to change, (while unlikely that it will), this Charter provision would require Baltimore County to continue to have what now exists.

Discussion continued, including the term "upon ratification," which generated much comment. C. Foos: gone further than County law; enables the legislative body to create an ethics law, conflict of interest law, and to create within that crimes, offenses, etc.; makes it very broad, enabling.

M. Spicer: Moved to eliminate "upon ratification"; L. Jacobson seconded the Motion; upon vote taken, Motion passed by majority vote.

Vote than taken on recommendation to add new section 1000 as amended; Passed as amended.

Section 1001(a) -G. Gallagher: reorganization of subsections; in last line added word "decision"; Motion made for adoption of this amendment; seconded by C. Foos. A Jablon: new (a)(1) -how would this impact on County employee working for County /involved in contract job involving County; have situations now where several employees (plumbers, carpenters, etc.) want to bid for small County jobs; would this prohibit that. G. Gallagher: Would not prohibit that. Have provision later on where by provision of County Council can do business with County.

C. Thompson: Is not word "further" redundant? G. Gallagher: Responded that "further" means beyond anything that is legal; looked carefully at this section; could conceivably eliminate actually working for the County for money; that's why "further" was included. C. Thompson then moved to delete the word "further"; seconded. Discussion by C. Foos that he does not

believe it makes sense to delete; Chairman Smith believes it makes sense without it; Vote taken; amendment fails.

Chairman Smith then asked for any further discussion as to Section 1001(a)(1). M. Spicer: Why is there a comma after word "compensation" in first line. J. Potter: Also inquired if first provision in 1000 allows Council to define that term, to which G. Gallagher responded that it does.

Chairman Smith: Asked for any further discussion on deletion of referenced comma; vote taken on recommendation; Amendment to section 1001(a) passes with comma removed.

Section 1001(b) -G. Gallagher: Probably largest addition or change is final four lines in (b); reference public disclosure shall include but not be limited to political or personal donation given by those involved --contractor, outsider, County employee, etc.; e.g., when zoning maps come up, Planning Board proposes change which include several properties; names not listed on proposals to citizens; just issue of the Planning Board; one could not hide behind that issue if this amendment adopted; have to disclose.

Lengthy discussion followed regarding the implication of adoption of this amendment; just how much would have to be disclosed? What if a County employee did not know that a neighbor's piece of property was being considered, but the change would be beneficial to that individual as well and he did not disclose this. Chairman Smith commented that this provision only deals with public disclosure including personal and political donations; only talking about County employees that have to make disclosure; believes this may not be the people targeted in the general public's concern on zoning issues; targeting limited class of people. Political contribution is same whether you are County employee or not; requiring disclosure be made by someone who may not know change is being proposed; current law requires anyone who works for the County and is dealing with County in some kind of business to disclose what they are doing and what they are giving and get approval to proceed; seems to protect against inside dealing; whereas this proposal does not; treats certain group of people differently than rest of public. In addition, when referring to "those involved," who does this mean? Does this include Council who must consider resolution of County employee to be able to contract with Public Works to bid contract; contributions to Council as well as contributions to Public Works; not quite sure.

G. Gallagher: In broadest sense, could mean employees who live near property being rezoned; if decision could affect them. T. Peddicord added that this authorizes County employee to come to Council; prohibits benefit from rezoning; Gene's language would add that the disclosure has to include donations.

Discussion again followed, including comments from W. Judge, who questioned if this provision only changes last two sentences; Chairman Smith, who believes this amendment treats County employees differently, to which G. Gallagher added that it does, but "we trust them with our money." H. Lewis called for question.

Vote taken as to this amendment; Motion failed as to approval of amendment to 1001(b); majority opposed.

Section 1001(c) -Motion made by G. Gallagher to approve this amendment; seconded by D. Warren. Highlight -flexibility to eliminate section (c) provisions for penalties; in lieu thereof, Council can adjust penalties.

C. Rush: The first part of paragraph (c) is to permit Council to establish certain standards or ordinances dealing with violations; Also, believes it's the State who would prosecute those laws; intends that in those laws will be provisions for immunity; Does not read it that they (Council) will provide in the statute.

R. Evans: Does not have to be provided in statute; may provide immunity; you have to give immunity to those who will come in to testify; can make them come in to testify. C. Rush added that if the State is prosecuting, why is Council providing immunity. R. Evans: wanted to provide in the Charter for the Council to grant immunity; will not get successful prosecution; take last sentence and put in there -County Council may also include in such criminal statute provision for granting of immunity; C. Rush: Put in after "employee" in line 9, section (c); G. Gallagher seconded.

M. Spicer: Once law is passed, would be in the hands of State's Attorney; decision would be in those hands; Council would authorize State's Attorney to grant that immunity; but Council must establish his right to do so. Discussion then followed as to how the wording should read after the word "employee"; deleting the last sentence; use of word "shall."

Chairman Smith: Asked for any further discussion on amendment; amendment passed.

A. Jablon: Question -looking at first two sentences as being in contradiction of (c); discussion again followed regarding removal of second "shall" to be replaced with "may"; M. Spicer: why should first "shall" be there; A. Jablon moved that the first and second "shall" be changed to "may"; Dyer seconded. Vote taken on Motion to change "shall" to "may"; amendment failed.

Chairman Smith: Any further discussion on penalties as amended, only to amendment which passed (Rush amendment); Motion passed.

Section 1001(d) -housekeeping to delete what is to be included in Section 1000; Motion by G. Gallagher; seconded by Dewberry; Motion passed.

Section 1002.1 -G. Gallagher: to remove phrase "moral turpitude"; Court has ruled no such thing as crime involving moral turpitude; Moves for adoption of amendment; seconded. C. Thompson: suggested adding language to effect of official who receives probation without judgement or enters plea of nolo contendere; have judgement but it's stricken and result is still probation without entry of judgement; G. Gallagher: did not have positive feeling about this; Motion to add this fails; no second.

Chairman Smith: Original language says, after all these things (being convicted, etc.) "shall immediately forfeit"; is not exactly same language; why did committee suggest that language be changed from "automatically forfeit immediately upon conviction" to "immediately forfeit after date of crime." Concerned about official functions from date of crime; would they be null and void.

Amendment then introduced to delete "and involving moral turpitude" and change back to "automatically"; Chairman Smith suggested going back to original language as currently in Charter, then delete in the third line the word "and involving moral turpitude"; that would be recommendation only. Motion made on amendment as stated above, deleting from original language "and involving moral turpitude"; seconded by T. Hickman; Motion passed.

Section 1003 -G. Gallagher moved for adoption of this amendment which would clean up this area and condense 1003 and 1004; seconded by A. Jablon. Discussion followed regarding need for this amendment; T. Carbo pointed out that should State repeal the Freedom of Information Act, this would kick in; A. Jablon suggested deletion of words "and fees for duplications"; already in County Code; H. Lewis seconded this Motion; Motion to amend passed.

Chairman Smith: Asked for any further discussion on recommendation as amended; vote taken; Recommendation approved as amended.

Section 1004 -G. Gallagher: Additional housekeeping amendment to delete section proposed for incorporation with 1003; G. Gallagher moved for adoption; seconded by W. Judge; Motion passed.

This ended the report by the Government and Ethics Committee.

After a short break, discussion followed regarding lateness of hour; length of report to be presented by the Executive Organization and Effectiveness Committee (EC).

Chairman Smith: After discussion with Commission members and D. Hutchinson, Chairperson, Exec Organization & Effectiveness Committee, would entertain motion to adjourn, with executive organization being first on the agenda for February 27th, followed by fiscal and budgetary committee. So moved and seconded. Meeting adjourned at 10:10 p.m.

Respectfully submitted,


Kathleen C. Weidenhammer

CHARTER REVIEW COMMISSION

AGENDA

February 27, 1990

- 1) Call to order/re-introduction of Charter Review Commission members and Ex-Officio members.
- 2) Minutes of Meeting of February 15, 1990.
- 3) Minutes of Meeting of February 21, 1990 - Waived.
- 4) Review of Charter Review Commission procedures.
- 5) Distribution of correspondence received since adoption of Committee Reports and Recommendations.
- 6) Tim Hickman, Committee Chairperson - Summary presentation of Fiscal, Budgetary and Purchasing Matters Committee Report.
- 7) Consideration of the following recommendations:
 - a) Section 311 - to add requirement that County Auditor conduct annual audit of "Authorities" in addition to other offices, departments, etc.; to provide that the County Auditor may conduct audit of any organization funded in whole or in part by County funds; to provide that the County auditor shall cooperate with the external auditor in preparation of external audit (in addition to preparing a report on internal accounting control and other matters for the County Council and the County Executive); to delete specific public information language;
 - b) Section 312 - to make grammatical correction; to provide for cooperation by the external auditor with the County Auditor in expressing one opinion on the County's financial statements prepared by the Office of Finance; to delete specific public information language; to change language from "accountants" to "auditors";
 - c) Section 516 - to provide for an annual financial statement, audited by both the external and County auditors (consistent with proposed Amendments in Subparagraphs (a) and (b) above); to provide for public access to the County's annual statement;
 - d) Section 705(a)(3) - to provide that a borrowing ordinance need not include a reference to when the proposed projects on a Referendum are to be undertaken;

e) Section 705(a)(4) - to provide that the County Council may modify borrowing ordinances previously approved by voter referenda, in order to eliminate any reference to the time periods in which capital projects are to be undertaken (consistent with the proposed Amendment in Subparagraph (d) above) and submit same to referendum as provided in Section 705(a)(3);

f) Section 706(a)(4) - to delete reference to estimates required as a result of binding arbitration;

g) Section 709 - to delete reference to funds budgeted as a result of binding arbitration;

h) Section 709 - to provide authority for County Council to initiate capital projects, subject to Executive veto, which may not be overridden by the County Council;

i) Section 709 - to allow the County Council, upon report by the County Auditor, to adjust the revenue estimates submitted by the County Executive by a vote of a majority of the Council plus one;

j) Section 715 - to delete reference to binding arbitration limitation;

k) Section 715 - to provide that the County Council may, by legislative act, determine what real or leasehold property sales contracts, leases, and service contracts must be specifically approved by the Council;

l) Section 717 - to include long term debt on real or certain personal property as part of all other bond indebtedness, the total of which may not at any one time exceed 10% of the County's accessible tax base;

m) Section 720 - to delete references to the content of bonds (which references are recommended to be included in Section 719 only); to clarify that certain procedures respecting bond sales are allowed; to incorporate certain references to bond issuance authorization now included in Section 719;

n) Section 719 - to substitute current for outmoded Charter language; to delete bond procedures from this Section (which are recommended for inclusion in Section 720 above); to clarify the County's authority with respect to debt service payments;

o) Section 721 - to provide explicit authority for the County to reorganize its fund structure and to dissolve previously created funds;

p) Section 717 - to make spelling correction;

q) Section 901 - to make grammatical correction;

- r) Section 904 - to change "responsible" bidder to "responsive" bidder;
- 8) Don Hutchinson, Committee Chairperson - Summary presentation of the Executive Organization and Effectiveness Committee
- 9) Consideration of the following recommendations;
- a) Section 402(a) - deletion of prohibition of County Executive serving more than two consecutive terms;
 - b) Section 402(a) - changing the date that the County Executive qualifies for office from the first to the third Monday of December;
 - c) Section 402(c) - dividing present one paragraph into two paragraphs (language unchanged);
 - d) Section 402(d)(12)(14) - deletion of archaic language;
 - e) Section 402(d)(15) - allowing the County Executive to appoint personal staff beyond the confidential clerk or secretary presently provided in the Charter and deleting archaic language;
 - f) Section 403(b) - deleting a specific term of service for the County Administrative Officer and providing that said officer shall serve at the pleasure of the County Executive, upon confirmation by the County Council;
 - g) Section 403(c) - housekeeping deletion of method for filling vacancy in term of County Administrative Officer consistent with the recommended change to Section 403(b);
 - h) Section 404(a) - deletion of method of removal of County Administrative Officer consistent with the recommended change to Section 403(b);
 - i) Section 502 - deletion of limitation on more than eighteen (18) County offices and departments in County government;
 - j) Section 503(7) - deletion of office of Data Processing and Management Information as an office in the area of Administrative Services;
 - k) Section 504(4) - deletion of the Department of Traffic Engineering and substitution in lieu thereof, the Department of Environmental Protection and Resource Management;

- l) Section 504(8) - deletion of term "Welfare", and renaming the Department "Social Services";
 - m) Section 504(12) - addition of Department of Community Development;
 - n) Section 524.1(b) - deletion of language applicable to effective date of Charter Amendment;
 - o) Section 524.2 and 524.3 - deletion of these Sections as Office of Data Processing and Management Information no longer exists;
 - p) Section 525 - deletion of requirement that the Director of Public Works be a professional engineer;
 - q) Section 526 - including in the Department of Public Works duties formerly exercised by the Department of Traffic Engineering;
 - r) Section 530 - deletion of nonexistent "bureau of standards";
 - s) Section 534 - deletion of reference to Department of Traffic Engineering director and duties (responsibilities included in recommended change above to Section 526);
 - t) Section 539 - deletion of archaic provisions applicable to initial Charter only;
 - u) Section 540 - Renaming Department of "Welfare" as "Social Services";
 - v) Section 541(a) - deletion of jail and civil defense as responsibilities of the Police Department;
 - w) Section 544 - deletion of "Division 5. Binding Arbitration" in light of Court decision declaring Charter referenda invalid.
- 10) Miscellaneous Matters
- 11) Adjournment

{(c) Penalties. Any officer or employee of the county who violates any of the provisions of this section, or of section 1002, shall, on conviction, be punishable by imprisonment for not more than six months, and shall automatically forfeit his office or employment immediately upon conviction. During and for the period of an 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 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 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.}

(c) PENALTIES. THE COUNTY COUNCIL SHALL FROM TIME TO TIME ENACT WHATEVER CRIMINAL OR CIVIL STATUTES IN ITS JUDGMENT MAY BE NECESSARY TO ENFORCE THIS ARTICLE X. THE COUNTY COUNCIL SHALL ESTABLISH OFFENSES WHICH SHALL BE CRIMINAL MISDEMEANORS, PUNISHING ELECTED OR APPOINTED OFFICERS OR EMPLOYEES OF THE COUNTY WHO VIOLATE THE PROVISIONS OF THIS ARTICLE X AND MAY ALSO ESTABLISH MISDEMEANORS PUNISHING OTHER PERSONS, CORPORATION OR ENTITIES, WHO KNOWINGLY ENGAGE IN PROHIBITED ACTIVITIES WITH ANY ELECTED OR APPOINTED COUNTY OFFICER OR EMPLOYEE. THE COUNTY COUNCIL MAY ALSO INCLUDE IN SUCH CRIMINAL STATUTES A PROVISION FOR THE GRANTING OF IMMUNITY FROM CRIMINAL PROSECUTION TO WITNESSES IN ANY SUCH CRIMINAL CASE. VIOLATIONS OF SUCH CRIMINAL STATUTES SHALL BE PROSECUTED AS OTHER CRIMINAL MISDEMEANORS PURSUANT TO APPLICABLE LAW. PENALTIES FOR SUCH CRIMINAL OFFENSES MAY INCLUDE IMPRISONMENT, FINES, FORFEITURES TO THE COUNTY OF THE ILLEGAL ECONOMIC BENEFITS OR THE VALUE THEREOF RECEIVED BY ANY PERSON IN VIOLATION OF THIS SECTION WHETHER BY AN ELECTED OR APPOINTED COUNTY OFFICIAL OR EMPLOYEE OR BY ANY OTHER PERSON OR PERSONS, CORPORATION OR PARTNERSHIP OR OTHER ENTITIES DEALING WITH SUCH ELECTED OR APPOINTED OFFICER OR EMPLOYEE IN VIOLATION OF THIS ARTICLE X.

COMMENT

The Commission recommends the deletion of specific penalties for violations of the code of ethics as contained in Section 1001 (c) in favor of a broad authorization to the County Council to enact civil or criminal statutes to enforce the Article. Additionally, the Council may include in such statutes a provision for the granting of immunity to witnesses.

{{(d) Conflict of interest. The county council shall adopt conflict of interest laws 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

The substance of this Section is included as part of recommended new Section 1000.

Sec. 1002.1. Elected officials; crimes and penalties.

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 and all pension benefits accrued after the date of the crime 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

The Commission recommends an amendment to Section 1002.1 regarding penalties for convictions of elected officials. The phrase "moral turpitude" should be deleted as unnecessary.

{Sec. 1003. Copies of books and papers on demand.

The county executive shall, with reasonable promptness, furnish to any resident of the county, on demand, a certified copy of any book, account or paper kept by any office or department of the county government, or such part thereof as may be demanded, except police books and papers, and individual personnel records, upon payment in advance by the person demanding the same of a reasonable fee to be prescribed by the county council. This Section shall not apply to any papers prepared by or for use of counsel in any action or proceeding to

MINUTES OF THE
CHARTER REVIEW COMMISSION MEETING
February 27, 1990
County Council Work Session Room

This meeting of the Charter Review Commission (CRC) was convened at 7:05 p.m. For the record, CRC members introduced themselves; following are those members present:

Hon. James T. Smith, Jr.	Dr. Walter Amprey
Judith L. Bushong	Robert Barton
Daniel Brewster	Tom Carbo
Barbara DeGuilmi	Frederick Dewberry
Bonnie Dyer	L. Robert Evans
Hon. Charles Foos	Eugene Gallagher
Mark Fiedler	Tim Hickman
Donald P. Hutchinson	John Hohman
Arnold Jablon, Esquire	Hon. Leonard Jacobson
Wendy Judge	Robert Knatz
Thomas Koch	Henry Lewis
Joseph Potter	Charles Rush
Leonard Sachs	Hon. James Sfekas
Hon. Edgar Silver	Malcolm Spicer, Jr., Esq
Charles Thompson, Jr., Esq	Otis Warren

CRC members not in attendance:

Frank Barrett	Rhoda Dorsey
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Ex-officio members present:

J. Timothy Fagan	Stanley Guild, Jr.
Robert M. Infussi	Thomas Peddicord, Esq.
Frank C. Robey, Jr.	Judith M. Sussman
Thomas Toporovich	Herbert W. Wirts

Nancy C. West, Esq., Office of Law
Kathleen C. Weidenhammer

Chairman Smith opened the meeting with brief discussion regarding minutes of February 15 meeting; had been mailed to members; since everyone has not yet received copy, approval waived at this time. Minutes of February 21, 1990 -waived at this time (per agenda item #3).

Chairman Smith briefly discussed agenda items for meeting; although record indicates that D. Hutchinson would be first committee chairperson heard this evening, previously cleared with Mr. Hutchinson that Fiscal and Budgetary would be taken; then Executive Organization (T. Hickman out of town 2/28/90).

Continuing with the agenda, Chairman Smith summarized procedure to be followed; chairperson gives brief summary of respective committee's report and recommendations, briefly touching on those things to be submitted as individual agenda items tonight; will

call on committee chairperson to start with first recommendation; moved; seconded; more in-depth as to why it should be approved. Once again added that these are tentative approvals, disapprovals, etc; no final action until after March 6 public hearing; also indicated that correspondence received since last meeting was on table; to be reviewed by CRC members at break this evening; would not be making copies of all correspondence for distribution for CRC; review at meeting only. Re tabled items, will be put on agenda if CRC meeting 2/28/90; otherwise, will be considered at meeting of March 13.

F. Dewberry: Questioned if tentatively approved items will be considered at public meeting? Chairman Smith: Responded that they would. J. Bushong: Questioned if all items would be voted on again? Chairman Smith: Anything tentatively recommended will automatically become agenda item on March 13; anything else that CRC members want added, three days before March 13 meeting to Chairman in writing; anything disapproved or new matters brought up at public meeting, etc.; must be requested to be put on agenda three days prior to March 13th with appropriate Charter language; March 13 agenda -all those tentatively approved, tabled items, anything CRC members want included (in specific language three days before meeting).

Chairman Smith then introduced T. Hickman for the purpose of summary presentation of his committee report.

T. Hickman, Chairperson, Fiscal, Budgetary and Purchasing Matters Committee (FBC):

Members of committee included M. Fiedler (replaced C. Hentz who resigned from CRC for personal reasons), J. Potter, L. Sachs (four members); S. Guild and H. Wirts, ex-officio members; also, J. Gibson attended all but one FBC meeting; Paul Snyder, counsel; also commented on support received by M. Garland and S. Seitz. FBC met on nine occasions, one of which was all-day session during Christmas vacation; put in great deal of work; 12 witnesses, all but one or two were members of administration, covering all budget issues before them; came up with seven issues; some appear in 2 or 3 places in report but often are same issue; noted re 706 and 709, 709 was taken care of at last meeting; already acted on; part of 715 has also already been acted on; referencing binding of arbitration.

Section 311 -deals with Office of County Auditor; H. Wirts was Auditor, in office for some time; had recommendations; considered and discussed in detail; inclusion of language -County authorities; as is, boards, commissions and other agencies can be audited, but Authority is not; established through County legislation; therefore should be subject to Auditor. (At this point, Chairman Smith interjected that first recommendation to be considered should be that of including Authority in annual audit; not related to other items in 311; take vote on that first.)

T. Hickman: moved to include "Authorities"; seconded by M. Fiedler.

L. Jacobson: Other than Revenue Authority, what other authority included? T. Hickman: recommended in event other authority created. A. Jablon: Revenue Authority created by State legislation; do we have authority to audit it? T. Hickman: the previous CRC did include recommendation; not acted on by Council; they are part of County government; A. Jablon disagreed; T. Hickman: not aware of any difficulty; M. Spicer: characterized as instrumentality of Baltimore County, body corporate and politic; L. Jacobson: autonomous body; not part of County government; H. Wirts: does not think it would hurt anything to put "Authorities" in there; may be that it does not apply to Revenue Authority, but would think it did; but could apply to other authorities created in the future, even if it does not apply to Revenue Authority.

Chairman Smith: Any further discussion? Vote taken: 24 in favor; recommendation passes.

T. Hickman: Section 311 -Next issue within section deals with redundant reports; County Auditor does report and also outside auditor hired by Administration does report; identical in terms of data provided; County Auditor may also conduct audit of any organization funded in whole or in part by County funds; will cooperate with external auditor; prepare report for Council and Executive. Re two reports: publish identical information; Co Auditor's report is basically Xerox paper to County Council; official report with photographs, etc., same basic numbers by outside auditor; redundant effort; not taking away requirement of Co Auditor; in fact state that he needs to report to Council; but FBC does not think it necessary to have two identical reports prepared listing same things done at same time; Motion for the deletions above, taking away requirement of two reports to permit Co Auditor's report to be outside auditor's report.

L. Sachs: Important to note that Co Auditor is still responsible to submit management type report of any findings he might make; management report rather than audit report done by outside auditor.

L. Jacobson: Audits will be conducted at discretion of Co Auditor?

T. Hickman: What we are speaking to now is general audit (H. Wirts had copy); many pages of spread sheets, same calculations and numbers done by outside auditor; do not need two reports that are identical; still requiring management report; Co Auditor can sign off on published document listing figures; does not have to duplicate.

After further discussion regarding what recommendation means, Chairman Smith asked if everyone understood subject matter of motion; the deletion of: the County Auditor preparing and submitting to County Council and County Executive a complete financial audit; to "conducting an audit." Re cooperating with outside auditor, again having one report as opposed to two.

Vote taken; 25 in favor; Motion passed.

Chairman Smith: Going back to recommendation -County Auditor may also conduct audit of any organization; moved by T. Hickman; seconded by G. Gallagher.

Discussion: basically saying the Council may instruct the Co Auditor to audit outside organization that receives County funds, be it service group providing service, someone receiving grant from County, etc.

L. Jacobson: Questioned language as contained on agenda; does Council authorize or does Co Auditor exercise his discretion? T. Hickman: as directed by majority of Council. D. Hutchinson: Questioned legal requirements for a nonprofit group to allow us to audit; T. Hickman: could not be required, but if receiving County funds, could be asked to have audit done; J. Sussman: Arts & Sciences Commission requires reports; H. Wirts cited examples of organizations which could be asked to have audit done, including those providing assistance on youth drug and alcohol programs, revitalization organizations; but does not include organization rendering service under contract; not connected to any service per se; would allow Co Auditor as directed by majority of Council to go in and make audit on those organizations.

L. Jacobson: Expressed concern re fiscal impact on Co Auditor's staff; H. Wirts: assuming there would be limited number of such audits performed; fiscal impact would be minimal.

Vote taken; 25 in favor; motion passed.

Chairman Smith: one other housekeeping item in 311; will consider that deletion included in matter passed; references report we have eliminated. T. Hickman: has been moved to 516; Chairman Smith: CRC now has voted on everything included in item 7(a) on agenda.

T. Hickman: Section 312 -shall be a joint report; consistent with matter just approved allowing Co Auditor to conduct audit and cooperate with external auditor; T. Hickman: moved for approval; M. Fiedler seconded.

Brief discussion between G. Gallagher and H. Wirts re cooperation between Co Auditor and external auditor; does one check other; H.

Wirts added that this is equal balance; each will still perform separate audit but only render one report; only jurisdiction that has two financial reports.

Vote taken; 28 in favor; motion passed.

Section 516 -Basically not new language or new concept; what was dropped out of 311 is now here; consistent with amendments just passed re 311 and 312 and also picks up providing public access to County's financial statement deleted prior.

T. Hickman moved for approval; M. Fiedler seconded; no discussion.

Vote taken; 27 in favor; motion passed.

Section 705(a)(3) -has two sections to it; would like to discuss first definitions; deals with arbitrage rebates, arbitrage being situation where County borrows money tax free and invests that money until it's spent for capital projects; if more money is made on investments than paying, making money on money; rebate - Federal government says you cannot do that so they want certain amount of money back; that occurs in certain situations -if County specifies a project in Capital Budget and then does not carry out that project for certain period of time; prior, County had 3 years from commitment of funds to actually using funds; Fed Govt changed this to 6 months; reconsidered and has now made it 2 years. T. Hickman referred to this as "lock step" kind of situation; if you remove the commitment in bond authorization bill to be 2-year expenditure (must spend within 2 years), take out of referendum authorization, then you remove liability; by taking year limit off when the Council has appropriation ordinance where it says we are going to commit those dollars within certain period; by having 2-year limit, there is requirement that bonds in appropriation ordinance and in authorization and issuance ordinance are named; and if named and tied to ordinance, we are where clock starts; County has 5-year list; many projects do not go as planned; if commitment made, have to use funds for project, subject to Fed Govt coming in and asking for rebate; County has that liability.

If you take years off, you have issuance ordinance, don't have to name project specifically; have 5-year capital project program and take project as come up and move on them; complicated series of events but purpose of amendment is to remove liability so Fed Govt does not collect /make claim.

L. Jacobson: Questioned if Bond Counsel had been consulted; T. Hickman: Responded that he had been; 10 to 15 hours discussing this with B. Henn, Piper & Marbury, and J. Gibson on phone clearing this up. T. Hickman moved for approval; M. Fiedler seconded.

B. Henn: Change is to provide as needed basis at time of bond issue; technical problems with doing that now; the better able County is to do that, less often County will invest money subject to rebate.

Discussion followed initiated by C. Rush and including T. Hickman and D. Hutchinson regarding the County's method of bond issuance, investment, etc.

Chairman Smith: only called 705(a)(3) but also included (a)(4).

T. Hickman: (3) talks about dealing with projects in the future, whereas (4) is attempt to do same thing retroactively; those issued with dates, will go back to voters one more time and take off dates from earlier referendum; once (4) happens, will happen one time.

A. Jablon: Asked if S. Guild had any thoughts on this; S. Guild responded that he is in favor; amendments provide ability for Co Exec and Co Council to adjust to future Federal law; allows bond issuance ordinance in same form.

Chairman Smith: In light of fact that 705(a)(3) is making change for future ordinances and 705(a)(4) is allowing for retroactive change to past ordinances for same purpose, would it be appropriate to consider both in one motion.

T. Hickman moved; M. Fiedler seconded; 30 in favor; motion passed regarding items 7(d) and 7(e) on agenda.

Note: Item 7(g) on agenda previously approved.

Section 709 -providing authority for County Council re capital projects. T. Hickman moved for approval; J. Potter seconded.

Note: there are three section 709 references; totally different subject matters; will be addressed separately on agenda although added to same section.

T. Hickman: Modest proposal but may be controversial; says that Council should have some say in capital projects and the initiation of projects. The executive branch comes up with capital project proposal, reviewed by Planning Board, reviewed, changed, etc.; then presented to Council; Council cannot do anything to it; cannot initiate project. Added that if Council initiated project and Co Exec did not like same, could veto and this would end matter.

Discussion followed initiated by B. DeGuilmi, who serves on the County's Planning Board, past chairperson of Capital Improvement Program, who detailed process involved in reviewing capital

projects (2 to 3 months, 2 to 3 nights per week by Planning Board); Council members have same opportunity to voice opinion; present projects to be included.

T. Hickman: They are elected officials same as Co Exec; should have ability to start project.

J. Bushong: Bottom line is still same; they would be responsible for finding money in budget some other way? T. Hickman: if voters say \$20 millin for education, if Council initiates project, additional money does not get added.

D. Hutchinson: Capital Budget has significant implications on Operating Budget; if Council determines there is fire station needed at particular location, Co Exec responsible to provide necessary funds and manning, equipment, etc. to operate; would directly impact on Operating Budget; indirectly giving them significant impact on what will be required in next budget.

C. Rush questioned how this would affect debt situation; B. Henn was questioned re this but responded that they were not involved in this particular change; J. Potter clarified point made by D. Hutchinson: if Co Exec does not veto particular capital project, then will have to have funding in budget; Exec can however stand up and veto which cannot be over-ridden by Council; no recourse on part of Council.

D. Brewster: Called for question; in favor of calling question; passed.

Vote taken; 6 in favor; recommendation failed.

Section 709 -allow Council to adjust revenue estimates submitted by Co Exec; T. Hickman moved; L. Sachs seconded.

T. Hickman: recommendation is result of great deal of discussion in responding to request of several Council members before FBC. County has surplus situation in which probably 60 to 70 cents on property tax rolls over every year in surplus; understand there needs to be cushion; Council members who came before FBC suggested too much margin; on April 15 Co Exec submits budget in which he makes revenue estimate prepared in March, early April; Council does not act on that until June 1; has been another quarter of activity to be counted, including revenues from State income tax; fairly modest proposal that says the Council can go to Co Auditor and request that dollars be examined.

D. Hutchinson: If there is issue that will impact County's bond rating, this will be it; convinced of that; in 1984, when he submitted 24 cent increase in new revenues in property taxes, that was done based on comment by rating agencies in New York

(Moody's and Standard & Poor's); fund balance had become a little too low; if we were going to maintain triple A rating, would have to maintain significant fund balance; created as result of revenue estimates from Budget Office and Auditor's Office; if you allow Council to reduce that number, would suggest that you are reducing fund balance and ultimately will have to apply tax increases at some point or ask rating agencies to take another look. In addition, surplus is the first source of revenue for next year's budget; when Budget Office is talking about next year, will project property tax, etc. and the first number is the surplus that automatically gets applied to next year; important source of revenue. Council does have mechanisms; may not budget for certain projects; example cited: snow removal. Each year, will cost about \$3.5 to \$5 million; Council will budget \$.5 to \$1 million; knows will have to come back and tap into surplus; D. Hutchinson also was involved, in last years of term, in solid waste authority; Council cut that; had to honor commitment, \$4 to \$5 million; only funding \$2 million; was to be taken out of surplus. Council does use mechanisms available.

G. Gallagher: Would echo D. Hutchinson's opposition. Commented that County had tremendous County Auditor in H. Wirts; came in with figures that were closer than Co Exec's figures; however, H. Wirts is no longer auditor; do not know what future will bring; also mentioned snow removal issue, in addition to flood which occurred, which could happen again and wipe out \$20 to \$40 million in one day in rebuilding.

H. Wirts: Commented that amount approved by Council for snow removal was amount put in by Co Exec.; also, listed surplus figures as: 1986 -\$50 million; 1987 -\$55 million; 1988 -\$79 million; 1989 -\$67 million this past June.

Considered Executive function; believes others can act responsibly with regard to surplus amounts and amounts needed to protect bond rating; does not believe \$79 million surplus is necessary for triple A bond rating.

T. Hickman: Added that he had failed to mention that it takes 5 votes, majority + 1, to change revenue estimates; cannot be done quickly and simply; takes deliberation.

L. Sachs: If Council takes action, does so at own risk; four members plus one making decision; will be careful that it keeps satisfactory cushion for surplus.

Chairman Smith: May be different way to achieve same; Council can make adjustments to revenue estimates in conservative fashion, namely, by cutting appropriation, cutting tax rates; Co Auditor has predicted that revenue will exceed that of Co Exec's

estimates, approve all expenditures, adjust tax rate because of projections; if you are right, fine; but if not, you have cut appropriations to have balanced budget.

J. Hohman: Numbers sound big; questioned what percentage of County income. H. Wirts: \$1.2 billion overall budget; but approximately 7% of Operating Budget; e.g., when surplus was \$79 million, 11.8%; \$55 million, 7.8%, etc.

T. Carbo: Called question; seconded; motion passed.

Vote taken; 7 in favor; 23 against; recommendation defeated.

Section 715 -agenda item 7(j) -Passed on 2/21/90.

Section 715 -agenda item 7(k) -to allow Council by legislative act to determine which real or leasehold property sales contracts, leases, etc must be approved by Council.

T. Hickman moved; seconded.

T. Hickman: allows in three areas Council by legislative act to change ceiling by which they have to review leasehold property for lease, or purchase, or services; Charter amendment before voters in 1988; failed, but language said "...allow the County Council to increase." May have been misunderstood by voters; basically, Council has testified to full committee that they have been inundated with more and more leases to approve; as inflation makes \$5,000 not as much money now, the figure is a lot less in real dollars; 20 years from now, \$5,000 will be even less; this allows Council to review kind of things they should review and takes dollar limit out of Charter.

Chairman Smith then explained dollar figures as presently in Charter; D. Brewster -spoke in favor of recommendation; has had several conversations with Council Chairman; should let Council determine what measures they are going to consider and not take up endless hours debating trivial matters.

Vote taken; 25 in favor; motion passed.

Section 717 -long term debt on real or certain personal property.

T. Hickman -Moved; G. Gallagher seconded.

T. Hickman: Another issue brought before the FBC on many occasions was what is happening in the world of creative financing and privatization purchasing; lot of considerations; area for further study is how County will respond to creative finance world we are in; one recommendation -intention was to

make statement on issue and make recommendation that these types of financing should be included within 10 percent cap; cannot exceed 10 percent of accessible tax base at any one time; advised by all witnesses that we are below 10 percent cap; should recognize in Charter that this type of financing is going on; would like to move this and if there are questions to be addressed, reconsider on the 13th.

Vote taken; 25 in favor; recommendation passed.

Section 720 -to delete references to content of bonds which were recommended as part of 719 only; allowed bond sale procedures; restructuring of 719 and 720.

T. Hickman moved for approval; J. Potter seconded.

T. Hickman: attempt is to put references to term of bonds in one section and not have separated across two sections; also to enunciate procedures we are doing now, the way County has been operating; for instance, Charter makes mention of serial bonds. The bond market when Charter originally written was simple; now it's complex; dealing with bond counsel; language adopts to present situation but does not leave doors open.

Vote taken; 23 in favor; motion passed.

Section 719 -agenda item 7(n) -substitute current language for outmoded language; delete bond procedures recommended for inclusion in 720; clarify County's authority re debt service.

T. Hickman -moved; G. Gallagher seconded; no discussion.

Vote taken; 23 in favor; motion passed.

Section 721 -allows the County to close up some funds that are open; have dead account; without this kind of language, cannot shut it down; once it's open, it hangs around; need freedom to close.

T. Hickman moved for approval; G. Gallagher seconded; no discussion.

Vote taken; 23 in favor; motion passed.

Section 717 -spelling correction; T. Hickman moved; W. Judge seconded; no discussion.

Vote taken; 21 in favor; motion passed.

Section 901 -grammatical correction -"there" instead of "the."

T. Hickman moved; W. Judge seconded.

Vote taken; 21 in favor; motion passed.

Section 904 -adds "responsive" in front of "responsible bidder."

T. Hickman moved; M. Fiedler seconded.

T. Hickman: J. Deitz, Purchasing Supervisor, advised that other areas of Charter refer to responsive responsible bidder; wanted to bring this section in line with other sections; thought both conditions should apply.

Vote taken; 22 in favor; motion passed.

This concluded report by T. Hickman; CRC then took brief recess at 8:40 p.m.

Meeting reconvened at 8:47 p.m. after recess.

Chairman Smith then introduced D. Hutchinson for presentation of summary report of Executive Organization & Effectiveness Committee (EC).

D. Hutchinson, Chairperson, Executive Organization & Effectiveness Committee:

Committee comprised of W. Amprey; D. Brewster; R. Dorsey; G. Gallagher; L. Jacobson; W. Judge; R. Knatz; and T. Koch. Legal assistance provided by J. Helfman and J. Sturgill; support from B. Shuler. Mentioned that outline on agenda for tonight's meeting incomplete; referred CRC members to refer to report.

In effect committee made determination to deal with executive matters of executive article and did not try to clear up other than in a couple of rare instances the overall Charter; briefly discussed those areas dealt with, including Co Exec's term of office limitation; changing term of Admin Officer's appointment, serve at pleasure of Co Exec; departments listed in Charter, etc.

Chairman Smith: Section 402(a), only with respect to deletion of prohibition of serving more than two consecutive terms.

D. Hutchinson moved; E. Silver seconded.

D. Hutchinson: discussion in committee centered on whether two term limit did in fact restricts voter's right to make determination whether to continue term of Co Exec; felt strongly that if voters so wanted, should be able to extend Co Exec beyond two-term limit; discussed lame-duck government; whether at some

point in second term, Co Exec loses control; voters should be able to choose.

F. Dewberry: Addressed Chairman Smith and CRC members; in opposition to deletion of restriction on Co Exec's term of office; cited two very old and basic principles: (1) "If it ain't broke, don't fix it" -Baltimore County has grown and prospered with two-term restriction on Co Exec; there are no pressing problems that he can see for changing this; and (2) There is no indispensable person -applies to office of Co Exec no matter how good or wonderful he/she may be.

He believes that County as large and diverse as Baltimore Co needs change in guard at least every 8 years; need new ideas from new blood; and most importantly, need new assessment of bureaucracy and department leadership at least every 8 years; to keep bureaucracy from becoming stale, complacent, etc. Need for change at Co Exec level every 8 years is most repeated from citizens when they hear this proposal; unlimited incumbency in office -complacency on part of incumbent, can produce complacency on part of electorate; it's been said they have say through the vote; important to note low voter turnout record in most elections, state-wide and nationally as well; referenced disbelief in lame-duck theory; legislative body will act in best interests of constituency; recent Gallup poll indicates public support in favor of limiting time in office in Congress; last year, 57 percent supported idea; last month, 70 percent supported idea. Comments heard from nonpolitical citizen in County also verify that attitude; would be mistake to lift two-term limitation and respectfully suggests this commission reject proposal.

D. Brewster: listened with great interest to F. Dewberry; great respect but disagrees with conclusions reached; supports recommendation of committee; has a long-term abiding belief in democracy; has no problem with letting people decide; they are ultimate judge, jury; can continue worthwhile public servants or kick them out; would do nothing to limit people's right to choose by free and secret ballot, not with artificial limitation that restricts the people's right to make own choice, what's best for them, for their homes, government, and county. Believes we are putting handcuffs on free operation of democratic process by continuing limitation; would suggest that CRC back up committee.

E. Silver: will not prolong discussion; however, in Baltimore City, because of man who could stay four terms, turned city into showplace of America; will probably go down as one of the greatest mayors in this nation; limitation would have caused great damage to the city; respects F. Dewberry, but D. Brewster hit nail right on head; highest form of democracy is vote of

people; does not have lack of confidence in ability of people to go to polls; many issues bring them to polls; let the people decide.

R. Barton: Concerned when there is no limit on both terms of Co Exec and County Council; have many important changes to strengthen the Co Exec coming up; this Commission can sell those changes and make efficient Co Exec a lot more easily if the people know those strengths will be used with two-term limitation; as to people deciding, it's as much a function of Charter to limit power of majority, whether voters or electorate; limit power of people to vote on People's Counsel; cannot vote for chairman of Council; this is appropriate limitation; maintains balance.

Chairman Smith: will advise body that of all issues that made papers, this was issue that generated most input to his office; not going to suggest that there were 300 calls; was in nature of about 20 calls, mostly around time articles in paper, when committee report came out; all were in opposition to the elimination of the two-term limitation; from perspective as councilman and familiarity with Co Exec and County Council and this issue generally, make own position; opposed to the elimination; would support three-term limitation; takes Co Exec once he/she elected time to get into office, to get programs into position, to get people into position and begin to move forward on plan; takes 1 to 2 years to get things moving; assuming Co Exec runs and is re-elected, program continuity continues into second term; agrees with F. Dewberry re lame-duck syndrome; has nothing to do with qualifications of Co Exec; department heads begin to think of making contacts, etc; three terms would be postponing that significantly into second term; would have 8 or 9 good years of continuity; also consistent with Gallup poll and general thinking re leadership of government in other jurisdictions; suggests that City situation is different; does not want to handcuff voters; however incumbent has opportunity to develop campaign organization /treasury; incumbent can resist primary challenge so voters' choice limited; two terms is too short; unlimited is unhealthy, not consistent with public input; not necessarily in best interests of County for reasons as stated; not going to make amendment because it would be substitute motion; but would make motion for amendment should this amendment fail. Co Exec can come back after break in service and run again.

L. Jacobson: responded to comments that limitation handcuffs voters; in 1974 limitation was imposed by Charter amendment; was not original provision; was voted on in election of 1974; voters have spoken their minds in this issue.

J. Bushong: suggested that they should be allowed to speak their minds again; CRC is beginning of process; will make recommendation to Council; should let voters decide what they want to do.

J. Potter: concern with approach is that he has talked to a few people; they are opposed to this; when they go to vote, will vote against every Charter provision on that ballot.

End of discussion on this recommendation.

Vote taken; 19 in favor of recommendation; passed.

Section 402(a) -date Co Exec qualifies for office.

D. Hutchinson: currently Governor does not take office until January, two months after election; Governor also inherits completed budget of outgoing Governor so does not have to confront immediately construction of his/her own government; Co Exec takes office within a month of election; has difficult time trying to begin to put government together, make appointments, etc; this recommendation gives Co Exec two more weeks to create and structure the government; gives opportunity to settle in a little more and prepare for office.

D. Hutchinson moved for approval; W. Judge seconded; no discussion.

Vote taken; 28 in favor; recommendation passed.

Section 402(c) -housekeeping amendment; no language change.

Moved by D. Hutchinson; seconded by G. Gallagher; 28 in favor; motion passed.

Section 402(d)(12) and (14) -first part of 402(d) is really housekeeping change; takes out references to Board of County Commissioners in couple of sections.

D. Hutchinson moved for approval; W. Judge seconded.

Chairman Smith: questioned whether this really was archaic language or whether it should be left in; if dispute in courts, could use Charter language to see what was allowed.

A. Jablon: did go back and try to find what contracts had to be signed by County Commissioners; were none; nothing in old Code going back to 1958. T. Toporovich: this is striking out obsolete language; this is a consistency in taking out transitional

language. M. Spicer: does not see as phase-in language; sees it as historical language; no harm in leaving it in. D. Hutchinson: all existing language will say that Co Exec will sign on County's behalf all contracts, etc and affix County seal; it's all inclusive; somewhat of safeguard; everyday the Co Exec is given stack of documents to review and sign; process has been that all necessary players review (Law, Planning, etc.), generally does not read for legal sufficiency but looks at project to see if contractor we should be doing business with, etc.

A. Jablon: Based on fact that existing language allows Co Exec to designate signing of contracts of less than \$25,000 to department head if he wants, current Co Exec does not do that; signs everything. Was suggested to change to allow designation due to number of small contracts below \$25,000.

Vote taken; 25 in favor; motion passed.

Section 402(d)(15) -allows Co Exec to appoint personal staff beyond confidential clerk or secretary presently provided.

D. Hutchinson moved for approval; G. Gallagher seconded.

D. Hutchinson: this in effect allows Co Exec to create and structure personal staff, reflecting own administrative needs; Council can then limit appropriations; most appropriate way.

H. Wirts: referenced B01; that also speaks about this; is that also being changed? F. Dewberry: was not proposed by that committee; H. Wirts: should also change B01.

Chairman Smith: B01 is exempt; has been tabled.

Vote taken; 25 in favor; motion passed.

Section 403(b) -deleting specific term of service for Admin Officer; serves at pleasure of Co Exec.

D. Hutchinson moved for approval; E. Silver seconded.

D. Hutchinson: Admin officer has term to carry 6 months beyond term of Co Exec; felt by committee that when Charter was drafted there was skepticism as to what Co Exec might do re structure of County; was perceived that Admin Officer would in effect be County manager, chief operating officer; as position has evolved, there is no reason to carry over; also done to provide continuity; however, new Co Exec could be of different political persuasion, etc; also, could create budgetary problems early in term for new Co Exec; also felt that Admin Officer should serve at pleasure of Co Exec and should be subject to removal by Co

Exec; also provision that provides for Council to act within 60 days once appointment made.

Attempting to reflect reality of last couple of administrations; Co Exec has more responsibility for day-to-day operations.

Vote taken; 20 in favor; recommendation passed.

Section 403(c) -housekeeping -deletion of filling vacancy; does not need manner to fill vacancy.

M. Spicer -as he understands, Admin Officer is still nominated subject to confirmation; why is this just housekeeping? D. Hutchinson: would revert back to provision which provides for appointment. M. Spicer: proposing to delete in its entirety? T. Toporovich: have no provision for vacancy; D. Hutchinson: no term of office; once vacant, reverts back.

Chairman Smith: Believes that M. Spicer is right; If there is a vacancy, it's made in same manner as original appointment.

C. Foos: if you do not have some vote on vacancy provision, whenever there is a vacancy, there shall be someone appointed; if Co Exec wants to run County himself, if you take out all; that office could be left vacant. D. Hutchinson: another Charter provision allows for succession where Budget Director becomes Admin Officer.

Chairman: Moved to amend recommendation to only delete language for the balance of unexpired term, such appointment shall be made in same manner and subject to same, etc.; seconded by J. Hohman; 24 in favor; amendment passed.

Vote taken on recommendation as amended; 22 in favor; recommendation as amended passed.

D. Hutchinson: Added at this point that this issue did generate telephone calls from members of County Council concerned about Admin Officer, role plays with Council.

Section 404(a) -Deletion of method of removal of Admin Officer consistent with change to 403(b).

D. Hutchinson moved for approval; Chairman Smith seconded; no discussion.

Vote taken; 20 in favor; motion passed.

Section 502 -Deletion on limitation of number of departments.

D. Hutchinson moved; D. Warren seconded.

Outlines organizational structure of administrative service; departmental structure will be created by budget; this would give Co Exec flexibility in recognizing changing times.

No further discussion; vote taken; 25 in favor; motion passed.

Section 503(7) -deletion of Data Processing as department.

D. Hutchinson moved; A. Jablon seconded.

D. Hutchinson: during his tenure, eliminated this department; reflective of existing structure; no further discussion.

Vote taken; 27 in favor; motion passed.

Section 504(4)(8)(12) -reflecting government as it exists today; deleting departments that no longer exist, etc.

D. Hutchinson moved; A. Jablon seconded.

Vote taken; 28 in favor; motion passed.

Section 524.1(b) -removal of archaic language from Charter; housekeeping.

D. Hutchinson moved; W. Judge seconded.

No discussion; vote taken; 28 in favor; motion passed.

Section 524.2 and .3 -deletion of sections as Office of Data Processing; cleansing amendment.

D. Hutchinson moved; A. Jablon seconded.

C. Foos -moved to delete Subdivision 7 and title; Chairman Smith seconded; motion to amend passed.

Vote taken on recommendation as amended; D. Hutchinson moved; W. Judge seconded; 28 in favor; motion as amended passed.

Section 525 -deletion of requirement re Director of Public Works be professional engineer.

D. Hutchinson moved; W. Amprey seconded.

D. Hutchinson: substantive change; limits kind of experience must have; was discussed in committee whether valid requirement; DPW Director is manager and would not necessarily have to be trained technician; within administrative bodies of department, technical capabilities and engineering requirements are required; DPW director is responsible for policy, supervision of staff, budget; little more difficult to hire engineer due to difference in salary scales.

J. Potter: how would change affect liability of County were we sued? D. Hutchinson: not at all; various bureaus responsible; also outside architectural and engineering firms; no liability factor. No further discussion.

Vote taken; 26 in favor; motion passed.

Section 526 -including in DPW duties formerly performed by Traffic Engineering; D. Hutchinson moved; E. Silver seconded.

D. Hutchinson: Traffic Engineering was merged within DPW during current administration; provides for continuity in governmental responsibility for this function; no further discussion.

Vote taken; 29 in favor; recommendation passed.

Section 530 -deletion of nonexistent bureau of standards.

D. Hutchinson moved for approval; A. Jablon seconded; no discussion.

Vote taken; 27 in favor; motion passed.

Section 534 -Housekeeping amendment re traffic engineering.

D. Hutchinson moved for approval; W. Judge seconded.

Vote taken; 27 in favor; motion passed.

Section 539 -Deletion of archaic provisions applicable to initial Charter only.

D. Hutchinson moved; L. Jacobson seconded.

No discussion; vote taken; 29 in favor; motion passed.

Section 540 -No substantive change; renaming department from Welfare to Social Services.

D. Hutchinson moved for approval; seconded by B. DeGuilmi.

Vote taken; 28 in favor; motion passed.

Section 541(a) -deletion of jail and civil defense as responsibilities of Police Dept.

D. Hutchinson moved for approval; J. Hohman seconded; no discussion.

Vote taken; 29 in favor; motion passed.

Section 544 -deletion of Division 5, binding arbitration.

Was already taken care of in prior meeting; takes out language referencing binding arbitration; vote taken 2/21/90.

This concluded report by D. Hutchinson.

Chairman Smith: Discussion regarding proxy vote on March 13; will not have meeting on 2/28/90 or 3/01/90.

Next meeting will be March 6, public hearing; at that time, will give specific procedures for proxy voting; one of provisions --to qualify CRC member must attend public hearing on March 6. Re March 13 meeting with agenda, will go over this on March 6.

March 13 agenda will be set up as has been thus far in order of those recommendation tentatively approved; if any Commission member wants additional matter on agenda, must get to Chairman Smith in writing such recommendation with specific language being proposed more than 3 days prior to March 13 meeting (before March 10); March 13 agenda to include anything tentatively approved; anything any Commission member wants to add provided they have specific language or deletions recommended; something that comes up at public hearing which deserves consideration, will be added to agenda upon a Commission member's request, provided specific language has been prepared. Preparation of report will follow; everything that passed on March 13.

Does not anticipate limiting discussion; does not anticipate that vast majority of decisions will have public comment. In response to T. Carbo's question re tabled items, Chairman Smith indicated these will automatically be included on March 13 agenda.

J. Sfekas questioned format of public hearing; Chairman Smith responded --by then we will have copies of all minutes; committee reports have been sent out to various groups and interested

people; minutes will be available with tentative votes, if not in advance, then at public hearing; no time to prepare preliminary reports; CRC is giving public as much as possible with time and resources made available.

Motion to adjourn; seconded; meeting adjourned at 10:05 p.m.

Respectfully submitted,


Kathleen C. Weidenhammer

TENTATIVE

CHARTER REVIEW COMMISSION
AGENDA

March 13, 1990

- 1) Call to order/re-introduction of Charter Review Commission members and Ex-Officio members.
- 2) Minutes of Meetings of February 15, February 21, and February 27, 1990.
- 3) Review of Charter Review Commission procedures, including proxy voting.
- 4) Distribution of written testimony and correspondence received since Commission meeting of February 27, 1990.
- 5) Consideration of the following recommendations/new proposals in the area of Legislative Matters:
 - a) Section 205 - provision for filling vacancy on the Baltimore County Council prior to expiration of the Council term within thirty days of such vacancy by the County Executive of a person submitted to said Executive by the State Central Committee members representing the political party to which the previous Council member belonged, whose Legislative District is wholly or partly included in the Councilmanic District in which the vacancy has occurred.

For _____ Against _____

- 6) Consideration of the following recommendations/new proposals in the area of Planning and Zoning/Economic and Community Development:
 - a) Section 522 - allowing for more than one Deputy Zoning Commissioner per legislative act;

For _____ Against _____
 - b) Section 522.1 - providing for two year review and report regarding implementation of Master Plan;

Commission Member

For _____ Against _____

c) Section 522.1 - providing for adoption of Master Plan pursuant to Section 523;

For _____ Against _____

d) Section 524 - housekeeping consistent with recommendation of allowing for more than one Deputy Zoning Commissioner;

For _____ Against _____

e) Section 601 - to allow County Council to increase number of members of Board of Appeals, not to exceed eleven, with procedures for their appointment and with no more than a majority plus one on the Board being of the same political party;

For _____ Against _____

f) Section 604 - thirty day allowance, rather than fifteen days, for the Board to file with the Circuit Court matters which have been further appealed to the Circuit Court.

For _____ Against _____

7) Consideration of the following recommendations/new proposals in the area of Government and Ethics.

a) Section 1000 - to add new Charter requirement that County Council adopt and maintain a code of Public Ethics and Conflict of Interest Law, (now provided in Section 1001(d) and matters relating thereto;

For _____ Against _____

b) Section 1001(a) - reorganize Prohibitions from three Subsections to two Subsections;

For _____ Against _____

c) New Proposal/Gallagher - Section 1001(b) - to reorganize Subsection (b);

d) Section 1001(c) - eliminate specific penalties and allow such penalties as are adopted from time-to-time by the County Council;

For _____ Against _____

e) Section 1001(d) - housekeeping to delete this Subsection which is proposed to be included in new Section 1000;

For _____ Against _____

f) Section 1002.1 - to delete reference to crimes of moral turpitude;

For _____ Against _____

g) Section 1003 - clarifying and condensing language of present Section 1003 and Section 1004 and re-titling Section as "Freedom of Information";

For _____ Against _____

h) Section 1004 - housekeeping to delete this Section which is proposed to be included in revised Section 1003.

For _____ Against _____

8) Consideration of the following recommendations/new proposals in the area of Personnel Matters and the Merit System:

a) Section 544 - deletion of Section in its entirety in light of Court decision invalidating the Charter initiative on binding arbitration;

For _____ Against _____

b) Section 706(a)(4) - deletion of special reference to binding arbitration requirements;

For _____ Against _____

c) Section 709 - deletion of special reference to binding arbitration requirements;

For _____ Against _____

d) Section 715 - deletion of special reference to binding arbitration;

For _____ Against _____

e) Section 801(2) - deletion of redundant reference to the Director of Planning and provision for more than one Deputy Zoning Commissioner;

For _____ Against _____

f) Tabled Matter/Section 801(10) - new Subsection to authorize the County Administrative Officer, subject to County Council approval, to provide for other exempt service positions in County government;

g) New Proposal/Dewberry - Section 801(10) - new Subsection to authorize the County Administrative Officer, subject to County Council approval, to provide for other exempt service positions in County government;

h) New Proposal/Gallagher - Section 801(10) - new Subsection to authorize County Executive, subject to legislative act of the County Council passed by a vote of a majority plus one, to amend the composition of exempt service for management personnel;

i) Section 802(h) - deletion of language applicable to the beginning of Charter government only;

For _____ Against _____

j) Section 802 - housekeeping amendment to re-letter paragraphs "i" through "m" as "h" through "l";

For _____ Against _____

k) Section 802(1) - deletion of prior approval of Director of Public Safety for fire and police personnel regulations and deletion of reference to "Bureau", and substitution of "Department" in reference to the fire and police;

For _____ Against _____

l) Tabled Matter/Section 1203 - adding new Section to allow housekeeping type amendments to Charter by legislative act of the Council;

m) New Proposal/Dewberry - Section 1203 - adding new Section to allow housekeeping type amendments to Charter by legislative act of the Council;

n) New Proposal/Smith - adding Charter Section to make specific housekeeping type amendments throughout the Charter.

9) Consideration of the following recommendations/new proposals in the area of Fiscal, Budgetary and Purchasing Matters:

a) Section 311 - to add requirement that County Auditor conduct annual audit of "Authorities" in addition to other offices, departments, etc.; to provide that the County Auditor may conduct audit of any organization funded in whole or in part by County funds; to provide that the County auditor shall cooperate with the external auditor in preparation of external audit (in addition to preparing a report on internal accounting control and other matters for the County Council and the County Executive); to delete specific public information language;

For _____ Against _____

b) Section 312 - to make grammatical correction; to provide for cooperation by the external auditor with the County Auditor in expressing one opinion on the County's financial statements prepared by the Office of Finance; to delete specific public information language; to change language from "accountants" to "auditors";

For _____ Against _____

c) Section 516 - to provide for an annual financial statement, audited by both the external and County auditors (consistent with proposed Amendments in Subparagraphs (a) and (b) above); to provide for public access to the County's annual statement;

For _____ Against _____

d) Section 705(a)(3) - to provide that a borrowing ordinance need not include a reference to when the proposed projects on a Referendum are to be undertaken;

For _____ Against _____

e) Section 705(a)(4) - to provide that the County Council may modify borrowing ordinances previously approved by voter referenda, in order to eliminate any reference to the time periods in which capital projects are to be undertaken (consistent with the proposed Amendment in Subparagraph (d) above) and submit same to referendum as provided in Section 705(a)(3);

For _____ Against _____

f) Section 715 - to provide that the County Council may, by legislative act, determine what real or leasehold property sales contracts, leases, and service contracts must be specifically approved by the Council;

For _____ Against _____

g) Section 717 - to include long term debt on real or certain personal property as part of all other bond indebtedness, the total of which may not at any one time exceed 10% of the County's accessible tax base;

For _____ Against _____

h) Section 720 - to delete references to the content of bonds (which references are recommended to be included in Section 719 only); to clarify that certain procedures respecting bond sales are allowed; to incorporate certain references to bond issuance authorization now included in Section 719;

For _____ Against _____

i) Section 719 - to substitute current for outmoded Charter language; to delete bond procedures from this Section (which are recommended for inclusion in Section 720 above); to clarify the County's authority with respect to debt service payments;

For _____ Against _____

j) Section 721 - to provide explicit authority for the County to reorganize its fund structure and to dissolve previously created funds;

For _____ Against _____

k) Section 717 - to make spelling correction;

For _____ Against _____

l) Section 901 - to make grammatical correction;

For _____ Against _____

m) Section 904 - to add "responsive", so Section reads "responsive responsible bidder".

For _____ Against _____

10) Consideration of the following recommendations/new proposals in the area of Executive Organization and Effectiveness:

a) Section 402(a) - deletion of prohibition of County Executive serving more than two consecutive terms;

For _____ Against _____

b) New Proposal/Smith - Section 402(a) - to prohibit County Executive serving more than three consecutive terms;

c) Section 402(a) - changing the date that the County Executive qualifies for office from the first to the third Monday of December;

For _____ Against _____

d) Section 402(c) - dividing present one paragraph into two paragraphs (language unchanged);

For _____ Against _____

e) Section 402(d)(12)(14) - deletion of archaic language;

For _____ Against _____

f) Section 402(d)(15) - allowing the County Executive to appoint personal staff beyond the confidential clerk or secretary presently provided in the Charter and deleting archaic language;

For _____ Against _____

g) Section 403(b) - deleting a specific term of service for the County Administrative Officer and providing that said officer shall serve at the pleasure of the County Executive, upon confirmation by the County Council;

For _____ Against _____

h) Section 403(c) - housekeeping modification to method for filling vacancy in term of County Administrative Officer consistent with the recommended change to Section 403(b);

For _____ Against _____

i) Section 404(a) - deletion of method of removal of County Administrative Officer consistent with the recommended change to Section 403(b);

For _____ Against _____

j) Section 502 - deletion of limitation on more than eighteen (18) County offices and departments in County government;

For _____ Against _____

k) Section 503(7) - deletion of office of Data Processing and Management Information as an office in the area of Administrative Services;

For _____ Against _____

l) Section 504(4) - deletion of the Department of Traffic Engineering and substitution in lieu thereof, the

Department of Environmental Protection and Resource Management;

For _____ Against _____

m) Section 504(8) - deletion of term "Welfare", and renaming the Department "Social Services";

For _____ Against _____

n) Section 504(12) - addition of Department of Community Development;

For _____ Against _____

o) Section 524.1(b) - deletion of language applicable to effective date of Charter Amendment;

For _____ Against _____

p) Section 524.2 and 524.3 - deletion of these Sections as Office of Data Processing and Management Information no longer exists;

For _____ Against _____

q) Section 525 - deletion of requirement that the Director of Public Works be a professional engineer;

For _____ Against _____

r) Section 526 - including in the Department of Public Works duties formerly exercised by the Department of Traffic Engineering;

For _____ Against _____

s) Section 530 - deletion of nonexistent "bureau of standards";

For _____ Against _____

t) Section 534 - deletion of reference to Department of Traffic Engineering director and duties (responsibilities included in recommended change above to Section 526);

For _____ Against _____

u) Section 539 - deletion of archaic provisions
applicable to initial Charter only;

For _____ Against _____

v) Section 540 - Renaming Department of "Welfare" as
"Social Services";

For _____ Against _____

w) Section 541(a) - deletion of jail and civil defense
as responsibilities of the Police Department;

For _____ Against _____

x) Section 544 - deletion of "Division 5. Binding
Arbitration" in light of Court decision declaring Charter
referenda invalid.

For _____ Against _____

11) Miscellaneous Matters

12) Adjournment

CHARTER REVIEW COMMISSION
MINUTES OF THE
Third Public Hearing
County Council Chambers
March 6, 1990

CRC Members in attendance:

Hon. James T. Smith, Jr.	Dr. Walter Amprey
Judith L. Bushong	Frank Barrett
Robert Barton, Esq.	Daniel Brewster
Tom Carbo	Frederick Dewberry
Rhoda Dorsey	Bonnie Dyer
L. Robert Evans	Hon. Charles Foos
Eugene Gallagher	Mark Fiedler
Tim Hickman	Donald F. Hutchinson
John Hohman	Arnold Jablon, Esq.
Hon. Leonard Jacobson	Wendy Judge
Robert Knatz	Thomas Koch
Henry Lewis	Joseph Potter
Charles Thompson, Jr, Esq.	Leonard Sachs
Hon. James Sfekas	Hon. Edgar Silver
Malcolm Spicer, Jr., Esq.	Charles Rush

CRC Members not in attendance:

Barbara DeGuilmi	Otis Warren
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Ex-Officio Members in attendance:

J. Timothy Fagan	Stanley Guild, Jr.
Robert M. Infussi	Thomas Peddicord, Esq.
Judith M. Sussman	Thomas Toporovich
Herbert W. Wirts	

Nancy C. West, Esquire
Kathleen C. Weidenhammer

Chairman Smith called this third and final public hearing to order at 7:10 p.m.; addressed those interested persons who attended, briefly explaining that the CRC has been charged to conduct a comprehensive review of Charter adopted 33 years ago; last submitted for thorough review in 1978; CRC comprised of current and past elected and appointed Baltimore County officials, merit system employees, and other interested persons.

Purpose of this meeting is to invite public participation; input will have material impact on final report submitted to County Council; voters will have final say on any Charter change recommended. CRC is interested in opinions generally; interested in public reaction to those recommended Charter changes tentatively approved by CRC prior to final adoption; to be considered at meeting of March 13 at 7:00 p.m. in the County Council Work Session Room, Old Courthouse.

Available at this meeting were: copies of CRC tentative agenda; copies of all recommendations tentatively approved and finally

considered; minutes of meetings of full Commission of February 15, February 21, and February 27, 1990. Conduct of this public hearing: speakers register with the secretary in the hallway corridor; limit comments to 3 minutes; written documents will be accepted by the Commission to be given to K. Weidenhammer, Commission secretary, said written comments to be supplements to any speaker's verbal statement or as substitute for verbal comments.

Speaker #1: Judith M. Sussman

County Executive's Liaison to CRC

Read letter from County Executive Rasmussen delivered to Chairman Smith earlier in evening; County Executive's position that no further action be taken on issue regarding two-term limit on term of office of Co. Exec; believes issue requires more discussion than time limit permits now; this issue could endanger outcome of other Charter issue; Baltimore County best served by Commission if this matter is tabled.

Speaker #2: Louis Waidner

4139 Whitlesey Avenue 21236

Opposes: -Removal of 2-term limit on office of County Executive
-Increasing number of signatures from 10,000 to 20,000 in order to bring issue to referendum

Supports: -Report to the County Exec and County Council regarding implementation /status of Master Plan

Speaker #3: Edward Gunn

7517 Edgewood Avenue 21234

(32-year resident)

Supports: -Removal of 2-term limit on office of County Executive

Speaker #4: Lou DePazzo

1818 Tyler Road 21222

Opposes: -Allowing County Council to add to Capital Budget
-Tampering with merit system

Also, does not feel strongly regarding two-term limit on County Executive's term of office; however, congratulates County Exec on position taken; would have been perceived as power play

Speaker #5: Betty Shroff

38 Liberty Parkway 21222

Dundalk resident; no specific problems with Charter; spoke on importance of Charter changes, importance of listening to citizens, and importance of CRC members thinking carefully regarding any changes; referenced appointment of CRC members and importance of integrity of CRC regarding recommendations.

Speaker #6: Vince Gardina
(ACCORD)

Opposes: -Increasing number of signatures from 10,000 to 20,000 in order to bring issue to referendum

Supports: -Controls on spending to be included in Charter
-Master Plan taking precedent over zoning maps
-Community input in selection process for Planning Board members

Also, not really opposed regarding issue of 2-term limit for County Exec; but believes should also apply to County Council, if a limitation is going to exist; everyone equal.

Speaker #7: Raymond Geisendaffer
8700 Weidell Avenue 21234

Opposes: -Removal of 2-term limit on term of office of County Exec.

Speaker #8: Mary Carmen
1644 Grayhaven Court 21222

Supports: -Return of surplus dollars to taxpayers
-Right of recall regarding County Exec and County Council

Speaker #9: Irene Machala
2533 Liberty Parkway 21222
(39-year resident)

Opposes: -Removal of 2-term limit on term of office of Co Exec.
-Allowing County Council to put money back into the budget that has been cut
-Increasing number of signatures required from 10,000 to 20,000 in order to bring issue to referendum

Supports: -Voters' right of recall regarding County Council and County Exec by special election

Speaker #10: Gertrude Wallhouser
529 S. 47th Street 21224

Opposes: -Removal of 2-term limit on term of office of Co. Exec.
-Increasing number of signatures required from 10,000 to 20,000 in order to bring issue to referendum

Supports: -Voters' right of recall regarding County Council and Co Exec
-Return of surplus dollars to taxpayer

Speaker #11: Josephine VanCura-Baca
25 Liberty Parkway 21222

Opposes: -Removal of 2-term limit on term of office of
Co. Exec.

Supports: -Return of surplus dollars to taxpayers

Speaker #12: August J. Machale
2533 Liberty Parkway 21222

Opposes: Removal of 2-term limit on term of office of
Co. Exec.

Speaker #13: Don Mason
7018 Eastbrook Avenue 21224

Opposes: -Removal of 2-term limit /Co Exec
-Increasing number of signatures required to
bring issue to referendum

Supports: -Return of surplus dollars to taxpayers in
way of property tax relief
-Right of recall for offices of County Exec
and County Council

Speaker #14: Lou Chumley
225 Ashwood Road 21222
(40-year resident)

Opposes: -Removal of 2-term limit /Co Exec

Speaker #15: Carol Brzowsky
301 Parkwood Road 21222
(50-year resident)

Opposes: -Removal of 2-term limit /Co Exec
-Increasing number of signatures required to
bring issue to referendum

Urged CRC to keep in mind senior citizens, high taxes and
possible loss of homes.

Speaker #16: Violet Frey
2504 McComas Avenue 21222

Opposes: -Removal of 2-term limit /Co Exec

Speaker #17: Frank Frey
2504 McComas Avenue 21222

Opposes: -Removal of 2-term limit /Co Exec
-Raising of taxes

Speaker #18: Raymond Gegner
319 A Savannah Road 21221

Opposes: -Removal of 2-term limit /Co Exec
-Increasing number of signatures required for
referendum

Supports: -Right to recall /County Council and Co Exec
-Return of surplus to Baltimore Co taxpayers

Speaker #19: Donald Cilento

7833 Kentley Road 21222

Opposes: -Removal of 2-term limit /Co Exec

-Allowing County Council to add dollars to budget

Supports: -Return of budget surplus to taxpayers

Speaker #20: Roy L. Gwinn

6771 Woodly Road 21222

Opposes: -Removal of 2-term limit /Co Exec

Supports: -Surplus returned to taxpayers

Speaker #21: Walter Menear

8150 Bullneck Road 21222

Supports: -Most of what has been said this evening; if Charter is changed, should have one-term limit for Co Exec

Speaker #22: Joe Ewing

8245 Peach Orchard Road 21222

Opposes: -Removal of 2-term limit /Co Exec

Supports: -Right to recall /County Council and Co Exec

Speaker #23: Thurmon Roberts

3428 McShane Way 21222

Opposes: -Removal of 2-term limit /Co Exec

Speaker #24: Charles Bailey

2319 Foxleigh Road Timonium 21093

Supports: -Removal of 2-term limit /Co Exec; or in alternative, consideration of 3-term limit

Speaker #25: Waring Justis

500 Dogwood Lane 21204

(38-year resident)

Opposes: -Removal of 2-term limit /Co Exec

Supports: -Increasing taxes by no more than the cost of living

Speaker #26: Harry Bosse

1302 Willow Road 21222

(45-year resident)

Opposes: -Removal of 2-term limit /Co Exec

Speaker #27: William J. Ritter

7129 Baltimore Street 21224

Opposes: -Removal of 2-term limit /Co Exec

Supports: -Lower property taxes; consideration to be given to what is needed to run County v. property taxes /salaries of appointed people

Speaker #28: Henry Przybylowicz

1748 Stengel Avenue 21222

Opposes: -Removal of 2-term limit /Co Exec

-Allowing County Council to add dollars to budget

Supports: -Return of surplus to taxpayers

Speaker #29: Diane Carliner

611 Anneslie Road 21204

(Republican Women's Group)

Opposes: -Removal of 2-term limit /Co Exec

-Increase in number of non-classified positions

Supports: -Limit on government spending to be incorporated into Charter

-Budget surplus returned to taxpayers after emergencies, if any, are met

-New departments/offices brought to referendum

-Director of Public Works should be Professional Engineer

-Board of Appeals -should have own hearing room before decision is made to increase membership

-Decision to keep County Council at 7 members /addition of staff is more efficient

Speaker #30: Miram Cholewczynski

7208 Stratton Way 21224

Opposes: -Removal of 2-term limit /Co Exec

-Increasing number of signatures required to bring issue to referendum

-Tampering with merit system

Supports: -Limit on term of office /County Council

Speaker #31: Steven Awalt

7127 Rutherford

(Rodgers Forge resident; speaking on behalf of self and Baltimore County Classified Employees Association and Maryland Classified Employees Association /BCCEA and MCEA) Represents large number of County employees, who

Oppose: -Changes proposed to Section 801; merit system law gives County stability; insures

same good service day after day, year after year, administration after administration; proposed changes could de-stabilize County employment; 30 years of good County service; should not make political what has been non-political
-Also oppose alternative amendments to B01; do not address problems that proposed change could cause

Speaker #32: Jacqueline Philpot
3446 Liberty Parkway 21222

Opposes: -Increasing number of signatures needed to bring issue to referendum
-Removal of 2-term limit /Co Exec; supports position taken by Co Exec.
Supports: -Right for recall

Speaker #33: Charles Stewart
12605 Mt. Laurel Court Reisterstown 21136
(First VP /Reisterstown/Owings Mills/Glyndon Assn)
After meeting, members brought to attention following concerns:
Oppose: -Removal of 2-term limit
-Increasing number of signatures from 10,000 to 20,000
Will also be sending letter on referendum issue.

Speaker #34: Robert W. Gifford
515 Spring Avenue Lutherville 21093
1) Urges inclusion of some kind of affordability limits regarding budget
2) Issue of number of signatures needed on referendum -might better be resolved if made percentage of registered voters

Speaker #35: Phil Friedel
620 Maryland 21221
Agrees with what has been said; also addressed matter of Back River treatment plant and impact on Essex area residents.

Speaker #36: Jim Skarda
7765 North Point Creek Road 21219
Commented that government is a business; should be run like a business.

Speaker #37: Rocky Venegas
2600 Taylor Avenue 21234
Opposes: -Revisions to Section 402(a), opposes lifting 2-term limit
-Increasing number of signatures to 20,000 for referendum

Speaker #38: Newton Williams

700 Court Towers 21204

(Attorney in Towson since 1963)

Supports: -Increase in number of deputy zoning commissioners to reflect increase in cases heard by ZC and DZC (approx 250 in past to present 500 to 600 cases per year)
-Agrees with Diane Carliner's statement - Board of Appeals should have own hearing room; increase of members

Speaker #39: Mary Mason

7018 Eastbrook Avenue 21224

Opposes: -Removal of 2-term limit /Co Exec and questions why decision made
-County Council re-inserting dollars into the budget
-Changes proposed in merit system
-Increasing number of signatures for issue to be brought to referendum
Supports: -Return of budget surplus to taxpayers through reduced property tax rates
-Right to recall for County Exec and County Council

Speaker #40: Robert Knoerlein

3418 LoganView Drive 21222

Opposes: -Proposed section 801(10) re establishing additional exempt positions; merit system has worked effectively, interview process, examination process; getting qualified people for jobs; taking merit positions to exempt status reduces promotional ability; would threaten integrity of merit system.

Speaker #41: Linda Matule

117 Park Drive 21228

(Southwest Coalition; represents that organization)

Comments: -Re Section 524.1 -People's Counsel be required to defend comprehensive zoning maps and Master Plan; law allows discretion in selection of cases; asking that in matters involving zoning maps and Master Plan, not have discretion.
-Re Section 525 -recommend retention of existing requirement that Director of Public Works be registered Professional Engineer
-Re Section 522 -recommend limit of no more than three deputy zoning commissioners
-Re Section 522.1 -support proposal to require Office of Planning & Zoning to monitor implementation of Master Plan and

report every 2 years to Co Exec and County Council

-Re Section 601 -recommend that the County Council by legislative act may increase members on Board of Appeals; number equal to number of Council members; return to form; practice of hearing room reserved for CBA hearings only.

Speaker #42: John Manley

402 Montemar Avenue 21228

(Southwest Coalition representative)

Opposes: -Removal of 2-term limit /Co Exec

-Re Section 709 -oppose proposal granting County Council authority to initiate capital budget projects and change revenue estimates
-Depletion of surplus; affects bond rating

Supports: -Re vacancies /County Council -should be filled within 30 days; should require public forum; 500 signatures for nomination; final ballot must show that recommended candidates were considered in final selection; people should have input.

Speaker #43: Michele Krabbe

8414 Dogwood Road 21207

Supports: -Proposal 709 /for County Council to increase budget when necessary, especially when geared toward Education; cited disrepair and overcrowding of schools.

Speaker #44: Oscar Keys

131 E. Padonia Road Timonium 21093

(raised in Dundalk; County employee for 32 years)

Opposes: -section 10 of personnal law under 801; beginning of possible cancerous impact on merit system; survival of County through past traumas because of soundness of merit system; exempt service should be amended in specifics.

Speaker #45: Carole Mackrell

7800 York Road 21204

Opposes: -Removal of 2-term limit /Co Exec; referenced 22nd amendment limiting terms of president

Speaker #46: Ed Tolley

7 Hickory Hill Road Cockeysville 21030

Opposes: -Removal of 2-term limit /Co Exec
-Increase in number of signatures

Supports: -Lower property taxes
-Only minor changes

Speaker #47: Dick Bennet

1206 Berwick Road 21204

(Chairman, Baltimore County Republican Party)

Opposes: -Removal of 2-term limit /Co Exec; once this limit has been imposed, history will show it has never been removed

Speaker #48: Douglas Riley

623 Wilton Road 21204

Opposes: -Removal of 2-term limit /Co Exec

Supports: -Provision in Charter re affordability provision; Spending Affordability Committee; cited increase in budget

Speaker #49: Richmond Manigault

3815 Brentford Road Randallstown 21133

Supports: -Removal of 2-term limit /Co Exec; should be unlimited; cited County Council and ability by voters to remove from office via voting process

Speaker #50: K. Turner

618 W. Chesapeake Avenue 21204

(ABCs)

Requests reconsideration of wording of following:

-205 -filling of vacancy within County Council; should also consider County Exec and Admin Officer vacancies being filled by special election

-601 -allowing County Council to increase # of CBA members; should only be increased to match number of Council members

-1203 -housekeeping amendments /allowing housekeeping amendments to Charter /would like definition of "housekeeping"

-311 -County Auditor -not "may" but "should" conduct audit of any organization funded in whole or in part by County funds

Questions: deletion of specific public information language

-715: What does this say?

-402 -deletion of prohibition of terms -opposed; proposal of 3 consecutive terms is new; has not been considered by people; that would probably be opposed also; should probably consider 12-year limit on Council members.

-Concerned about position of Admin Officer; agree serves at pleasure of Co Exec; questions original purpose of Admin Officer "carry over" term; should be reviewed

-502 -deleting limitation on number of departments and offices -need more information; believes limit is needed

Speaker #51: Mac Steen

2003 Hunter Mill Road White Hall 21161

Commented on increased assessment, discussed taxes; reviewed charter amendments /see changes as way of increasing power structure.

Speaker #52: Harry Coulter

228 Deer Fox Lane Timonium 21093

(as private citizen and also as member of SMC Group, officer and member of Board of Directors; has not been given direction to speak for SMC but as citizen)

Regarding BO1(10), merit system: if intend to take classifications out of merit system, strongly suggest that those positions be identified in advance and identified in the Charter.

Speaker #53: Joe Hunter

3332 Northmont 21207

Supports: -Removal of 2-term limit /Co Exec

Speaker #54: Harold Gordon

6604 Alter Street 21207

Supports: -Removal of 2-term limit /Co Exec

Speaker #55: Carl Warren

3742 Patterson Avenue 21207

Opposes: -Removal of 2-term limit /Co Exec; favors limitation for County Council members also
-Increase in number of signatures to 20,000 for referendum; should be tied to percentage; would not matter if County grows or decreases; percentage will still be valid.

Speaker #56: Phyllis Waidner

4139 Whittlesey Avenue 21236

Commented on excessive taxation; referenced Charter changes /does not believe will help County; give power back to people from County Exec and County Council; ready for 6 years for Co Exec; 70% of people on February 14 wanted to limit terms of Congressmen.

Speaker #57: Mike Morrison

3207 Windsor Boulevard

Supports: -Removal of 2-term limit /Co Exec; supports unlimited term

This concluded comments by those individuals who had signed up to speak prior to meeting; Chairman Smith then invited any other persons wishing to comment on Charter review to do so.

Speaker #58: Harold Lloyd

Northeast Baltimore County /on behalf of Property Taxpayers United (2,000 member organization)

Oppose: -Removal of 2-term limit /Co Exec
-Continued expansion and growth of government
-Increasing number of signatures necessary to place issue on referendum
-Increases in taxation

Support: -lower taxes and government control

Speaker #59: Dan McHugh

Supports: -Effective measures to control spending in government
-Government efficiency /more like business
/spend within budget

Speaker #60: Bruce Kesling

3425 Santee Road 21236

(had signed up earlier; not here when called)

Supports: -Removal of 2-term limit /Co Exec; should let voters decide

Speaker #61: Mark Hilby


Opposes: -Changes in merit system; important to remain in place as is; allow capable people to run government for people.

As there were no additional speakers, Chairman Smith, on behalf of Commission and Baltimore County, thanked those who attended this final public hearing, for their input regarding Charter review. Next CRC meeting is March 13, 1990 in the County Council Work Session Room; anyone may attend.

Written comments were submitted by League of Women Voters; letter from Chamber of Commerce, Reisterstown/Owings Mills/Glyndon; and a letter from County Executive Dennis Rasmussen.

This third and final public hearing was adjourned at 9:07 p.m.

Respectfully submitted,


Kathleen C. Weidenhammer

CHARTER REVIEW COMMISSION

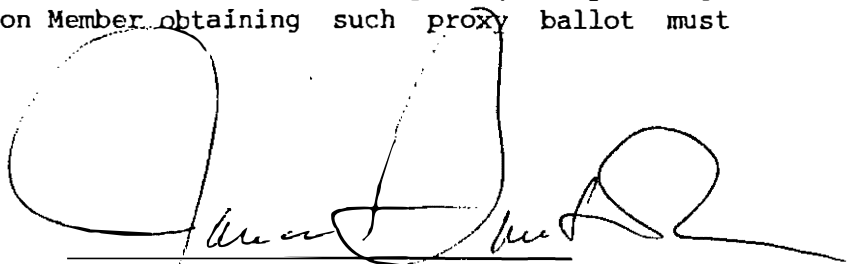
PROXY RULES FOR MEETING OF MARCH 13, 1990

In order to qualify to participate by proxy in the Commission's final vote on the tentative recommendations made at the Commission Meetings on February 15, 21 and 27, 1990, a Commission Member must have attended the Public Hearing on March 6, 1990, and must have delivered their signed proxy ballot to the Commission Chairman no later than 6:45 p.m. on March 13, 1990.

The proxy ballot will be the Tentative Agenda for the March 13, 1990 meeting, on which provision has been made for voting "For" or "Against" the Commission recommendations which have previously received tentative approval only. Such ballots may be received, upon request, from the Commission Chairperson, and, when returned to the Commission Chairperson, must be signed on each page by the Commission Member casting such proxy ballot.

The only matters upon which a proxy vote may be counted are matters which were tentatively recommended at the Commission Meetings on February 15, 21 and 27, 1990, and only if such recommendations are voted on in the same final form as tentatively approved. If any further amendments are made to any tentative recommendation, a proxy vote cast "For" or "Against" such tentative recommendation will not be counted.

Proxy ballots will be available at the Chambers of James T. Smith, Jr., Room 373, County County Courts Building, Towson, Maryland, 21204, between the hours of 9:00 a.m. and 5:00 p.m. (Monday through Friday), and the Commission Member obtaining such proxy ballot must sign for same in person.

A large, stylized handwritten signature in black ink, appearing to read 'James T. Smith, Jr.', is written over a horizontal line.

JAMES T. SMITH, JR.
CHARTER REVIEW COMMISSION CHAIRPERSON

CHARTER REVIEW COMMISSION
AGENDA

March 13, 1990

- 1) Call to order/re-introduction of Charter Review Commission members and Ex-Officio members.
- 2) Minutes of Meetings of February 15, February 21, and February 27, 1990.
- 3) Review of Charter Review Commission procedures, including proxy voting.
- 4) Distribution of written testimony and correspondence received since Commission meeting of February 27, 1990.
- 5) Consideration of the following recommendations/new proposals in the area of Legislative Matters:
 - a) Section 205 - provision for filling vacancy on the Baltimore County Council prior to expiration of the Council term within thirty days of such vacancy by the County Executive of a person submitted to said Executive by the State Central Committee members representing the political party to which the previous Council member belonged, whose Legislative District is wholly or partly included in the Councilmanic District in which the vacancy has occurred.
- 6) Consideration of the following recommendations/new proposals in the area of Planning and Zoning/Economic and Community Development:
 - a) Section 522 - allowing for more than one Deputy Zoning Commissioner per legislative act;
 - b) Section 522.1 - providing for two year review and report regarding implementation of Master Plan;
 - c) Section 522.1 - providing for adoption of Master Plan pursuant to Section 523;
 - d) Section 524 - housekeeping consistent with recommendation of allowing for more than one Deputy Zoning Commissioner;

- e) Section 601 - to allow County Council to increase number of members of Board of Appeals, not to exceed eleven, with procedures for their appointment and with no more than a majority plus one on the Board being of the same political party;
 - f) Section 604 - thirty day allowance, rather than fifteen days, for the Board to file with the Circuit Court matters which have been further appealed to the Circuit Court.
- 7) Consideration of the following recommendations/new proposals in the area of Government and Ethics.
- a) Section 1000 - to add new Charter requirement that County Council adopt and maintain a code of Public Ethics and Conflict of Interest Law, (now provided in Section 1001(d) and matters relating thereto;
 - b) Section 1001(a) - reorganize Prohibitions from three Subsections to two Subsections;
 - c) New Proposal/Gallagher - Section 1001(b) - to reorganize Subsection (b);
 - d) Section 1001(c) - eliminate specific penalties and allow such penalties as are adopted from time-to-time by the County Council;
 - e) Section 1001(d) - housekeeping to delete this Subsection which is proposed to be included in new Section 1000;
 - f) Section 1002.1 - to delete reference to crimes of moral turpitude;
 - g) Section 1003 - clarifying and condensing language of present Section 1003 and Section 1004 and re-titling Section as "Freedom of Information";
 - h) Section 1004 - housekeeping to delete this Section which is proposed to be included in revised Section 1003.
- 8) Consideration of the following recommendations/new proposals in the area of Personnel Matters and the Merit System:
- a) Section 544 - deletion of Section in its entirety in light of Court decision invalidating the Charter initiative on binding arbitration;

- b) Section 706(a)(4) - deletion of special reference to binding arbitration requirements;
- c) Section 709 - deletion of special reference to binding arbitration requirements;
- d) Section 715 - deletion of special reference to binding arbitration;
- e) Section 801(2) - deletion of redundant reference to the Director of Planning and provision for more than one Deputy Zoning Commissioner;
- f) Tabled Matter/Section 801(10) - new Subsection to authorize the County Administrative Officer, subject to County Council approval, to provide for other exempt service positions in County government;
- g) New Proposal/Dewberry - Section 801(10) - new Subsection to authorize the County Administrative Officer, subject to County Council approval, to provide for other exempt service positions in County government;
- h) New Proposal/Gallagher - Section 801(10) - new Subsection to authorize County Executive, subject to legislative act of the County Council passed by a vote of a majority plus one, to amend the composition of exempt service for management personnel;
- i) Section 802(h) - deletion of language applicable to the beginning of Charter government only;
- j) Section 802 - housekeeping amendment to re-letter paragraphs "i" through "m" as "h" through "l";
- k) Section 802(1) - deletion of prior approval of Director of Public Safety for fire and police personnel regulations and deletion of reference to "Bureau", and substitution of "Department" in reference to the fire and police;
- l) Tabled Matter/Section 1203 - adding new Section to allow housekeeping type amendments to Charter by legislative act of the Council;
- m) New Proposal/Dewberry - Section 1203 - adding new Section to allow housekeeping type amendments to Charter by legislative act of the Council;
- n) New Proposal/Smith - adding Charter Section to make specific housekeeping type amendments throughout the Charter.

9) Consideration of the following recommendations/new proposals in the area of Fiscal, Budgetary and Purchasing Matters:

a) Section 311 - to add requirement that County Auditor conduct annual audit of "Authorities" in addition to other offices, departments, etc.; to provide that the County Auditor may conduct audit of any organization funded in whole or in part by County funds; to provide that the County auditor shall cooperate with the external auditor in preparation of external audit (in addition to preparing a report on internal accounting control and other matters for the County Council and the County Executive); to delete specific public information language;

b) Section 312 - to make grammatical correction; to provide for cooperation by the external auditor with the County Auditor in expressing one opinion on the County's financial statements prepared by the Office of Finance; to delete specific public information language; to change language from "accountants" to "auditors";

c) Section 516 - to provide for an annual financial statement, audited by both the external and County auditors (consistent with proposed Amendments in Subparagraphs (a) and (b) above); to provide for public access to the County's annual statement;

d) Section 705(a)(3) - to provide that a borrowing ordinance need not include a reference to when the proposed projects on a Referendum are to be undertaken;

e) Section 705(a)(4) - to provide that the County Council may modify borrowing ordinances previously approved by voter referenda, in order to eliminate any reference to the time periods in which capital projects are to be undertaken (consistent with the proposed Amendment in Subparagraph (d) above) and submit same to referendum as provided in Section 705(a)(3);

f) Section 715 - to provide that the County Council may, by legislative act, determine what real or leasehold property sales contracts, leases, and service contracts must be specifically approved by the Council;

g) Section 717 - to include long term debt on real or certain personal property as part of all other bond indebtedness, the total of which may not at any one time exceed 10% of the County's accessible tax base;

h) New Proposal/Jablon - Bond Counsel's suggestion of Charter change language to include long term debt on real

or certain personal property as part of all other bond indebtedness, the total of which may not at any one time exceed 10% of the County's accessible tax base;

i) Section 720 - to delete references to the content of bonds (which references are recommended to be included in Section 719 only); to clarify that certain procedures respecting bond sales are allowed; to incorporate certain references to bond issuance authorization now included in Section 719;

j) Section 719 - to substitute current for outmoded Charter language; to delete bond procedures from this Section (which are recommended for inclusion in Section 720 above); to clarify the County's authority with respect to debt service payments;

k) Section 721 - to provide explicit authority for the County to reorganize its fund structure and to dissolve previously created funds;

l) Section 717 - to make spelling correction;

m) Section 901 - to make grammatical correction;

n) Section 904 - to add "responsive", so Section reads "responsive responsible bidder".

10) Consideration of the following recommendations/new proposals in the area of Executive Organization and Effectiveness:

a) Section 402(a) - deletion of prohibition of County Executive serving more than two consecutive terms;

b) New Proposal/Smith - Section 402(a) - to prohibit County Executive serving more than three consecutive terms;

c) Section 402(a) - changing the date that the County Executive qualifies for office from the first to the third Monday of December;

d) Section 402(c) - dividing present one paragraph into two paragraphs (language unchanged);

e) Section 402(d)(12)(14) - deletion of archaic language;

f) Section 402(d)(15) - allowing the County Executive to appoint personal staff beyond the confidential clerk or secretary presently provided in the Charter and deleting archaic language;

- g) Section 403(b) - deleting a specific term of service for the County Administrative Officer and providing that said officer shall serve at the pleasure of the County Executive, upon confirmation by the County Council;
- h) Section 403(c) - housekeeping modification to method for filling vacancy in term of County Administrative Officer consistent with the recommended change to Section 403(b);
- i) Section 404(a) - deletion of method of removal of County Administrative Officer consistent with the recommended change to Section 403(b);
- j) Section 502 - deletion of limitation on more than eighteen (18) County offices and departments in County government;
- k) Section 503(7) - deletion of office of Data Processing and Management Information as an office in the area of Administrative Services;
- l) Section 504(4) - deletion of the Department of Traffic Engineering and substitution in lieu thereof, the Department of Environmental Protection and Resource Management;
- m) Section 504(8) - deletion of term "Welfare", and renaming the Department "Social Services";
- n) Section 504(12) - addition of Department of Community Development;
- o) Section 524.1(b) - deletion of language applicable to effective date of Charter Amendment;
- p) Section 524.2 and 524.3 - deletion of these Sections as Office of Data Processing and Management Information no longer exists;
- q) Section 525 - deletion of requirement that the Director of Public Works be a professional engineer;
- r) Section 526 - including in the Department of Public Works duties formerly exercised by the Department of Traffic Engineering;
- s) Section 530 - deletion of nonexistent "bureau of standards";
- t) Section 534 - deletion of reference to Department of Traffic Engineering director and duties (responsibilities included in recommended change above to Section 526);

- u) Section 539 - deletion of archaic provisions applicable to initial Charter only;
- v) Section 540 - Renaming Department of "Welfare" as "Social Services";
- w) Section 541(a) - deletion of jail and civil defense as responsibilities of the Police Department;
- x) Section 544 - deletion of "Division 5. Binding Arbitration" in light of Court decision declaring Charter referenda invalid.

11) Miscellaneous Matters

12) Adjournment

PRELIMINARY DRAFT
March 5, 1990

March , 1990

Arnold Jablon, Esquire
County Attorney
Baltimore County, Maryland
Office of Law
Baltimore County Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Proposed Report of the Fiscal, Budgetary
and Purchasing Matters Committee of the
Baltimore County Charter Review Commission
(the "Report")

Dear Arnold:

During our telephone conversation last Thursday, you asked that I provide you with a brief analysis of the unintended effect of the proposed revisions to Section 717 of the Charter, contained in Section VI of the Report, and our proposed revisions to remedy the problem.

Section 717 of the Charter, as currently written, limits the aggregate amount of the County's bonds and other evidences of indebtedness to 10% of the County's assessable base. The proposed amendment would add to the obligations so

limited "long term debt on real or personal property subject to a security interest." The Report's commentary indicates that this provision is intended to encompass "privatization" financing and cites as a specific example the recent acquisition of the Blue Cross/Blue Shield building for use as the new Public Safety Headquarters.

Our concern is that, in the form now contained in the Report, this proposed amendment could have the legal effect of subjecting all financing that is subject to annual appropriation to the mandatory referendum requirements for borrowing contained in Section 718 of the Charter, a consequence far beyond the stated intention of subjecting "privatization" to the 10% limitation. At the least, I believe a test case and ruling by the Court of Appeals would eventually be required to clarify the situation if the proposed amendments to Section 717 in their present form were adopted.

The obligations currently subject to the limitations of Section 717 are those defined as "debt" for State constitutional and statutory purposes, which, in principal part, consists of full faith and credit indebtedness to which the County's taxing power is pledged. Such indebtedness must be approved by the voters at referendum before it can be incurred under Section 718 of the Charter. In contrast, obligations subject to annual appropriation of the sort

exemplified by the Blue Cross/Blue Shield transaction are not regarded as constitutional "debt" because the County Council retains the right under the terms of such obligations to choose annually whether or not to appropriate funds to pay them in the succeeding fiscal year.

If the proposed amendment to Section 717 and to the related comment were to be adopted in their present form, the strong implication would be created that the County had chosen, although not required to do so by the Maryland Constitution or laws, to put obligations subject to annual appropriation in the same category as full faith and credit indebtedness for all purposes, including mandatory referendum requirements. This implication would follow both from the characterization of such obligations as "debt" in the proposed amendment and the commentary and from the fact that such obligations would have been included without further clarification in the 10%

limitation previously reserved solely for indebtedness of the type that the Charter and the Express Powers Act require to be submitted to referendum. The limitation on amount of indebtedness and the borrowing referendum requirement are set forth in consecutive sections of the County Charter and are joined in the same subsection of the Express Powers Act (Section 5(P) of Article 25 of the Maryland Annotated Code), and both refer to "bonds" and "other evidence

of indebtedness," indicating that the two provisions are intended to cover the same types of obligations.

The implications of making obligations that are subject to annual appropriation subject to mandatory referendum are obviously far-reaching. Such a provision would presumably reach small lease-purchases from equipment vendors as well as major construction projects and would impose restrictions on Baltimore County's financing alternatives not imposed on any other jurisdiction in the State. At your request, there is enclosed a possible revision to the amendment and related comments which would avoid this unintended result while retaining the concept of the borrowing limitation.

Of course, any ordinance implementing any portion of a financing transaction that is subject to annual appropriation would remain subject to Section 309 of the Charter, which provides for referral to the voters of any law or ordinance upon petition.

Arnold Jablon, Esquire
March , 1990
Page 5

PRELIMINARY DRAFT
March 5, 1990

I recognize the urgency of this matter and would be glad to discuss the subject of this letter further with you or other County or Commission officials at your convenience.

Sincerely,

Edward O. Clarke, Jr.

EOCjr:jmck:5180v

SUGGESTED REVISION OF PROPOSED AMENDMENT TO SECTION 717

VI. DEBT LIMITATIONS

Sec. 717. Borrowing limitations.

Unless and until otherwise provided by legislative act of the county council within the limitations provided by public general law, the aggregate amount of bonds and other evidences of indebtedness AND THE AGGREGATE STATED PRINCIPAL AMOUNT OF OBLIGATIONS SUBJECT TO ANNUAL APPROPRIATION (AS DEFINED BELOW) outstanding at any one time shall not exceed ten per centum upon the [accessible] ASSESSABLE basis of the county; provided, however, that:

- (a) Tax anticipation notes or other evidences of indebtedness having a maturity not in excess of twelve months,
- (B) OBLIGATIONS SUBJECT TO ANNUAL APPROPRIATION HAVING A STATED MATURITY NOT EXCEEDING FIVE YEARS,
- [(b)](C) Bonds or other evidences of indebtedness issued or guaranteed by the county payable primarily or exclusively from taxes levied in or on, or other revenues of, special taxing areas or districts heretofore or hereafter established by law, and
- [(c)](D) Bonds or other evidences of indebtedness issued for self-liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services,

shall not be subject to, or be included as bonds or evidences of indebtedness in computing or applying the per centum limitation above provided. All bonds or other evidences of indebtedness issued under the authority of The Metropolitan District Act (The Acts of the General Assembly of Maryland of 1924, Chapter 539, as amended) shall be construed as exempt, under clauses [(b)](C) and [(c)](D) above, from the per centum limitation in this Section provided, but shall continue as heretofore to be subject to the per centum limitation as from time to time provided in said Act.

AS USED IN THIS SECTION, THE TERM "OBLIGATIONS SUBJECT TO ANNUAL APPROPRIATION" MEANS OBLIGATIONS UNDERTAKEN TO FINANCE THE ACQUISITION OF REAL OR PERSONAL PROPERTY AND SECURED BY A LIEN ON SUCH PROPERTY, WHICH OBLIGATIONS BY THEIR TERMS PROVIDE FOR THEIR TERMINATION IN THE EVENT SUFFICIENT FUNDS ARE NOT APPROPRIATED ON AN ANNUAL BASIS FOR THEIR PAYMENT AND WHICH DO NOT CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF THIS CHARTER.

COMMENT:

The Committee was presented with testimony regarding a means of government financing, often referred to as "privatization", wherein the County enters into a long-term ~~financing arrangement to acquire real or personal property, secured by a lien on such property, subject to annual appropriation by the county council of amounts sufficient to pay each year's installments.~~ This financing mechanism has seen recent use in capital projects such as Baltimore County's acquisition of a new Public Safety building to replace aging Police and Fire Headquarters facilities. The Committee recommends that this type of ~~obligation, which is not indebtedness within the meaning of the Charter,~~ be included in the County's 10% borrowing limitation provided for in Section 717 of this Charter.

[NOTE: Suggested revisions to the Comment are indicated by ^ for deletions and underlining for additions.]

MINUTES OF THE
CHARTER REVIEW COMMISSION MEETING
March 13, 1990
County Council Chambers

The members of the Charter Review Commission (CRC) met this date to vote and determine which issues would be presented to the County Council in the final report of the CRC. The following members were in attendance:

Hon. James T. Smith, Jr.	Judith L. Bushong
Robert Barton, Esquire	Tom Carbo
Frederick Dewberry	Rhoda Dorsey
Bonnie Dyer	Hon. Charles Foos
Eugene Gallagher	Mark Fielder
Tim Hickman	Donald P. Hutchinson
John Hohman	Arnold Jablon, Esquire
Hon. Leonard Jacobson	Robert Knatz
Joseph Potter	Charles Rush
Hon. James S. Sfekas	Malcolm Spicer, Jr., Esq.
Charles Thompson, Jr, Esq.	Barbara DeGuilmi
Wendy Judge	Henry Lewis
Frank Barrett	L. Robert Evans
Thomas Koch	Leonard Sachs
Otis Warren	

The following CRC members voted by proxy:

Dr. Walter Amprey
Hon. Edgar Silver
Daniel Brewster

Also in attendance were the ex-officio members of the Commission, as well as members of the press and interested citizens.

Chairman Smith convened the meeting at 7:10 p.m. with the introduction of Commission members. The minutes of the February 21, 1990 meeting were approved (with the only change being recommended by W. Judge, i.e., that on page 5, first paragraph, "1.800" should have read "1,800"); the minutes of the February 27, 1990 meeting were also approved (with the only change being recommended by W. Judge, i.e., that on page 10, third line, "accessible" should read "assessable").

Chairman Smith then proceeded to briefly review the procedure to be followed at this evening's meeting: will move down agenda to those items discussed /tentatively approved at 2/15/90, 2/21/90 and 2/27/90 CRC meetings; motion to be made for approval of Charter amendment (usually to be made by respective committee chairperson); seconded; any discussion; vote.

With respect to additional input, copies of minutes of March 6 public hearing were provided to all in attendance; will also circulate correspondence and/or testimony furnished since public

hearing. Chairman Smith then briefly summarized those items received and circulated same to CRC members. Commission then proceeded to agenda items and final votes.

Legislative Matters:

Section 205 -Vacancy on County Council prior to expiration of term

Motion to approve: M. Spicer

Seconded by: B. Dyer

There being no discussion, vote as follows:

For: 28

Against: 0

Abstain: 2

Motion passed.

Planning & Zoning /Economic & Community Development:

Section 522 -allowing for more than one Deputy Zoning Commissioner

Motion to approve: J. Sfekas

Seconded by: A. Jablon

There being no discussion, vote as follows:

For : 30

Against: 0

Abstain: 0

Motion passed.

Section 522.1 -providing for 2-year review /Master Plan

Motion to approve: J. Sfekas

Seconded: A. Jablon

There being no discussion, vote as follows:

For : 31

Against: 0

Abstain: 0

Motion passed.

Section 522.1 -adoption of Master Plan pursuant to Section 523; and

Section 524 -housekeeping consistent with recommendation re more than one Deputy Zoning Commissioner (vote combined on these two sections by mutual agreement of CRC members)

Motion to approve: J. Sfekas

Seconded: B. DeGuilmi

There being no discussion, vote as follows:

For : 31

Against: 0

Abstain: 0

Motion passed.

Section 601 -allow County Council to increase Board of Appeals members to 11

Motion to approve: J. Sfekas

Seconded: R. Knatz

Discussion: W. Judge -amendment as written uses upper case; Charter uses lower case letters; T. Toporovich -this would be taken care of in final drafting. J. Sfekas accepted this change without vote; accepted by R. Knatz (second). There being no further discussion, vote as follows:

For 31

Against: 0

Abstain: 0

Motion passed.

Section 604 -thirty day allowance rather than 15 days for Board to file matter to Circuit Court upon appeal

Motion to approve: J. Sfekas

Seconded: H. Lewis

Discussion: W. Judge -second to last line -"Courts of Appeal"; should not "s" be added to "appeal"; Sfekas accepted this change as did H. Lewis. There being no further discussion, vote as follows:

For 29

Against: 2

Abstain: 0

Motion passed.

Government and Ethics

Section 1000 -Council adopt and maintain Code of Public Ethics and Conflict of Interest Law

Motion to approve: G. Gallagher

Seconded: W. Judge

There being no discussion, vote as follows:

For 28

Against: 0

Abstain: 4

Motion passed.

Section 1001(a) -reorganize Prohibitions to 2 Subsections

Motion to approve: G. Gallagher

Seconded: R. Evans

There being no discussion, vote as follows:

For 29

Against: 0

Abstain: 3

Motion passed.

Section 1001(b) -New Proposal /Gallagher -to reorganize Subsection (b)

Motion by: G. Gallagher

Seconded: W. Judge

G. Gallagher moved that Section 1001(b) be revised as shown on Government and Ethics Committee report; changes highlighted with capital letters; to make this section consistent with rest of Article X re language where county and entity used. L. Jacobson -inquired as to practical effect of this; G. Gallagher -no practical effect; incorporates minor revisions (CRC rejected comprehensive revision of 1001(b) at prior meeting; however, G. Gallagher believes minor revisions should be made); also, authorizes County Council to allow County employees to deal directly with County. M. Spicer -pointed out that portion dealing with County employees did have practical effect; T. Carbo -questioned use of "to deal" and is that term defined somewhere; J. Smith -term "dealing" is undefined term; has concern; M. Spicer -could amend by deleting "deal" and replace with "who wants to do business with"; also as part of Motion to Amend -delete "dealing" and replace with "doing business with"; L. Jacobson seconded motion by M. Spicer; vote as follows on amendment to delete reference to "deal" and substitute with "to do business with" and delete "dealing" and substitute in lieu thereof, "doing business with the County";

For amendment as above: 23

Against: 4

Motion passed.

Vote then taken on recommendation as amended; no further discussion:

For recommendation as amended: 26

Against : 3

Abstain : 0

Recommendation as amended passed.

Section 1001(c) -eliminate specific penalties; allow those adopted by Council

Motion to approve: G. Gallagher

Seconded: R. Evans

There being no discussion, vote as follows:

For : 28

Against: 1

Abstain: 3

Motion passed.

Section 1001(d) -housekeeping -delete this subsection; to be included in Section 1000

Motion to approve: G. Gallagher

Seconded: H. Lewis

There being no discussion, vote as follows:

For : 27

Against: 0

Abstain: 5

Motion passed.

Section 1003 -clarifying /condensing language of 1003 and 1004; re-title Section; and Section 1004 -housekeeping -delete section which is to included as part of 1003 (these two matters combined for single vote by agreement of CRC members)

Motion for approval: G. Gallagher

Seconded: R. Evans

There being no discussion, vote as follows:

For : 30

Against: 0

Abstain: 2

Motion passed.

Personnel Matters and Merit System

Section 544 -deletion of section in entirety (binding arbitration); Section 706(a)(4) -deletion of reference to binding arbitration; Section 709 -deletion of reference to binding arbitration requirements;

Section 715 -deletion of reference to binding arbitration

(sections combined for single vote by agreement of CRC members)

Motion for approval: F. Dewberry

Seconded: C. Thompson

Discussion: W. Judge -questioned location of bracket, 706(a)(4); F. Dewberry -bracket correct as shown, period out; semi-colon left in; change not made.

There being no further discussion, vote as follows:

For : 30

Against: 1

Abstain: 1

Motion passed.

Section 801(2) -deletion of redundant reference to Planning Director and provision for more than one D.Z.C.

Motion for approval: F. Dewberry

Seconded: R. Knatz

There being no further discussion, vote as follows:

For : 32

Against: 0

Abstain: 0

Motion passed.

Tabled Section 801(10) -to allow Co Exec with approval of Co Council to provide for other exempt positions.

Motion by J. Hohman to take this matter from the table;
seconded.

For : 19

Taken from table.

Motion for adoption: F. Dewberry

Seconded: A. Jablon

Discussion: F. Dewberry -this is original language proposed by committee but tabled due to problems with language; committee met again; discussed thoroughly; recommended new language for (10).

Motion to substitute new language: F. Dewberry

Seconded: T. Koch

Discussion: F. Dewberry -CRC has heard from citizens /County employees at public hearing; not attempt to "gut" merit system; intention of committee to resolve managerial problems for Administration; G. Gallagher's new language makes it more difficult to exempt positions; requires legislative act of Council and also a vote of majority plus one. W. Judge -questioned "to provide for other exempt service positions"; does this mean additional exempt positions or does it mean to change to exempt status existing positions. F. Dewberry -means both; can change existing merit to exempt or add positions.

T. Koch -added his observations regarding what citizens of Baltimore County are entitled to with reference to performance of County employees; likened to private sector, where work performed is rewarded; believes County employees should be similarly rewarded for performance but should perform as expected; agrees with proposal.

G. Gallagher -Amendment to substitute proposal to read:

All other officers and employees are in the classified service, except that, upon recommendation of the County Executive, the County Council may, by legislation, by a vote of a majority of the Council plus one, establish [additional] other exempt positions for management personnel.

C. Thompson -seconded the above amendment to substitute proposal.

Discussion: W. Judge -what is management personnel? How far down does this go? G. Gallagher -would be up to interpretation by legal department and County Council.

F. Dewberry -Proposal has to come from Co Exec; would hope that system of checks and balances would work; cannot define everything.

J. Hohman -suggested changing "additional" to "other" positions; public could see this as adding County employees when this is not spirit of change. G. Gallagher agreed with substitution; C. Thompson (seconded original motion) also agreed.

R. Barton -does not recall anyone speaking in favor of this proposal at public hearing; what management problems is the Commission remedying by this change?

F. Dewberry -this was covered in report; specific problems included deputy administrative officers, deputy chief and police colonels; should these be in exempt service; other management level positions. J. Hohman -at committee meetings, SMC representatives were not opposed to this change; did not openly support, but did not express opposition. J. Potter: also questioned how far down this would go in department; F. Dewberry -could not answer that; up to management of County to decide; amendment does not attempt to do this. D. Hutchinson -in Police Dept, from position of Lieutenant down; in Fire Dept, from position of Captain down.

M. Fiedler -this would not secure existing job requisites; would allow to change. A. Jablon -nothing to prevent change now.

No further discussion; vote taken on G. Gallagher's amendment to substitute proposal:

For : 26

Against: 3

Amendment to substitute proposal passed.

Discussion: D. Hutchinson -in reference to T. Koch's comparison of County employment to private sector -distinction between the two; employee in private sector worries about performance and ultimate product of employee; different in government -political loyalty; merit system created for this reason; to make sure those in elected office would not abuse hiring and firing of personnel who might or might not work for them; chief executive officer in government can, if so inclined, make judgements on whether or not person should or should not work with them based on political support or loyalty. Were discussions in past regarding whether or not deputy directors and bureau chiefs should or should not be merit because of management responsibilities; if Co Exec is effective chief executive officer, many ways to insure that structure stays in place; (1) control of budget (not budgeting for additional positions, projects, etc.); (2) have direct relationships with bureau chiefs; input in selection of individuals for these positions; (3) deal directly with people on one-on-one basis; meet on regular basis; discuss matters of concern; don't change structure because Admin Officer does not know how to deal with people who work for him/her; you don't change structure of government because of ineffective management. No further discussion on substitute; vote taken as follows:

For substitute: 17

Against : 11

Motion to substitute proposal passed.

Vote then taken on original motion as substituted:

For : 15

Against: 14

Motion failed; no change to be recommended. (J. Smith -explained that first vote was as to the motion to substitute only.)

G. Gallagher then moved his original proposal;

Seconded by F. Barrett

(Chair initially ruled Motion was out of order as having been included in amendment to prior Motion, but then allowed discussion and vote on this matter.)

A. Jablon -moved to amend G. Gallagher's Motion to add phrase that might get support of CRC; seconded by J. Hohman.

Amendment to include statement to effect that any officer, employee whose position shall be changed shall be protected as to pay scale, security, benefits, etc.; discussion followed by L. Jacobson regarding such protection, D. Hutchinson regarding application of this to future or present employee in such position.

Vote taken on Jablon amendment:

For Jablon amendment: 14

Against : 14

Motion to amend failed.

Discussion: J. Hohman -Suggested wording that would insure that present County employee who now has position would remain in merit system; when they retire, etc., position may then be removed from merit system, e.g., such action shall only apply to prospective new employees hired after the effective date of any such change. Vote taken as follows:

For : 12

Against: 17

Motion to amend failed.

There being no further discussion, vote taken on G. Gallagher's motion as follows:

For : 11

Against: 16

Motion failed.

Section 802(h) -deletion of language applicable to beginning of Charter government only;

Section 802 -housekeeping -re-lettering of paragraphs;

Section 802(l) -deletion of prior approval of Director of Public Safety; deletion of reference to "bureau" regarding police and fire and substitution of "department."

(These sections combined for vote by agreement of CRC members.)

Motion to approve: F. Dewberry

Seconded: J. Hohman

There being no further discussion, vote taken as follows for these combined sections;

For : 26

Against: 0

Motion passed.

Tabled Section 1203 -new section to permit housekeeping changes to Charter by legislative act of County Council

Tabled matter was not taken from the table;

Motion by F. Dewberry -new Proposal/Dewberry/Section 1203

Seconded: A. Jablon

Discussion: F. Dewberry -original language tabled because of concern regarding language; too broad; purpose -to enable legislative body to correct grammatical errors, obsolete language, etc; committee again met and discussed several different proposed substitutions; believes new language will eliminate problems. C. Rush -questioned "and similar matters." F. Dewberry -there might be something that was not listed.

J. Smith -Motion to substitute new proposal/Smith for motion on floor with addition of a heading -Section 1203; providing for specific corrections -as set forth below shall be made as provided herein -identifying specifically those housekeeping measures which need to be made but substituted motion does not address anything beyond what is on that list; would suggest other things of this kind to be included on ballot as County Council determined.

Seconded by M. Fiedler.

L. Jacobson -Clarify that this amendment would limit changes under this new section -could not make other changes. J. Smith -only changes to be made under Smith Motion to Substitute are those specifically enunciated.

M. Spicer -discussed the items listed; disagrees that all need Charter changes to be corrected; some are printing errors, whereby material was correct in Charter as printed in 1968 Code or in Charter as shown in 1978 Code, but when Supplement printed, errors were made (simply printing errors); briefly discussed several of these printing errors; does not believe Charter changes are necessary to correct printing errors; A. Jablon -disagrees with this; referenced interpretation by Attorney General's Office; does not believe errors, even printing errors, can simply be changed; may be able to change them; may not; reason for language was to provide Council the opportunity to make these changes; agrees that many are printing errors; disagrees that authority exists to change them.

M. Spicer -does not know of Atty General's opinion or Court opinion; also referenced the proposed deletion of "next" in section 533(a); this word should possibly be retained; could have purpose if section re-read. After additional discussion concerning this amendment, T. Koch called question.

T. Toporovich -need caption for Section 1203 -title suggested "Housekeeping Changes to Charter"; Fiedler accepted title.

Motion to substitute: "The housekeeping corrections set forth below shall be made as provided herein:" Vote as follows:

For : 13

Against: 13

Motion to substitute failed.

Discussion: G. Gallagher -should not allow legislature to change Charter by legislative act; dangerous; should leave Charter

alone; it has worked. There being no further discussion, vote taken on Dewberry Proposal:

For : 7

Against: 18

Motion failed.

A brief recess was taken at 8:50 p.m.; Commission reconvened at 9:05 p.m.

Fiscal, Budgetary and Purchasing Matters:

Section 311 -add annual audit of "Authorities" by Co Auditor; may audit any organization funded in whole or part by County; cooperate with outside auditor in preparation of audit, Co Auditor to still provide individual report; delete specific public information language;

Section 312 -grammatical correction; cooperation of external auditor and Co Auditor in County's financial statements prepared by Finance; delete specific public information language; change from "accountants" to "auditors";

Section 516 -provide for annual financial statement per above amendments; provide for public access to County's annual statement.

(The above sections combined for vote by agreement of CRC members.)

Motion to approve: L. Jacobson

Seconded: M. Fiedler

Discussion: Question was raised as to whether the County has authority to authorize Co Auditor to conduct annual audit of Revenue Authority; A. Jablon -question has periodically come up; no definitive answer; H. Wirts -long-standing dispute on authority County has re Revenue Authority; however, this amendment could apply to any other authority created in the future; would be no problem if Revenue Authority is determined to be exempt; other authorities which may be created could be audited; sees no problem with amendment.

Motion by L. Jacobson -to amend 311 to add phrase "except Revenue Authority"; no second; Motion to Amend failed.

There being no further discussion, vote taken on combined sections 311, 312, and 516 as follows:

For : 27

Against: 0

Motion passed.

Comment: J. Bushong -questioned combining sections for purposes of vote, which could cause proxy votes for those issues to be cancelled out if proxies differed between sections; Chairman Smith -has not made difference to this point; risk taken in proxy

situation; will reconsider if vote close and individual consideration becomes necessary.

Section 705(a)(3) -to provide that borrowing ordinance need not include date by which project is to be undertaken;

Section 705(a)(4) -to provide that County may modify prior referendum matters regarding time limits set on projects to be undertaken consistent with 705(a)(3)

(These sections were combined for vote by agreement of CRC members.)

Motion to approve: T. Hickman

Seconded: L. Sachs

There being no discussion, vote as follows:

For : 31

Against: 0

Abstain: 1

Motion passed.

Section 715 -to provide that Council by legislative act may determine which real or leasehold property sales contracts, leases, etc must be approved by Council.

Motion to approve: T. Hickman

Seconded: M. Fiedler

There being no discussion, vote as follows:

For : 30

Against: 1

Abstain: 1

Motion passed.

Section 717 -inclusion of long-term debt on real or certain personal property as part of bond indebtedness, total of which may not at any one time exceed 10 percent of County's accessible tax base.

T. Hickman -recommend as committee this not be approved; no Motion made regarding Section 717; died for lack of being brought to floor.

Section 717 -new language /Jablon -new language provided by bond counsel regarding this amendment.

J. Smith moved for adoption of revised language of 717;
no second; died for lack of second.

Discussion: T. Hickman -dealt with issue of 717 at great length; when bond counsel pointed out possible ramifications, committee decided not to push motion; very serious issue; needs to be addressed at future time; however, not comfortable with bond counsel language.

Section 720 -delete reference to content of bonds (to be included in 719 only); clarify certain procedures re bond sales; incorporate certain references to bond issuance authorization now in 719;

Section 719 -to substitute current language for outmoded Charter language; delete bond procedures from this section (to be included in 720); clarify County's authority re debt service;
Section 721 -provide explicit authority for County to reorganize fund structure and dissolve previously created funds.
(The above sections were consolidated for purpose of vote by agreement of CRC members.)

Motion to approve: J. Potter

Seconded: D. Hutchinson

There being no discussion, vote as follows:

For : 30

Against: 0

Abstain: 2

Motion passed.

Section 717 -Spelling correction;

Section 901 -grammatical correction

(The above sections consolidated for single vote by agreement of CRC.)

Motion made and seconded for approval; there being no discussion, vote as follows:

For : 30

Against: 0

Abstain: 2

Motion passed.

Section 904 -add "responsive" -will then read "responsive responsible bidder."

Motion to approve: J. Hohman

Seconded: R. Knatz

Discussion: C. Foos -"responsive" is unnecessary redundancy; poor syntax; C. Thompson -responsive means responded to terms of bid; if did not respond to each term then not responsive; responsible means can they do job; M. Spicer -agrees that responsive has significance, however should read "responsive and responsible bidder"; T. Hickman and C. Thompson accepted change.

W. Judge -requested explanation as to why responsive and responsible bidder; T. Hickman -appears this way in six or seven other areas of Charter; was done to conform; this section written differently than others.

There being no further discussion, vote as follows:

For : 28

Against: 2

Abstain: 1

Motion passed.

Executive Organization and Effectiveness:

Section 402(a) -to delete prohibition of Co Exec serving more than two consecutive terms

Motion to approve: D. Hutchinson

Seconded: T. Koch

J. Smith moved to substitute proposal to prohibit more than three consecutive terms for Co Exec; there being no second, motion died for lack of a second.

Discussion: D. Hutchinson -offered amendment to Motion; would suggest CRC adopt language that the amendment that would provide for elimination of two-term restriction be such that it would not take effect until next election of Co Exec; would not affect incumbent Co Exec; pointed out that committee originally rejected this; however, Co Exec, per his letter, is concerned about political ramifications; this amendment could have adverse impact on voters; urged Commission to adopt amendment that would not affect the elected Co Exec until after election of 1994; proposed language: This amendment will not take effect until 1995; L. Jacobson -seconded Motion to amend language. T. Toporovich -clarified effective date of current two-term limit; was adopted in 1974 with effective date of 1978. F. Barrett -heard citizens of Baltimore County; people spoke at public hearing; should this issue come up every 10 years? Does not believe so; opposed to any extension.

F. Dewberry -Would again voice opposition to proposal; at public hearing, majority against lifting limitation; serious mistake to change it. T. Koch -called question; J. Hohman -seconded; vote taken for stopping debate -For: 26.

Vote then taken on D. Hutchinson amendment -shall not take effect until 1995:

For : 4

Against: 23

Hutchinson amendment failed.

R. Evans -While personally against lifting two-term limit, believes voters should decide the issue; R. Barton -believes if Commission submits this to voters, Commission is thereby recommending a certain action; considers this important; L. Sachs -have voted for or against many issues; if Commission takes this approach on this issue to permit voters to decide, why not take same approach with all issues?

Vote then taken on Motion to delete limitation of two-terms for Co Exec as follows:

For : 17

Against: 12

Motion passed.

Commission then addressed Section 402(a) -changing the date that Co Exec qualifies for office from first Monday to third Monday.

Motion to approve by D. Hutchinson and seconded; there being no discussion regarding this amendment to 402(a), vote as follows:

For : 24
Against: 2
Motion passed.

Section 402(c) -dividing one paragraph into two (no language change);
Section 402(d)(12)(14) -deletion of archaic language
(The above sections were combined for purpose of vote by agreement of CRC.)

Motion to approve by D. Hutchinson and seconded; there being no discussion regarding amendment to these sections, vote as follows:
For : 26
Against: 0
Motion passed.

Section 402(d)(15) -allowing Co Exec to appoint personal staff beyond confidential clerk or secretary as presently provided in Charter and deleting archaic language.

Motion to approve: D. Hutchinson
Seconded: G. Gallagher
Discussion: CRC members discussed possible conflict of this amendment with Section 801(7); conflicts with existing language of 801(7); L. Jacobson -if personal staff of Co Exec is in merit system, would this mean next Co Exec would have same staff as predecessor? D. Hutchinson -can go back and amend 801 and take out 801(7); would solve problem; could handle this with 402(15); M. Spicer -along those lines, 801(7) language there now could be deleted and could substitute in its place: The personal staff of Co Exec appointed pursuant to Section 402(d)(15).

Motion to amend as above by M. Spicer
Seconded by A. Jablon
Vote then taken on deletion of present language in 801(7); substituting language to read: "The personal staff of the County Executive appointed pursuant to Section 402(d)(15)" as follows:

For : 26
Against: 0
Amendment to Motion passed.
There being no further discussion, vote taken on Motion as amended as follows:

For : 27
Against: 0
Motion as amended passed.

Section 403(b) -deleting specific term of Admin Officer and providing that Admin Officer will serve at pleasure of Co Exec;
Section 403(c) -housekeeping change to method of filling vacancy of Co Admin Officer consistent with above;
Section 404(a) -deletion of method of removal of Admin Officer consistent with above.

Motion to approve: D. Hutchinson
Seconded: R. Knatz

Discussion: A. Jablon -personal opinion -now opposed to changes; issue has not been a problem; does not see changes impacting realities of relationship between Admin Officer and Co Exec; would vote in opposition. M. Spicer -if this passes, what effect would this have on incumbent Admin Officer? D. Hutchinson -committee's intent, if it passes in 1990 election, Admin Officer to serve at pleasure of Co Exec; would impact incumbent so that he would then begin to serve as such; would not extend into next term. M. Spicer -questioned if this could be done; can conditions of term be changed now; R. Evans -would seem this would be analogous to constitutional amendment; if it's changed, term changes; F. Dewberry -suggested effective date of July 1, 1991; G. Gallagher -existing occupant of that office may be removed at any time by recommendation of Co Exec and support of Co Council; part of contract. C. Foos -should not be concerned as to how this is implemented. J. Sussman -Admin Officer has right to request public hearing with Co Council; Co Council does not confirm or reject that dismissal. There being no further discussion, vote on these sections as set forth on agenda as follows:

For : 25

Against: 5

Motion passed.

Section 502 -deletion of limitation on number of County offices/departments;

Section 503(7) -deletion of office of Data Processing

Section 504(4) -deletion of Department of Traffic Engineering and substitution in lieu thereof -Department of Environmental Protection & Resource Management;

Section 504(8) -deletion of term "Welfare"; renaming department - "Social Services";

Section 504(12) -addition of Department of Community Development;

Section 524.1(b) -deletion of language applicable to effective date of Charter Amendment;

Section 524.2 and 524.3 -deletion of these sections as Office of Data Processing no longer exists;

Section 525 -deletion of requirement that Director of Public Works be professional engineer;

Section 526 -including in Public Works duties previously performed by Department of Traffic Engineering;

Section 530 -deletion of Bureau of Standards -does not exist;

Section 540 -Renaming Department of Welfare -Department of Social Services;

Section 541(a) -deletion of jail and civil defense as responsibilities of Police Department;

Section 544 - deletion of "Division 5. Binding Arbitration" - Court decision declared Charter referenda invalid.

(The above 13 sections were consolidated for purposes of single vote by agreement of CRC members.)

Motion to approve: D. Hutchinson

Seconded: A. Jablon

There being no discussion, vote as follows:

For : 30

Against: 0

Motion passed.

Section 534 -deletion of reference to Department of Traffic Engineering duties

Motion to approve: D. Hutchinson

Seconded: R. Dorsey

Discussion: W. Judge -regarding title "Department of Public Safety"; should this be renamed "Department of Environmental Protection" (DEPRM); F. Dewberry -Traffic Engineering was renamed DEPRM, Section 504; W. Judge -is there Department of Public Safety? If not, then what is 539; D. Hutchinson -take out reference to Department of Public Safety; only talking about technical change; obsolete section; L. Jacobson -titles in Charter have nothing to do with substance; can be taken care of when recommendations are delivered to County Council; W. Judge - what will be done with Section 536 if title deleted; J. Smith - have done nothing with 536 which relates to Civil Defense; only thing under this subdivision which is entitled Department of Public Safety; should be called something else related to Civil Defense; housekeeping change; W. Judge then withdrew amendment; J. Smith to rename appropriately.

There being no further discussion, vote taken on Section 534 re deletion of reference to Traffic Engineering; 28 for approval; Motion passed.

Section 539 -deletion of archaic provisions applicable to initial Charter only.

Motion to approve by D. Hutchinson which was seconded: W. Judge - Motion to amend to make first Monday read third Monday per term of Co Exec amendment previously passed, which Motion to Amend was seconded; A. Jablon -conforms with State law -hence first Monday. Vote taken on Motion to amend "first" to "third" Monday; 25 in favor of amendment; Motion to Amend passed.

Discussion: D. Hutchinson -letter of submittal to County Council -should include fact that there might be other commissions and other appointed groups that might have to have terms addressed; could be done in submittal letter.

There being no further discussion, vote taken on Motion as amended as follows:

For : 25

Motion as amended passed.

Miscellaneous Items:

Chairman Smith -This will be last full Commission meeting; have all recommendations; will be incorporated in final report presented to County Executive and County Council; will draft final report, to basically have commentary and specific

recommendations as attachments to report; intend to prepare report and circulate to all Commission members; invite member with any concerns with wording of report or any issue not addressed or overlooked in drafting of report to contact Chairman Smith; will discuss any such input for purpose of change; unless opposition, in drafting report, will include suggestions to Co Council that if they react favorably to certain recommendations, these recommendations should be grouped in certain fashion; will try to group related recommendations in same area; intends to include suggestion that in event County Council is favorably impressed by recommendations but concerned that there are too many recommendations to submit to voters in next election, consider prioritizing to submit some in next election and some in following election so voters have full meaning and intent of changes.

Regarding any issue about which Commission member feels strongly, will entertain inclusion of minority report; to be discussed with Chairman Smith. Any changes made as a result of comments by individual Commission members will be sent to Commission. Report to Commission members will be sent by first week of April; give about a week for reaction/response; then print final report, depending upon reaction by Commission.

Target date for submission to County Council -May 1, 1990.
Would anticipate presenting this report to County Executive and County Council at another meeting in more social environment.

Moved and seconded for adjournment.

Respectfully submitted,


Kathleen C. Weidenhammer