

Town of Upper Marlboro

CHARTER AMENDMENT FORUM

Thursday, May 23, 2019

Approved Minutes

Call to Order

The meeting was called to order at 7:00 p.m.

Roll Call: Tonga Turner, President of the Board of Town Commissioners;
Wanda Leonard, Commissioner; Linda Pennoyer, Commissioner/Treasurer

Staff present: M. David Williams, Town Clerk/Administrator; UMPD Chief Burse; Kyle Snyder/Chief of Staff; Kevin J. Best, Esq./Town Attorney

Also present: TUMHC Chair Patti Skews; SCW Chair Evelyn Stephens and various citizens and interested parties.

Pledge of Allegiance

Business

With unanimous consent to the Agenda, President Turner gave the floor to Town Attorney Kevin J. Best.

Charter Overview & Background: Mr. Best presented an overview of the Town's Charter. Notable points included: 1.) Town has Home-Rule powers; 2.) Third oldest municipality in Maryland, established in the same year as Laurel; 3.) Corporate boundaries have never changed; 4.) Original Charter dated April 4, 1870 and was only four pages long; 5.) Original terms of office for elected commissioners was 3 years; 6.) Town probably adopted model charter when Maryland established Home Rule in 1954; 7.) Town's delinquent tax rate is currently below the State's Statutory limit; and, 8.) Two ways a Charter can be amended: a) By the Board via Charter Amendment Resolution; or, b) By Town residents via petition. It was noted that out of the 156 chartered municipalities, many are hybrids of the basic three forms of government, and that this Town government leans towards the "Strong Mayor" form in many ways. He also noted there is no recall provision for elected officials in the current charter.

The President cited the need for updates, noting that the Board will address the following 4 topics (sections) first, and that other sections will be topics for discussion and public comment at subsequent Charter Forums in the near future. A three-minute time limit was established for each individual citizen's input on each of the four proposed Charter Amendments.

Recommendation 1

Section 82-13 (Selection): Proposing to change the title designation of "President" to "Mayor".

Recommended Language: Section 82-13. (Selection): At their organizational meeting, a majority of the Commissioners shall elect one of their members [President] MAYOR. The [President] MAYOR shall preside at all meetings of the Board in accordance with the accepted rules of [parliamentary] PARLIAMENTARY procedure, except that he OR SHE may vote on any question before the Board.

- Q: Any legal difference?
A: No, just as there is no legal difference between a municipal City or Town (i.e.; The Town of Ocean City is Chartered as a Town but can use the title of "City" legally.)
- Q: Aren't Mayors directly elected? Would it be a conflict if our "Mayor" was not?
A: Mayors are often the popular vote, however, there are many exceptions to the rule throughout Maryland that have been established by charter amendments.

Atty Best: The amendment can authorize the use of the title "Mayor" once in the Charter as an alternative title, and, indicate the option to use either term in all references of the title thereafter.

- Q: What is meant by "Strong Mayor?"
A: Refers to the executive power of the President as CEO with voting privileges.
- Q: Does that present a conflict of interests?
A: No, very common within like forms of government, but Council/Management form is most preferred by municipal management, but not deemed better than other forms.

Public input: Town should put forward "reasons/rational" for proposed Charter changes.

Recommendation 2

Section 82-3 (Number, Selection, Term): Proposing changing 2-year Term to a 4-year Term.

Recommended Language: Section 82-3. (Number, Selection, Term). All legislative powers of the Town shall be vested in a Board of Commissioners consisting of three Commissioners who shall be elected as hereinafter provided and who shall hold office for a term of [two] FOUR years and until the succeeding Board takes office. The regular term of the Commissioners shall expire on the first Monday following the election of their successors. The Commissioners holding office at the time this charter amendment becomes effective shall continue to hold office for the term for which they were elected and until the succeeding Board takes office under the provisions of this charter.

President Turner: Harder to keep built relationships in only two years; Four-year terms will help with continuity of governance and will better serve the community. Want to consider staggered terms and/or larger number of members; A three-member Board is not sustainable if Town annexes.

- Would want a larger Commission first, then implement longer terms.
- A larger Commission first would require careful coordination with an agreed upon annexation plan (growth of Town population). Don't need large Board to govern less than 700 people.
- Out of 156 MD municipalities: 69 do a mix of 2-year terms (staggered & not-staggered); 67 do a mix of 4-year terms (staggered & not-staggered); 109 do staggered elections (2, 3 and 4-year.)

Public input: Having more than 3 commissioners would help with quorum issues, in that 2 Board members could work together without violating Open Meeting regulations, and more would get done.

Public input: Against having longer than 2-year terms since residents don't have a recall provision. Suggest Annexation first, then expand Board, and then consider staggered terms. "Continuity first."

Atty Best: Could put in Charter a mitigation provision. Could also address form of government and have hired Administrator as CEO (or assistant to Mayor) who is not tied to length of term.

Public input: Concerned with lack of recall with 4-year terms. Staggered terms would address continuity of institutional knowledge. Suggest "non-voting Mayor" with 5-person Council.

President Turner: Noted general consensus tonight is not to change 2-year term, and perhaps take lengthening term limits off the table for now. Would like to address annexation first, then increase Board membership/structure, and lastly, revisit possible hybrid forms of staggered term-limits.

Atty Best: Under State Law, Board can change the length of their term as they sit as the Board.

Public input: A two-year term allows public to vote out who they don't want. A four-year term with a bad Board would do harm.

- Many municipalities divvy up their jurisdiction by Wards. Could have members elected by each ward or have a member elected at-large from a Ward they live in.
- Ex-officio status (like HOA representation) not being considered. Legal knows of none that do.

Recommendation 3

Section 83-36 (Treasurer): Proposing Town Treasurer become a staff position.

Recommended Language: Section 83-36. [82-36.] (Treasurer). There shall be a treasurer appointed by the President with the approval of the Board. [They] The treasurer shall serve at the pleasure of the President. The treasurer shall be the chief financial officer of the Town. The financial powers of the Town, except as otherwise provided by this Charter, shall be exercised by the treasurer under the direct supervision of the President. The treasurer shall not be an [appointed] elected member of the Board. (Position also added to Personnel Section)

President Turner: Doesn't need to be an elected official/Board member under current language.

- Residents want better oversight of Treasurer's Reports, by having Commissioner as Treasurer. Elected official should have oversight.
- Would elected officials appointed as Treasurer always be able to address and effectively execute all Charter directives? Should Charter language be changed to have these duties assigned to an appointed finance director or accountant?

President Turner: Board members shouldn't be handling the funds. Will need to amend the language. Either make a third-party responsible, or, make elected officials not eligible for appointment.

Atty Best: Most municipalities do not have elected officials holding Treasurer positions. Current Charter provisions authorizes President to remove Treasurer at any time, elected official or not.

Public input: Do want oversight of budget information by Commissioner, so as not to have to rely on submitting MPIA requests.

Atty Best: Oversight by the President (as CEO) already exists in current Charter.

Public input: Don't see a strong argument for changing this section. Board can handle issues. Want to maintain tradition of Commissioner having oversight as Treasurer.

Public input: Need to change/update Sections 82-37 and 82-38, instead of 82-36. Feel that Town should have a Commissioner as Treasurer to oversee any possible financial employee appointed.

Recommendation 4

Section 82-49 (When Taxes are Overdue): Proposing change/increase to overdue Town tax rate.

Recommended Language: Section 82-49. (When Taxes are Overdue). Ordinary Town taxes shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the rate of two-thirds of 1% or fraction thereof until paid and in addition thereto, there shall be a penalty imposed for failure to make payment by or after that day of two-thirds of 1% for each month or fraction thereof until paid. All taxes not paid and in arrears after the first day of the following January may be collected as provided in Section 82-50 hereof or may be collected by action of assumes as provided in Section 206 to 211, inclusive, of Article 81 of the Annotated Code of Maryland (1957 Edition).

Atty Best: Town has historically had lowest delinquent tax rate in County. Rates for Town delinquent taxes has never changed, proposing 2/3 of 1 percent (which Maryland Code allows.)

President Turner: Acknowledged good conversation with constituents and will take these public comments into consideration to form another dialog/forum on these proposed Section changes.

Adjournment

Commissioner Pennoyer made a motion to adjourn, Commissioner Leonard seconded the motion. With all in favor, the meeting was adjourned at 8:35 p.m.

Respectfully submitted,


M. David Williams
Town Clerk/Administrator

