

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

SEPTEMBER 21, 2013

Members in Attendance: Jeff Binder, Alfred Gatta, Herman Geist, Derrickson Lawrence, Steve Mayo, Anne McAndrews, Paul Meissner, David Menken, Jane Morgenstern, Guy Parisi, Bertrand Sellier, Matthew Thomas, Paul Windels, Richard Wishnie

Absent Members: Raymond Belair, Julie Killian, John Mattis, Florence McCue, Vincenza Restiano, Dr. Ronald Volino, Gary Zuckerman

County Staff in Attendance: Justin Adin, Chris Crane, Stacey Dolgin-Kmetz, Robert Persaud, Anand Singh

Commission Counsel: Lester Steinman

Commission Consultant Dr. Gerald Benjamin

Guests Beverley Sved, League of Women Voters

MINUTES

The meeting of the Charter Revision Commission was called to order at 8:45 AM. Chairman Wishnie thanked everyone for coming and briefly discussed the items they would be going over and voting on for the morning.

Dr. Benjamin began with the resolution regarding the timetable for the budget. Mr. Windels referenced the fiscal professionals of the County being in favor of having a budget process as late in the year as possible, so that the data they used was relevant. He continued by recommending that the preliminary budget be released after Election Day, and that certain periods in the process be amended so in the end nine to ten days were added to the time for budget deliberations by the Count Board. A discussion ensued on the merits of releasing a budget released prior to Election Day versus after Election Day. Chairman Wishnie commented on the problems with releasing it prior to Election Day based on testimony they had heard from two prior County Executives. Mr. Gatta stated they should focus on the fiscal year as this would help everything else fall into line, citing testimony they've heard. Mr. Meissner stated the first thing to consider should be a 2 year budget then the fiscal year, then budget release.

Dr. Benjamin moved onto the resolution regarding a proposed biannual budget. Mr. Meissner stated that the logic behind a two year budget was the ability to do it in a non-election year, thus being asynchronous and tying it into a fiscal year determination. Mr.

Parisi asked if it was feasible and Dr. Benjamin stated that the deadline for a biannual budget would tie into the fiscal year with the added benefit of them not needing a transition period. Ms. McAndrews stated that this scenario might not influence politics as much as they think. Mr. Gatta agreed, noting that the adjustment period becomes a budget process unto itself. Chairman Wishnie stated that he didn't believe this process would work nor was it practical. With a motion by Mr. Gatta seconded by Mr. Meissner, the resolution was defeated twelve to one with Mr. Meissner being the sole vote in favor. A question was raised as to whether they had to vote on every resolution and a brief discussion ensued. Chairman Wishnie then used his prerogative as the Chair stating that they would take a vote on every item.

The next resolution discussed was regarding the start of the new fiscal year. A short discussion ensued on the legality of changing the timeline. Mr. Meissner noted that seventy percent of the County Budget came from State 'pass-through' funds and changing the start of the fiscal year to June or July would help prevent the budget process from becoming politicized, and Mr. Windels' earlier proposal could be worked into it. Chairman Wishnie asked how changing the fiscal year would affect municipalities to which Mr. Gatta stated that village budgets are six months later, so they had a handle on revenues since they know what the county has done. For villages, a concurrent fiscal year to the proposal would be simultaneous so there wouldn't be any major impact. Dr. Benjamin stated that there may be some issues on revenue regarding the property tax, and a discussion on the number of tax bills sent out along with the revenue and cost implications from a change ensued. Mr. Sellier believed there would be no impact and Ms. McAndrews briefly discussed the role of towns as county agents. Mr. Parisi suggested moving it to the first of June to further remove it from elections. Procedurally, Mr. Adin stated that they might need a referendum, which Ms. Dolgin-Kmetz agreed. A discussion on whether it would affect the County's ability to collect taxes ensued with the members being split on the proposals usefulness.

The commission went back to discussing the timetable for the Budget. Mr. Meissner questioned whether it might be better to recommend the budget process timeframe being doubled instead of Mr. Windels' earlier recommendation. Mr. Steinman stated that there's likelihood the Board of Legislators would not consider the change in fiscal year recommendation and that the Commission should consider looking at how to improve the existing system. Mr. Meissner believed they should offer a package deal, along with a backup proposal. Mr. Thomas asked about the need to tie up the details of the fiscal year before moving onto the timetable. A lengthy discussion ensued on the specifics of the wording before a consensus was reached that the wording should be changed from 'two months' to 'three months'. With a motion by Mr. Mayo, seconded by Ms. Morgenstern, the resolution was adopted as amended twelve to one with Mr. Windels being the sole dissenting vote.

Mr. Steinman questioned that, given the existing process, should the budget come out before Election Day or should they consider Mr. Windels proposed timeframe? Mr. Binder stated that the reality of today's political climate was that legislators are in election mode almost year round and that the Commission may be overemphasizing the

importance of politics. Ms. McAndrews agreed with Mr. Binder that the budget is in fact a 'political' document. Mr. Parisi's concern was the budget being released just before Election Day, and Mr. Meissner stated the need for a motion to have a debate. With a motion by Mr. Windels, seconded by Mr. Parisi, the Commission began a debate on the budgetary calendar to extend the period of time for budget deliberations after Election Day but before the end of the calendar year. Mr. Binder asked if they were considering this with the assumption that the Board would cast aside the Commission's initial recommendation. A discussion ensued on their options with Dr. Benjamin essentially stating that the budget release was the primary event in County Government. He discussed the pros and cons of releasing the budget before or after elections. A consensus was reached that the budget process should in no way intersect with Election Day. Mr. Binder cautioned against giving the Board too many options as it might portray a lack of unity and Mr. Parisi stated they may be able to include the various proposals via a minority opinion. Chairman Wishnie stated that in his experience, they would need to have an alternative and Dr. Benjamin added that the language of the proposal can help present the issues and focus the need for remediation thereby calling attention to the problem. With a motion to recommend expanding the time for review within the existing time period provided for in the charter by Mr. Windels, seconded by Mr. Parisi, the motion was defeated eleven to two, with Mr. Windels and Mr. Parisi voting in favor, and Mr. Mayo abstaining.

After a short break the Commission reconvened at 10:18 AM. Dr. Benjamin presented the recommendation to exempt the Board from the specified May 1 deadline. Ms. Dolgin-Kmetz stated that this is to clarify a longstanding process that had changed with the current County Executive assuming office in 2010, who stated that it was too late according to the Charter to change Capital Budget submissions. Chairman Wishnie asked what the process was when the Board sought to add items to the Capital Budget, to which Ms. Dolgin-Kmetz stated that generally it went through planning and the other necessary approvals, bonding legislation or Capital Budget Amendments, pointing out that the Board was never exempt from bypassing these, among other, approvals. Chairman Wishnie stated that all departments submit projects by May 1 and that the Board's representative is the Chairman so they stay informed during the process. Ms. Dolgin-Kmetz pointed out that this Capital Budget goes into the County Executive's proposal and the final determination essentially lies with him. The commission discussed the present political gridlock between the two branches of government along with the pending litigation. Mr. Binder suggested amending the specification as he did not want the proposal to fail. Mr. Steinman suggested that they allow the exemption but remove 'May 1' from the language to make it more general, although they should still reference it in some fashion. Mr. Parisi moved to table this item, seconded by Mr. Windels, and the motion was defeated twelve to two with Mr. Parisi and Mr. Windels voting in the affirmative. Mr. Binder then made a motion to accept the proposal as amended, seconded by Mr. Meissner with nine members in favor, Mr. Parisi Mr. Windels, and Mr. Thomas voting against it, and Chairman Wishnie and Mr. Mayo abstaining from the vote.

Dr. Benjamin presented the next proposal regarding Legislative Access to Budget Information. Chairman Wishnie started by stating that it was virtually impossible to 'legislate' cooperation. Mr. Parisi questioned the merits and saw this as the basis for yet another lawsuit between the branches of government. Mr. Binder stated that the basis of this recommendation is that the legislators need to see the original departmental requests and that this is a reaction to the dysfunction. Mr. Parisi stated that this issue wasn't under the purview of the commission and Mr. Windels added that the requests are all moving in synch. Mr. Crane stated that it was his understanding that the Administration's position was that there was no obligation for the departmental estimates to be included in the Budget and was up to the County Executive. Ms. Dolgin-Kmetz stressed the need for departmental requests in the proposed budget. Chairman Wishnie noted that the proposal was for more access, generally, and it was his belief that the issue with departmental requests was corrected. The other issue tied to this was that legislative staff generally had problems getting cooperation from the Budget Department, but he could not see a way to change the Charter to facilitate cooperation. Mr. Binder argued that this proposal is a product of the Board's Fiscal Team stating that they need more reliable information in order to do their job and that it was the responsibility of the Commission to cut through the dysfunction. Ms. Morgenstern commented on the tone of the language suggesting they remove 'unfettered' which was generally agreed with. Chairman Wishnie and Mr. Geist each gave some anecdotal evidence on what the situation was like when they were in office. With a motion to adopt the resolution as amended by Mr. Binder, seconded by Mr. Sellier, the resolution was adopted eleven to three with Mr. Gatta, Mr. Windels, and Mr. Parisi voting in the negative.

The next proposals presented to the Commission were regarding quarterly reporting requirements by the Budget Department to the Board of Legislators. Mr. Thomas stated that the words 'Actual' and 'Projected' be added so as to enhance the language, but otherwise agreed with the merits. Mr. Gatta asked if the County already did this and cautioned against it turning into program performance reports which would use too many resources. It was suggested that they are more like a financial variance report. Mr. Gatta stated that numerous institutions have already done away with the Q₃ Reports and all have eliminated the Q₄ Reports as work on the budget is already in progress. Mr. Thomas stated that this was being done mainly for transparency issues and the public's benefit, not for internal management. A discussion ensued and with a motion by Mr. Binder seconded by Mr. Sellier the resolution was approved unanimously.

The next proposal would require the County Executive to detail any recommendation for borrowing for pension costs and to specify the reason for borrowing, the costs, and the duration and amount of debt to be incurred. Ms. McAndrews stated that when she needed to do this, it was done by permissive referendum. Mr. Thomas stated that under the Comptroller's system there is a mechanism in place where borrowing could be done outside of a permissive referendum, set by the state. A discussion ensued and it was again noted that this proposal was for increased transparency and for the public's benefit, but would in no way limit the current authority. After some discussion on the language a motion to adopt as written was made by Mr. Thomas, seconded by Ms. McAndrews, and was adopted unanimously.

Continuing with the question of borrowing for pension costs, Dr. Benjamin addressed the next proposal that created a provision subjecting any proposed borrowing to pay for pension costs to public referendum. Mr. Parisi questioned the legality of it and the general consensus was that this proposal went too far. With a motion by Mr. Parisi, seconded by Mr. Meissner the Commission voted to unanimously reject the proposal.

The commission next addressed the legislative waiting period for additions and deletions to the proposed budget. Chairman Wishnie explained the problems with the current situation and stated that this would provide for increased discussion between the two caucuses. Mr. Parisi asked how this would work logistically and noted that ways could emerge to circumvent this. Chairman Wishnie reiterated that cooperation wasn't something that they could facilitate by amending the Charter. Mr. Binder stated that although this might be problematic in the grand scheme of things they've voted to make certain budgetary recommendations. A discussion on how best to handle this proposal ensued with commentary regarding the past year's budget day vote arising. A consensus was reached that after counsel revised the language of other budget related proposals they would be able to suitably revise this as well. With a motion by Mr. Binder, seconded by Mr. Meissner the proposal was unanimously adopted subject to Counsels' revisions.

Dr. Benjamin moved on stating that they were finished with the budgetary proposals and were now moving onto non-fiscal issues. The item regarding the intergovernmental liaison that was tabled from the previous meeting was the first discussed. Chairman Wishnie noted that this meshes with last meetings recommendation regarding the Council of Governments. Mr. Thomas stated that the junior staff typically has handled this function. Chairman Wishnie also pointed out that there was a long standing precedent that the County Executive and Board's staff has been under each branch's sole purview. Mr. Thomas asked if they would need to formally install this title as a budget line item. Mr. Windels believed it best that the Council of Governments decide on operational issues in order to avoid stepping on anyone's toes. Mr. Menken voiced his concern that even though they proposed the Council of Governments, it served mainly as a 'straw man' position and stated that this addition will enhance the related resolution. A discussion ensued with the members voicing their opinions regarding the merits of having such a position along with potential issues that could arise. Mr. Steinman stated that this issue could be folded into the next meeting's discussion regarding top level management. Mr. Binder cautioned about this item potentially becoming a lightning rod for the Commission's critics as creating a position that requires more funding. More government in today's political and economic climate could be extremely controversial. Chairman Wishnie used his prerogative as Chair to postpone this item until the next meeting.

The final two proposals presented by Dr. Benjamin were regarding the frequency and duration of future Charter Revision Commissions. Of the two proposals presented, one called for a standing commission while the other called for a periodic convening of the commission. Chairman Wishnie believed that a standing commission would consume too many resources and believed it should be periodic. The general consensus of the Commission was that periodic convening of the Commission every ten years would be ideal. Mr. Parisi asked if the Commission should consider looking at details regarding the commission's made up. Further operational details were discussed until Ms. Morgenstern

commented on the current Commissions makeup. She stressed that we shouldn't gloss over the demographic or geographic issues, noting that there were very few minorities or women on the current Commission. Mr. Lawrence stated that political diversity of the group needed to be looked at as well. A lengthy discussion ensued with the final determination that Dr. Benjamin and Mr. Steinman will include language in the commission report that addresses diversity in all aspects. With a motion by Mr. Sellier, seconded by Ms. Morgenstern, the proposal was adopted as amended with thirteen members voting in the affirmative and Mr. Windels voting against it.

With no other issues before them, Mr. Parisi made a motion to adjourn that was seconded by Mr. Thomas. With a unanimous vote, the meeting of the Charter Revision Commission was adjourned at 11:48 AM.