From: joel hurewitz <joelhurewitz@gmail.com>
Sent: Sunday, July 28, 2024 10:57 AM
To: CouncilMail
Cc: Kuc, Gary; Mihill, Amanda
Subject: CR107-2024 Additional Amendments to the Charter Would Be Beneficial

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Dear Councilmembers,

An Inspector General Charter Amendment Is a Good Idea, But the Process Is Flawed

Over the past several years, as I heard discussion about inspector general legislation, I questioned how it could legally and efficiently function without interference from a county executive and conflicts with the auditor without a charter amendment. I am disappointed that the Council only recently came to this conclusion.

Thus, we find ourselves with the impending deadline to place questions on the November ballot. Rather than have a full deliberative process, the public has only one full business day and a summer weekend to review this important resolution. It is ironic that good government legislation is being considered in a rushed and bad government manner. Under the County Code, amendments to agency rules of procedure require a public hearing after a 30-day notice period. The Charter also requires that for appointments to board and commissions "in no event shall such resolution of confirmation be adopted less than twenty-five days after its introduction."

That the Charter allows the Council to pass resolutions for Charter amendments does not mean it should. What the county needs is an amendment to the Charter that would require a notice and comment period for any Charter amendments. Additionally, the Council should put into its rules and procedures a system to begin the process of Charter amendments by April of election years if any councilmembers

intend to submit any for consideration. Rules of procedure of boards and commissions are relatively easy to amend if the first version proves to be flawed. As you are aware, the Charter amendment process is much more complicated and requires voter approval only every two years.

Be that as it may, overall CR107-2024 appears to address some of the issues raised with regard to the independence for the county executive and a legal framework that will separate the IG's functions from that of the auditor. However, I wish to point out several areas of concern and suggest some amendments.

The "Office of Inspector General" Belongs in Article IV of the Charter

The resolution adds the Office of Inspector General to a new Charter Section 915 in Article IX "General Provisions." Section 915 would be added after the housekeeping provisions of Section 912 "Separability," Section 913 "Citation," and Section 914 "Definitions and Rules of Construction." The provision adding a new office should more appropriately be added to Article IV which is called "**OFFICES,** Departments and Boards." (emphasis added). The Section 404 exemption also deals with Boards. Additionally, the bulk of the concerns raised herein also deal with provisions in charter sections in Article IV.

Members of Council and staff claimed on Friday that the Office of Law chose to add the section to Article IX. However, the Office of Law disclaims that it was behind the determination of the placement in the Charter. County Solicitor Gary Kuc wrote "I'm not sure why that was said as no such decision was made here" and Amada Miihill wrote "as Gary has said, the decision about where to locate the text of the Office of the Inspector General in the Charter was not from the Office of Law."

Furthermore, if one looks online at the Charter, one will see that Sections 406-421 are "Reserved." Thus, if it was desired to make an homage to cleaning up government I note that "Section 409" is available. See https://en.wikipedia.org/wiki/Formula_409

Clarification That the Office of Inspector General is Not Subject to Executive Reorganization

Sections 402 and 403 of the Charter deal with Executive Reorganization. To make it clearer that the Office of Inspector General is not subject to control of the Executive, it seems that "Office of Inspector General" should be added to the last sentence of Section 402(b).

Administration Support to the Office of Inspector General

The provision that the IG "SHALL CONDUCT THEIR WORK WITHOUT INTERFERENCE FROM THE COUNTY EXECUTIVE" is not necessarily the same as that the Executive should affirmatively support the IG including by providing sufficient office space, providing computer and technology support, paying the bills of the office and payroll. Can all of these issues be sufficiently covered in the implementing legislation?

Independent Computer System

Conversely to the support by the County Executive, will the IG have the ability to have a separate computer system which will not be accessible by the County Executive? See https://marylandmatters.org/2023/09/14/as-grand-jury-investigates-harford-county-denies-public-records-request-for-emails/ (The Harford County Executive claimed the ability to access a councilmember's emails because the computer system was maintained by the executive branch). The ability of the IG to hire technical advisors implies contractual assistance and does not really cover the ability to have a vendor license a separate computer system. Can these computer issues be sufficiently covered in the implementing legislation?

Relationship of the Inspector General with the Office of Law

Section 405(b) of the Charter states in part **"**Except as otherwise provided in this Charter, no office, department, board, commission, agency or branch of the County government which receives County funds shall have any authority or power to employ or retain any legal counsel other than the County Solicitor. " The provision that the IG may "EMPLOY SUCH LEGAL . . . ADVISORS" would be "as otherwise provided in this Charter." On the other hand, if the IG wanted the advice of the Office of Law, the enumerated list in 405(b) does not authorize the IG to get legal advice and opinions without the approval of the County Executive. Additionally, 405(b) states "The County Solicitor shall have the right of access at all times to the official records of any office, department, board, commission or agency of the County." Should the Office of Law be permitted to access the official records of the IG? That would seemingly give the Office of Law oversight of the IG rather than the other way around.

Right of Inspection by the Auditor

Similar to access granted to the Office of Law, Section 212 grants similar rights of inspection to the Auditor: "All records and files maintained by all officers, agents and employees of the County and all offices, departments, institutions, boards, commissions, courts and corporations and other agencies thereof, shall at all times be open to the inspection of the County Auditor where necessary for the conduct of his or her office." Furthermore, like the situation with the Office of Law, the Auditor's right of access would appear to give the Auditor oversight of the IG.

Right of Access and Inspection by the Inspector General

The proposed Charter amendment does not give the right of access and inspection to the IG. In light of the Charter's access rights granted to the Office of Law and Auditor, it seems unclear whether the implementing legislation could sufficiently ensure this power by the IG.

Section 910 Subpoena Power

It would seem to be beneficial that the subpoena power was given to the Office of the Inspector General in Section 910. This would prevent future councils and county executives from seeking to influence the power of the IG by either granting or denying the power through legislation to serve the majority's interests as the case may be. Moreover, while amending Section 910, the Zoning Board could also be granted subpoena power.

Exemption from Charter Section 404 Is Overbroad

During the public hearing on the IG bills, the general issue concerned that the Charter requires members of Boards to be appointed by the County Executive. However, this exemption goes beyond that and will exempt all of the provisions of Section 404 including (1) requiring confirmation by the Council; (2) not requiring five members; (3) not requiring overlapping terms; (4) not serving until the successor is confirmed; (5) allowing compensation of any amount approved by Council; (6) allowing reappointment after serving eight years and (7) not requiring that "vacancies shall be filled in the same

manner as the original appointment or for the unexpired term." Moreover, is it clear that the removal provisions of Section 903 will still apply?

Thank you for the consideration of these issues to place the powers of the IG in the Charter.

Sincerely,

Joel Hurewitz
Columbia, MD

From: Lmarkovitz <Lmarkovitz@comcast.net>
Sent: Monday, August 5, 2024 6:44 PM
To: CouncilMail
Subject: IG question language

Sure wish the resolution and the question language included subpoena power for the IG, so as not to have to assure it later in legislation. Something to make sure happens at some point.

Lisa Markovitz