

1. Snohomish County Charter Review Commission Agenda - 04202016

Snohomish County Charter Review Commission

Monroe City Hall, Council Chambers
806 West Main Street, Monroe, 98272

Wednesday April 20, 2016

7:00 p.m. – 9:00 p.m.

AGENDA

7:00 p.m. Call to Order

Agenda Order

Flag Salute/Roll Call

Guest: Snohomish County Councilmember Hans Dunshee

Public Comments (7:20 p.m.)

Approval of the Minutes

Report from Chair

Business Items

1. Charter Amendment Proposal Preliminary Discussions
 1. Proposal 2016-35 - Require the County to make "Land Use Proposals" a Link on the County's Homepage
 2. Proposal 2016-36 - Require the County to Conduct an Advisory Election for Developments Two Acres or Greater
 3. Proposal 2016-37 - County Code and Regulation Review
 4. Proposal 2016-38 - Change Date of County Elections
 5. Proposal 2016-39 - Make Assessor and Treasurer Appointed Offices
 6. Proposal 2016-40 - Coordination of Public Safety Services
2. Charter Amendment Study Items
 1. Proposal 2016-09 - Move Union Negotiations to County Council
 2. Proposal 2016-10 - Confirmation of Department Heads
 3. Proposal 2016-11 - Clarify Powers and Duties of Elected Officials
 4. Proposal 2016-03 - Update Charter Language on Nondiscrimination
 5. Proposal 2016-25 - Explore Concepts for Additional Representation in Unincorporated Areas
3. Review of Charter Amendment Language
 1. Proposal 2016-13 and 2016-12 - Change Qualifications for County Offices
 2. Proposal 2016-23 - Update Charter to Use Gender-Neutral Language
 3. Proposal 2016-15 - Eliminate Office of Performance Auditor

Old Business

New Business

9:00 p.m. Adjournment

Next meeting is currently scheduled for May 4 at the Snohomish County Courthouse

Agenda Topics

Study Items

Charter Amendment Proposal 11 - Evaluate Governance Structure for Paine Field Charter

Amendment Proposal 30 - Evaluate Status of Human Rights Commission

Charter Amendment Proposal 31 - Require Appeals of Hearing Examiner to go to Superior Court

Review of Amendment Language

Proposal 2016-02 - Revisions to Districting Timeline and Procedures Proposal 2016-04 - Adding Office of Ombudsman to Charter

[NOTE: Times shown on Agenda are approximate]

2. Snohomish County Charter Review Commission Collective Bargaining - 04202016

SNOHOMISH COUNTY CHARTER REVIEW COMMISSION AGENDA ITEM 2016-27	
SUBJECT TITLE: Move Union Negotiations to County Council	Meeting Date: April 20, 2016
Estimated Presentation Time: 20 minutes	Exhibits: 1. Snohomish County Charter

RECOMMENDATION: The Commission should discuss Charter Amendment Proposal 2016-09, Move Union Negotiations to County Council. If the Commission wishes to move forward with the proposal, the Commission should direct staff to prepare a draft proposition.

SUMMARY:

At the March 2, 2016 meeting of the Commission, the Commission decided to move forward with further analysis and discussion of Charter Amendment Proposal 2016-09, Move Union Negotiations to County Council. The proposal was initially proposed by Vice Chair Terwilliger.

Questions for Discussion

1) Does the Commission wish to move union negotiations to the county council?

BACKGROUND:

Section 3.20 of the Charter states the executive shall “conduct any and all collective bargaining on behalf of the county and county officials in accordance with guidelines set by county council and as allowed by the laws of the state of Washington.” This provision was adopted by the voters in 1996.

In Snohomish County Code, Section 2.600.030, the department of human resources has the authority for labor negotiations.¹ In 2015, there were 41 labor contracts in the county.²

In his comments to the Commission, former councilmember Dave Gossett spoke in favor of returning the authority to conduct union negotiations to the council. He pointed to a decision of the Public Employment Relations Commission against the county as evidence of a misuse of the executive authority. He also suggested that Executive Lovick ignored collective bargaining guidelines set by the council.

In a letter to the Commission, Pat Thompson asserted that the proposal would lead to the “awkward and disconcerted process that the current statute sought to correct.” He went on to state that in jurisdictions with an executive branch, “negotiations are typically headed up by that office holder with the final approval resting with the Legislature or Council.”

1996 Amendment

In 1996, the voters adopted Charter Proposition 6 by a 63% to 37% margin. That proposition amended Sections 2.20 and 3.20 of the Charter. The ballot title was "Shall the county council set guidelines for collective bargaining and approve all final collective bargaining agreements, and shall the county executive be responsible for the conduct of collective bargaining negotiations in accordance with the collective bargaining guidelines?"

The voter's pamphlet statement for the measure was:

Reason for the Change in the Labor Negotiations Process:

Labor Negotiations should be handled by the Executive branch of county government because it is the Executive's responsibility to manage the day-to-day operations of the county, including Human Resource issues, once the Legislative branch has set policy. From a business standpoint, the County Council should be responsible for setting the bargaining parameters, and the Executive should be responsible for negotiating and administering the contracts. Final action on labor contracts, including funding of settlements, remains a responsibility of the County Council.

We need this check and balance. Labor negotiations are no different than any issue when it comes to the separation of powers. This charter amendment will streamline the negotiations process by providing clear lines of policy and authority in an important process. From the citizens perspective, it is a business decision that ultimately saves the taxpayers money.

The statement was prepared by Earl Dutton and Bob White, both members of the Charter Re- view Commission.

There was no statement in opposition.

Other Home Rule Counties

Many of the other counties in the state with a home rule charter do not clarify which branch of the county is responsible for collective bargaining, although the executive is generally in charge of personnel. King County is explicit. King County Charter Section 890 states that the council "shall designate the county executive as the bargaining agent of the county."

Positions of Current Councilmembers

Two members of the current council weighed in on the proposal to move collective bargaining to the council during previous meetings.

On April 6, Councilmember Sullivan stated, "Labor negotiations by committee is not a good thing." He further explained that it is "not productive to negotiate by committee."

On March 30, Councilmember Wright explained that the current process seemed fine. She suggested that if the proposal passed, there would be a need to give council additional resources to handle labor negotiations, since currently those negotiations are handled by the executive.

ALTERNATIVES:

The Commission delays a vote to a subsequent meeting.

Snohomish County Charter

Section 3.20 Powers and Duties of County Executive

As chief executive officer, the county executive shall have all the executive powers of the county which are not expressly vested in other elective officers by this charter. The county executive shall have the power to:

1. Supervise all appointed executive departments established by this charter or created by the county council;
2. Execute and enforce all ordinances and state statutes within the county, subject to Section 3.120;
3. Present to the county council an annual statement of the governmental affairs of the county and any other report which the county executive may deem necessary;
4. Prepare and present to the county council a proposed budget and a budget message setting forth proposals for the county during the next fiscal year;
5. Prepare and present to the county council comprehensive plans including capital improvement plans for the present and future development of the county;
6. Veto any ordinance adopted by the county council except as otherwise provided in this charter;
7. Assign duties to appointed executive departments which are not specifically assigned by this charter or by ordinance;
8. Sign or cause to be signed, on behalf of the county, all claims, deeds, contracts, and other instruments;
9. Nominate members of all county boards and commissions;
10. Employ legal counsel as allowed by the laws of the state of Washington;
11. Conduct any and all collective bargaining on behalf of the county and county officers in accordance with guidelines set by the county council and as allowed by the laws of the state of Washington.

The specific statement of particular executive powers shall not be construed as limiting the executive powers of the county executive.

Documents: [2016-27 COLLECTIVE BARGAINING.PDF](#)

3. Snohomish County Charter Review Commission Confirmation - 04202016

SNOHOMISH COUNTY CHARTER REVIEW COMMISSION AGENDA ITEM 2016-28	
SUBJECT TITLE: Confirmation of Department Heads	Meeting Date: April 20, 2016
Estimated Presentation Time: 15 minutes	Exhibits: 1. Snohomish County Charter

RECOMMENDATION: The Commission should discuss Charter Amendment 2016-10 Confirmation of Department Heads. If the Commission wishes to move forward with the proposal, the Commission should direct staff to prepare a draft proposition.

SUMMARY:

At the March 2, 2016 meeting of the Commission, the Commission decided to move forward with further analysis and discussion of Charter Amendment Proposal 2016-10, Confirmation of Department Heads.

The proposal was initially proposed by Vice Chair Terwilliger.

The current charter requires the executive to nominate the chief officer of each executive department and office. The county council shall appoint the officer. The usual practice is for the nominee to serve as an interim director until the council votes to confirm.

If a nominee is not confirmed, the Charter is silent on what happens to the nominee.

Questions for Discussion

- 1) Does the Commission wish to require the council to take action on an executive appointee within a certain time period?
- 2) Does the Commission wish to specify what happens when a nominee is rejected or not appointed by the council?

BACKGROUND:

Section 3.40 of the Charter states the “county executive shall nominate, and by and with the advice and consent of a majority of the county council, shall appoint the chief officer of each executive department and office.”

Current Practice

The current practice in Snohomish County is for the executive to nominate the “chief officer” and have that individual serve as an acting director until the council appoints.

The council staff does not possess a list of confirmation votes by the county council. Discussions with council staff suggest that most confirmation votes occur shortly after a nomination occurs.

The most recent confirmation by the council was for Trever Esko. Esso was selected to begin acting as Department of Information Services (DIS) Director on February 1, 2016. The Council confirmed the appointment on March 23, 2016.¹ The time between nomination and confirmation was 52 days or 1 month and 23 days.

A longer confirmation process occurred during the nomination of D. Gage Andrews in 2011. The executive nominated Mr. Andrews on September 12, 2011 as the Department of Information Services Director and he began serving as interim director on that day. The council did not confirm Mr. Andrews until February 15, 2012.² The time between nomination and confirmation was 157 days or 5 months and 4 days.

State Practice

RCW 43.06.092 describes the practice of the state. “Any gubernatorial appointee subject to senate confirmation shall continue to serve unless rejected by a vote of the senate. An ap- pointee who is rejected by a vote of the senate shall not be reappointed to the same position for a period of one year from termination of service.”

State law says that appointees serve at the pleasure of the Governor.

Appointing Authority Across Counties

Table 1 - Appointing Authority in Home Rule Counties

Who is appointed	Appointing Authority	Charter Section
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Snohomish	Chief officer of each executive department and office	Executive shall nominate, and by and with the advice and consent of a majority of the county council, shall appoint	3.40
King	County Administrative Officer and the chief officer of each executive department	Executive shall appoint ...subject to confirmation by a majority vote of the County Council	340.10, 340.40
Clallam	Appointed officials, including the Administrator	Commissioners	5.30
Whatcom	Chief officer of each executive and administrative department and office	Executive shall appoint ... subject to confirmation by a majority vote of the County Council	3.23
Pierce	Chief officer of each executive department	Executive shall appoint ...subject to confirmation by the Council	3.30
San Juan	Heads of Administrative Departments; Managers that report directly to a department head	Shall be appointed by the County Council	4.20, 4.30
Clark	Chief officer of each administrative department	County manager shall appoint.	3.3 (D)

Potential Alternatives

The Clark County Charter contains language that is more prescriptive in requiring the council to take action on executive appointments.

Section 3.3 (B)

The county manager shall appoint members of boards, commissions and task forces except as provided by state law, intergovernmental agreement or this charter. Appointments made by the county manager shall be presented to the council during a regular council meeting. Within thirty (30) calendar days, the council shall accept or reject the appointment by a majority vote. Failure to act within thirty (30) days constitutes acceptance to the appointment. A rejection applies to that board, commission or task force position only.

The Commission may wish to add certain language to the Charter to state that a nominee that is rejected by the Council may not continue to hold office. Language may parallel RCW 43.06.092.

A third alternative may be to prohibit a nominee from serving as a director until confirmation by the council unless by virtue of their current position as a deputy director

(or similar title) would assume the interim duties of the director. This would be similar to nominations in the United States where the President makes a nomination and the Senate confirms.

An advantage to this method is that an executive nominee would not start work on organizing the department until they have the confidence of the county council. A disadvantage is that a nominee would remain in limbo from the time of nomination until a confirmation vote of the council.

ALTERNATIVES:

The Commission delays a vote to a subsequent meeting.

**Exhibit 1
Snohomish County Charter**

Section 3.40 Appointments by County Executive and Confirmation

The county executive shall nominate, and by and with the advice and consent of a majority of the county council, shall appoint the chief officer of each executive department and office, except the separately elected offices. The county executive may appoint a confidential secretary and a deputy county executive without council confirmation.

Documents: [2016-28 CONFIRMATION.PDF](#)

4. Snohomish County Charter Review Commission Proposals - 04202016

SNOHOMISH COUNTY CHARTER REVIEW COMMISSION AGENDA ITEM 2016-26	
SUBJECT TITLE: Further Analysis and Discussion on Charter Amendment Proposals	Meeting Date: April 20, 2016
Estimated Presentation Time: 25 minutes	Exhibits: 1. Process for Receiving Charter Amend- ment Proposals

RECOMMENDATION: The Commission should determine whether to have further discussion and analysis on Charter Amendment proposals presented at the March 30 and April 6, 2016 meetings and proposals from Snohomish County residents.

1. Proposal 35: Requiring the County to make "Land Use Proposals" a link on the county's homepage
2. Proposal 36: Require the County to conduct an advisory election for developments two acres or greater
3. Proposal 37: County Code and Regulation Review
4. Proposal 38: Change Date of County Elections
5. Proposal 39: Make Assessor and Treasurer Appointed Offices
6. Proposal 40: Coordination of Public Safety Services
7. Proposal 41: Reduce Term Limits to Eight Years

If a Commissioner wishes to have further discussion on a proposal, a motion would be "I

move to have further discussion and analysis on Charter Amendment Proposal.”

SUMMARY:

At the February 17, 2016 meeting of the Commission, the Commission decided upon a procedure for determining which proposals to amend the Snohomish County Charter should receive further discussion and analysis. That process is seen in Exhibit 1.

BACKGROUND:

**Charter Amendment Proposal 35
Requiring the County to make "Land Use Proposals" a link on the county's homepage**

On March 22, Mr. LaBelle sent a letter to the Commission suggesting that the Commission should require the county to place a link labeled “Land Use Proposals” on the county’s home page.

He writes: “The county website needs to have all land use proposals that are submitted to PDS, appear on the county's website (homepage) as an easily seen button labeled "Land Use Proposals". Click the button and you'll go to an index of proposals, each with a two-line abstract like you get when you google something. Click on the link you want and read the whole bloody thing. Moreover, proposals must be put up on the website within seventy-two hours of being filed, not weeks or months. As it is today, the red notices are pounded in the ground long after the decision has already been made.”

Charter Provisions Addressed:

Not Currently Addressed in the Charter

**Charter Amendment Proposal 36
Require the County to conduct an advisory election for developments two acres or greater**

On March 22, Mr. LaBelle sent a letter to the Commission suggesting that the Commission should require the county to conduct an advisory election for developments two acres or greater.

He writes, “For any development involving two acres or more, the county will send advisory ballots (paid for by the applicant) to residents adjacent to the property, two layers out, asking for their approval - a yes/no kind of thing. The results will be published on the homepage of the County's website and The Herald submitted to the Council to guide them in casting their votes. The results of each Council Member's vote will be placed on the homepage for everyone to see. Appended to the Council Member's votes, will be a one-paragraph where the Council Members can explain why they voted as they did.”

Charter Provisions Addressed:

Not Currently Addressed in the Charter

**Charter Amendment Proposal 37
County Code and Regulation Review**

At the March 30 meeting of the Commission, Commissioner Roulstone proposed the creation of a commission to review county codes and regulations, similar to the Charter Review Commission.

Commission Roulstone further explained the proposal “This would create a commission similar to the Charter Review Commission which would review County Code and Regulations to determine their adequacy and suitability to the needs of the County and propose laws and regulations for elimination or amendment.”

Charter Provisions Addressed:
Not Currently Addressed in the Charter

Charter Amendment Proposal 38
Change Date of County Elections

At the March 30 meeting of the Commission, Commissioner Barton proposed to change the date of elections for county officials from odd-numbered years to even-numbered years.

RCW 36.32.030 states that county commissioners are elected at a general election held in an even-numbered year. Many, but not all home rule counties moved the election of their county council or commission to odd-numbered years.

Charter Provisions Addressed:
Section 4.90 Commencement of Terms of Office

Charter Amendment Proposal 39
Make Assessor and Treasurer Appointed Offices

At the April 6 meeting of the Commission, Jim John proposed to make the assessor and treasurer appointed offices, rather than elected offices.

A home rule county possesses the authority to make changes to which offices are elected and which are appointed. In King County, the county clerk, auditor, and treasurer are appointed positions.

Charter Provisions Addressed:
Section 3.100 Election and Term of Office

Charter Amendment Proposal 40
Coordination of Public Safety Services

At the April 6 meeting of the Commission, Commissioner Liias proposed to evaluate the coordination of public safety services.

A concern was raised during the presentation by Councilmember Sullivan that there was not sufficient coordination of public safety services. Council member Sullivan proposed a couple of ideas, a public safety cabinet and one budget from public safety departments.

Public safety services are currently divided into at least six departments, the District Court, Sheriff, Prosecuting Attorney, Office of Public Defense, Superior Court, and Sheriffs' Corrections Bureau. According to Councilmember Sullivan, 75% of the county's budget goes toward public safety.

Under county code, there is a Law and Justice Council (Section 2.13), which serves as advisory body to the county council on issues relating to the law and justice system.

Charter Provisions Addressed:
Not currently addressed in the council.

Charter Amendment Proposal 41
Reduce Term Limits to Eight Years

On April 11, Robert Losh submitted a proposal to amend the Charter to reduce the amount of years a councilmember can serve to eight years from the current twelve years an officeholder can hold consecutively.

He writes, "The County leadership must have flexibility to adapt and innovate in a rapidly evolving economic/political environment. All things are cyclical and contractions are as certain as expansion; Management must be ready and plan for any eventuality. Of course, good relationships with county employees and interest groups are essential but in this age, when those employees and lobbies are allowed to contribute, sometimes

heavily, to political campaigns of incumbents, it might not be prudent to allow those relationships to corrupt what should be impartial management decisions. Eight years is long enough to affect a positive influence into what should be a "public service" position; Not a "civil service" job.

If an office holder feels that he/she has acquired experience that makes their contribution still a value to constituents, they can run for another office, if desired, after the term limit expires."

Charter Provisions Addressed:
Section 4.30 Qualifications- Limitations

ALTERNATIVES:

The Commission delays a vote to a subsequent meeting.

Exhibit 1
Process for Receiving Charter Amendment Proposals

1. The Commission receives completed amendment submission form.
 1. The Commission may ask for applicant for more information about the proposed Charter amendment.
2. The Commission determines whether the proposed Charter amendment shall be added to the agenda for further action and discussion.
 1. The Commission will vote on whether to move forward with a proposed Charter amendment at the Commission's next scheduled meeting under new business.
 2. Five affirmative votes are necessary to add a proposed Charter amendment on a future agenda.
3. At a subsequent meeting, the Commission may:
 1. Discuss or amend a proposed Charter amendment.
 2. Determine the costs or benefits of a proposed Charter amendment.
 3. Vote to refer a proposed Charter amendment to the voters for ratification.
4. The Commission shall communicate with the primary submitter of a proposed Charter amendment as to actions taken by the Commission.

Documents: [2016-26 PROPOSALS.PDF](#)

5. 04202016 - Charter Review Commission Extended Agenda

April 20: Monroe/Snohomish

- Councilmember Hans Dunshee (not confirmed)
- Study Items

1. Proposal 2016-11 Clarify Power and Duties of County Offices

2. Proposal 2016-03 Update Charter Language on Nondiscrimination
3. Proposal 2016-03 Update Charter Language on Transitional Provisions
4. Proposal 2016-25 Explore Concepts for Additional Representation in Unincorporated Areas

- Review of preliminary charter language

1. Gender Neutral
2. Performance Auditor
3. Age/Residency Requirements

6. Charter Review Commission Extended Agenda - April 20: Location TBD
April 20: Location TBD

Study Items

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7. 04/20/2016 - Snohomish County Charter Review Commission Agenda

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Review of Amendment Language

Proposal 2016-02 - Revisions to Districting Timeline and Procedures

Proposal 2016-04 - Adding Office of Ombudsman to Charter

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Documents: [2016_0420 AGENDA.PDF](#)