

CITY OF BALTIMORE

BRANDON M. SCOTT, Mayor



2023–2024 CHARTER REVIEW COMMISSION

City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202

June 5, 2024

Mayor Brandon M. Scott
Council President Nicholas J. Mosby
Members of the Baltimore City Council
City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: Final Report

Dear Mayor Scott, President Mosby, and Members of the City Council:

On behalf of the members of the Baltimore City Charter Review Commission, allow us to express our gratitude for the opportunity to serve on the Commission and to participate in this important democracy strengthening process. Despite the unusually short period of time that we were given to complete our assignment, as well as several other challenges that limited the depth of our work, we were able to make recommendations and identify issues that warrant further review.

Therefore, pursuant to Article XI of the Baltimore City Charter, the Commission is transmitting herewith its written reports of findings and recommendations.

Respectfully submitted,

Reverend Kobi Little
Presiding Co-Chair

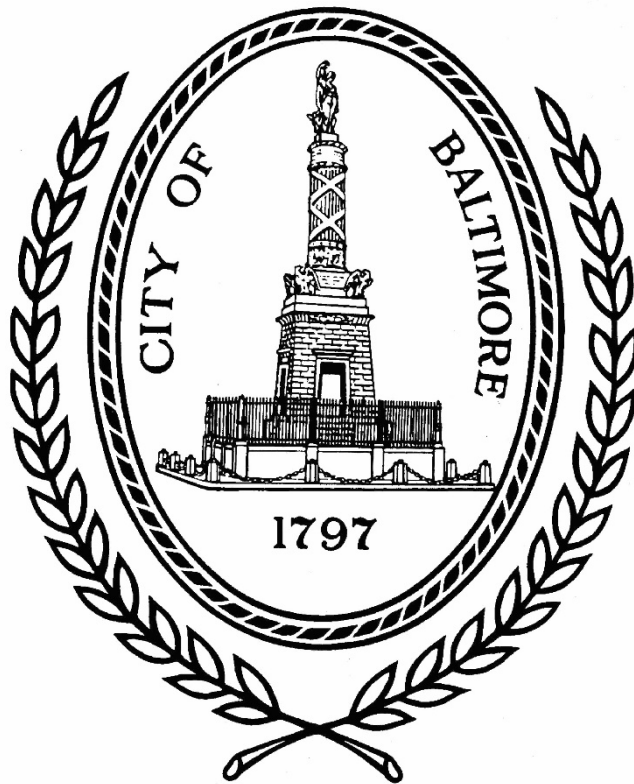
Terrell Boston-Smith
Co-Chair

Julianne Montes de Oca
Co-Chair

cc: Natawna Austin, Executive Secretary of the Baltimore City Council
Elena DiPietro, Chief Solicitor
Bill Henry, Comptroller
Faith P. Leach, Chief Administrative Officer
Nina Themelis, Director of the Mayor's Office of Government Relations
Ebony M. Thompson, City Solicitor

CHARTER REVIEW COMMISSION

2023-2024



FINAL REPORT

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Nicholas Blendy

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EXECUTIVE SUMMARY

The 2023-2024 Charter Review Commission recommends the following five Charter Amendments.

Council Size: The Commission recommends the Council introduce a Charter Amendment reducing the City Council size from 14 to 12.

Referendum: The Commission recommends that the Council introduce a Charter Amendment giving the voters of Baltimore City the Power of Referendum.

Department of Legislative Reference: The Commission supports a Charter Amendment that prunes and clarifies the role and mission of the Department of Legislative Reference and focuses its mission, as a professional, independent organization that drafts, publishes, and archives all law, regulation, and policy for the Baltimore City Government.

Party Representation on the Charter Review Commission: The Commission recommends that the Council introduce a Charter Amendment that would permit each political party recognized by the State Board of Elections at the time the Commission is established, to appoint one member to the Commission, in addition to its current composition.

Charter Review Commission Timing: The Commission recommends that the Council introduce a Charter amendment to require that a Charter Review Commission be appointed by the by May 1st in every year that precedes a Presidential election, and if not appointed by the Mayor within 60 days, the Council President shall have the ability to convene the Charter Review Commission.

INTRODUCTION

On November 3, 2020, the voters of Baltimore City adopted Resolution 20-18, which amended the Baltimore City Charter to require a decennial Charter Review Commission. On December 9, 2021, the City Council adopted resolution 21-0085R establishing that the “membership of the Charter Review Commission be appointed...no later than December 21, 2021” and that “the Charter Review Commission shall commence the duties and work of the Commission no later than the first week of January 2022.” In actuality, the current Commission had its inaugural meeting on November 7, 2023.

Few members of the current Commission were intimately familiar with the Baltimore City Charter, which is over 250 pages when printed out. Members required several meetings to familiarize themselves with the Charter and its structure. Additionally, this Commission was required to produce and submit this report by May 31, 2024. Given the compressed timeline, the current Commission has chosen to focus on a few impactful recommendations rather than a comprehensive overhaul of the City Charter. The Commission also heard from Baltimore City elected officials who proposed various amendments to the City Charter. Feeling that there was insufficient time to give these proposals their due consideration, the Commission did not advance these proposals to a vote of the full body. A summary of the proposals is listed in Appendix C.

The Commission also notes that a Mayor’s Charter Review Commission was convened in 2018 which produced a report containing numerous recommendations, most of which the City Council has not taken any action on. The current Commission does not take any position on those recommendations; the members are merely noting here that if the City Council wishes to see more recommendations beyond those that are included in this report, such recommendations exist in the 2018 report.

In our discussions, the Commission was most concerned with promoting the health of democracy in Baltimore City. At the time of this writing, wealthy individuals and corporations have used their money to place several ballot initiatives before the voters in November this year. The Commission sees this blatant use of money to influence policy as a subversion of democracy. This report includes some suggestions for the City Council to fight back against those ballot initiatives, but the Commission also urges City Council to meet this moment by educating the public and explaining to voters why they should reject these initiatives. At the time of this writing, the Primary Election has already occurred and in Baltimore that historically means that most of the elected positions in the city are not in doubt. However, that does not mean that the election campaign is over.

This concern with democracy also motivates the Commission’s recommendation to open membership of the Commission to all recognized political parties within the State of Maryland. Doing so will expand the Commission’s membership, bring in new voices, and ensure that the full scope of diverse voices within the city are heard.

RECOMMENDATIONS

COUNCIL SIZE

Background

A guiding principle that frames the issue of the membership and composition of the Baltimore City Council is to maximize the capacity for residents to impact local government policy. There are political and economic forces that seek to shape the structures of local government in ways to advance their own interests. This dynamic is inevitable. Our goal is to provide recommendations on the issue of the Baltimore City Council composition that provides the best possible opportunity for communities in Baltimore to effectively pursue their interests. The 2018 Charter Commission took up the issue of council composition and recommended the Council address size and composition of the Council after the 2020 census. As of yet, the Council has not advanced any proposed charter amendments regarding this question.

Currently, David Smith, the owner of Sinclair Broadcasting has funded the work to get enough signatures for a ballot question to the voters on the November general election to decrease the size of the Baltimore City Council to 8 members. The stated rationale of PEACE, the entity Smith financed to get the signature for the ballot question, is that a smaller Council would save taxpayer dollars and would be more aligned with surrounding jurisdictions like Baltimore County. Both reasons are flawed. Less members of the City Council will mean that their offices would need more capacity to meet the increased caseload of constituent services. This means that ultimately the taxpayers would not actually save money. Additionally, Baltimore is a majority Black city, and maximizing Black electoral power is important given the history of the denigration of Black political power in the US. The Commission takes the position that this ballot question is a blatant attempt by Smith to increase his ability to influence local government by having less targets to influence government policy. This move would diminish Black electoral power in a majority Black city. The Commission would be derelict in its duty not to consider the racial justice implications of such a drastic structural change in the composition of the local legislative body.

Recommendation

Given the lack of specific and rigorous attention to this issue, there needs to be research on this topic. The question of what number of council members is needed to sufficiently address the importance of maintaining meaningful Black electoral power requires more investigation. With that being said, the Commission recommends that the Baltimore City Council support a charter amendment that would reduce the number of council districts from 14, to 12. This is a less drastic change to the composition of the Baltimore City Council, while acknowledging that population loss in Baltimore may warrant a smaller reduction in the size of the Baltimore City Council. The recommended wording of the charter amendment is below.

ARTICLE III – CITY COUNCIL

§ 2 Members.

(b) *Number.*

The Council shall consist of [fourteen] **TWELVE** members in addition to the President. There shall be [fourteen] **TWELVE** districts with one member elected from each district.

REFERENDUM

Background

The Commission took up the topic of referendum very early in our deliberations and continued to discuss it throughout the term. The Power of Referendum is the right of registered voters of a jurisdiction to submit a petition to approve or reject an act passed by the legislative branch and signed by the executive branch through their vote at the polls.

This power is an essential element reserved to the people in Maryland's balance between direct and representative democracy. The referendum exists in the Maryland Constitution and in every other charter county in Maryland. Each of these jurisdictions specify three elements of how this process works:

Scope of Referendum: This explains what laws passed by the county are subject to the referendum process. While there is some difference, common exclusions include: appropriations, taxation, council redistricting, school construction.

Amount of Petition Signatures Required to Send an Act to Voters: Each charter specifies the number of voters required to sign a petition in order to invoke the referendum. In most cases this is a percentage, though in some cases it is an amount. If it is a percentage, these clauses also specify of what it is a percentage. Charters calculate their signature threshold based on percentage of voters in a given election, or percentage of registered voters.

Time by which the petition must be filed: The charter counties in Maryland that allow referendums specify a time period and manner in which legislation is enacted after its passage. The petition to bring the law to referendum must be submitted prior to the date of enactment. This time period is represented in

Table 04 {"Charter County Referendum Details at a Glance"} in Appendix B as "Submission Window".¹

The Commission discussed broadly that Baltimore voters are the only voters in a Maryland charter county who do not have this power and the role of democracy by petition in city governance. The Commission also discussed the dangers of unlimited campaign finance for ballot questions, and the limits and possibilities of voters being able to challenge specific policies.

Recommendation

The Commission recommends that the charter be amended to give Baltimore voters the Power of Referendum. The Council will need to decide what is in scope of referendum, the amount of signatures required for petitions, and the time by which a petition must be filed.

The Commission recognizes that extending the Power of Referendum to voters would necessitate additional changes to the charter to specify "a date of enactment". Appendix B, provides the language of the other charters regarding referendum so that the Council has models to use while developing the specific implementation of referendum in Baltimore City.

DEPARTMENT OF LEGISLATIVE REFERENCE

Background

The Department of Legislative Reference was a topic of conversation among the Legislative & Oversight Committee. The Committee discussed the changes that were made to the Department in response to Question G enacted by voters in the 2018 election, and also discussed the complexity of the current charter, which creates confusion about the role and mission of the department. The Commission also received a presentation from Councilperson Ramos that outlined changes to the Department that she is considering.

Recommendation

The Commission recommends that the Council move forward with a charter amendment that prunes and clarifies the role and mission of the Department of Legislative Reference and focuses its mission, as a **professional, independent organization that drafts, publishes, and archives all law, regulation, and policy for the Baltimore City Government.**

¹ NOTE: Baltimore City does not specify date of enactment in the charter and would need to include such a clause to move forward with the referendum.

PARTY REPRESENTATION ON THE CHARTER REVIEW COMMISSION

Background

The Commission discussed the composition of the Charter Review Commission with an eye toward including members who are not members of the majority political party.

The Commission recognized that Maryland has a policy preference for multiple parties and a history of allocating commission seats based on party affiliation. For example, state and local boards of elections and minority party representation clauses in charters.

The Commission further recognized that the Charter is the people's document and is decided on by voters in the general election, and thus the Commission should include perspectives from members of all political parties that are able to participate in the general election, whether they can participate in the primary or not.

Recommendation

The Commission considered using the minority participation language that in Article IV, § 8. Commissioners felt, however, that this approach was insufficient. The current language of Article IV, § 8 requires Minority Party participation and puts the burden on the Mayor to appoint people outside of the majority political party. Section 8 does not require that each or even that any minority party is included, simply that not all members be of the same party.

Although not included in the motion that passed, there were also members of the Commission who felt that unaffiliated voters should also receive consideration for dedicated, reserved positions.

The Commission recommends that Article XI, § 3 of the Charter be amended to include a provision that in addition to the current composition of the Charter Review Commission, each political party recognized by the State Board of Elections at the time the commission is established, may appoint one member to the Commission.

Authors' Note: The recommendation to include representation on the Charter Review Commission based on political affiliation created a lot of conversation about the composition of the Charter Review Commission in general. Age, race, ethnicity, language, geography, and other important characteristics were brought up in addition to political affiliation. While none of these ideas were included in the proposal, the recommendation to include representation based on political affiliation, should not preclude any effort to make the composition of the Charter Review Commission more broadly reflect the people of Baltimore City.

CHARTER COMMISSION TIMING

Timing of the Baltimore City Charter Review Commission Appointment

The Baltimore City “Special” Charter was established in 1898, and the Home Rule Charter was established in 1918. Since then, a Charter Review Commission has been appointed only sporadically in the past one hundred and twenty-six years, producing five reports in 1945, 1964, 1975, 1992, and 2018.

In 2018, the Charter Review Commission recommended that the Charter be amended to require the appointment of a Commission at least every ten years and that the appointment start no later than May 1st in the first odd numbered year of each decade and end May 1st the following year.

In 2020, the voters of Baltimore City agreed and adopted Resolution 20-18, which amended the Baltimore City Charter to require a decennial Charter Review Commission. Over 86% of voters supported the creation of the Commission.²[1] This requirement is now enshrined in the Baltimore City Charter under Article XI.

Following the November general election in 2020, a Commission should have been established by May 1, 2021. However, this Commission was not established until November 2023, and first met on November 7, 2023. Nevertheless, this Commission must provide its recommendations by May 30, 2024 despite the condensed time to meet and confer.

Why the status quo is inadequate

Baltimore City is quickly evolving. The political landscape has changed considerably in the last ten years concerning the demographics of the city, the threat of concentrated wealth on voter suppression, and the possibility of revitalization of the City’s CenterPoint, the Inner Harbor. The Baltimore City Charter has the ability to curtail threats and mobilize opportunities if it is examined contemporaneously with changing times. This is why this Commission is of the opinion that the periodic review of this City’s organic mandate requires inspection more often than each decade, and requires thoughtful inspection that coincides with a presidential election to encourage voter participation for any change adopted by the Council and put on the ballot.

Additionally, Article XI does not specify *who* has the power to convene the Charter Review Commission and if there are any time restrictions to do so. In other words, although Article XI states that the Charter Review Commission “shall be established decennially ... by resolution of the Mayor and City Council no later than May 1 in the first odd-numbered year

² Emily Hofstaedter, *Baltimore City voted for a City Charter Review Commission. Two years later, where is it*, WYPR NEWS, May 1, 2023, <https://www.wypr.org/wypr-news/2023-05-01/baltimore-city-voted-for-a-city-charter-review-commission-two-years-later-where-is-it>.

of each decade”, in practice, this deadline is irrelevant and unenforceable, as illustrated by this Commission being established nearly two years after its required date.

Recommendation

The 2023-24 Charter Review Commission recommends an increase in the frequency in the establishment of Charter Review Commissions. Specifically, this Commission recommends that a Charter Review Commission be appointed by May 1st in every year that precedes a Presidential election. The language of the proposed Charter Amendment is below.

This proposal is not without precedent. For example, Montgomery County’s Charter requires their county council appoint a standing charter review Commission every four years. The Montgomery County Commission submits reports no later than May 1 of every even-numbered year.

Additionally, the Commission recommends that Article XI be amended to specify that the Mayor is responsible for convening the Commission by May 1st, and if the Mayor does not do so, that the Council President has the power to convene the Commission.

ARTICLE XI . CHARTER REVIEW COMMISSION

§ 1. Commission Established.

(a) *In general.*

[A] THE MAYOR SHALL ESTABLISH A Charter Review Commission [shall be established decennially] in accordance with this article [by resolution of the Mayor and City Council] no later than May 1 [in the first odd-numbered year of each decade] IN EACH YEAR THAT PRECEDES A PRESIDENTIAL ELECTION.

IF THE MAYOR DOES NOT ESTABLISH A CHARTER REVIEW COMMISSION WITHIN 60 DAYS OF MAY 1 OF THE PRESCRIBED YEAR, THE CITY COUNCIL PRESIDENT SHALL ESTABLISH A CHARTER REVIEW COMMISSION.

CONCLUSION

In conclusion, although there are large portions of the Baltimore City Charter that are deserving of a complete overhaul, this Charter Review Commission's recommendations are focused on five recommendations that seek to promote the health of democracy in Baltimore City.

First, to counter the petition-based charter amendment funded primarily by David Smith with a Charter Amendment to reduce the City Council to 12 members.

Second, to give the voters the Power of Referendum.

Third, to support a City Council Charter amendment that would clarify the role and mission of the Department of Legislative Services.

Fourth, to increase non-majority party representation on the Charter Review Commission.

Fifth, to increase the frequency of the Charter Review Commission's establishment while allowing the City Council President to convene the Charter Review Commission if the Mayor fails to do so within a timely manner.

APPENDIX A. BALLOT QUESTIONS IN MARYLAND SINCE 1999

The Commission spent a lot of time discussing the way that voters interact with ballot questions. Two of the most discussed topics were: (i) the number of questions that voters have to make a decision on; and (ii) the likelihood of voters to vote “no” on ballot questions. Commissioner Ellis assembled a dataset that includes every county level ballot question in Maryland since 1999. For the purposes of questions related to the Baltimore City Charter, the analysis below is limited to the 11 charter counties.

Success of Charter Amendments

From 1999 to 2022, the 11 charter counties sent 269 charter amendments to voters. 244 have passed and 25 were defeated.

TABLE 01

Jurisdiction	Total Charter Amendments	Approved	Not Approved
Anne Arundel	47	45	2
Baltimore City	50	49	1
Baltimore	12	11	1
Cecil	10	10	
Dorchester	1	1	
Frederick	12	10	2
Harford	13	13	
Howard	18	18	
Montgomery	24	18	6
Prince George’s	36	31	5
Talbot	12	5	7
Wicomico	34	33	1
<i>Total</i>	269	244	25

Total Questions on the Ballot

Three jurisdictions are required by State law to seek voter approval for the issuance of public bonds: (i) Baltimore City; (ii) Baltimore County; and (iii) Prince George’s County. The requirement to place bond issues on the ballot results in an overall higher number of ballot questions per election in these three jurisdictions, marked in italics at the top of the table.

TABLE 02

Jurisdiction Name	Average Number of Ballot Questions per Election
<i>Baltimore City</i>	<i>10.5</i>
<i>Baltimore County</i>	<i>10.4</i>
<i>Prince George's County</i>	<i>8.5</i>
Anne Arundel County	5.3
Wicomico County	4.0
Harford County	2.6
Montgomery County	2.4
Frederick County	2.3
Cecil County	2.2
Howard County	2.1
Talbot County	1.8
Dorchester County	1.0

The number of charter amendments that Baltimore City has seen in the last 4 election cycles (2016-2022) was greater than the total number that have been put before the voters in all election cycles from 1999 to 2014 combined. In those 4 election cycles, Baltimore City also had fewer bond issues. There were two petition-based charter amendments placed on the ballot during the last 4 election cycles: Question J in 2016 created the Affordable Housing Trust Fund and Question K in 2022 set City Council term limits.

The last time a Baltimore City Bond Issue was defeated was 1970.

The last time Baltimore City defeated a charter amendment was 2004, but that defeat was short lived. The 2004 Question E would have lowered the age to serve on the Council to 18. It was defeated 46.25% to 53.75%. It had 70,186 votes for and 81,552 against. In 2011, the same amendment was put forward but this time was labeled Question B. Voters approved Question B and it became law. It passed with 74.26% votes for and 25.74% votes against. 2011 was an off-year election, and, as a result, Question B only had 33,790 votes for and 11,710 votes against. Significantly less votes than had been cast on either side in 2004.

TABLE 03

Jurisdiction	Question Type	Average
Anne Arundel	Charter Amendment	5.2
Prince George's	Charter Amendment	4.0
Wicomico	Charter Amendment	3.8
Baltimore City	Charter Amendment	3.6
Cecil	Charter Amendment	3.3
Frederick	Charter Amendment	3.0
Harford	Charter Amendment	2.6
Montgomery	Charter Amendment	2.4
Howard	Charter Amendment	2.3
Baltimore	Charter Amendment	2.0
Talbot	Charter Amendment	1.7
Dorchester	Charter Amendment	1.0

RECENTLY DEFEATED CHARTER AMENDMENTS IN MARYLAND

Montgomery County 2020

There were 4 questions on the 2020 ballot in Montgomery County.

Taxes

Question A

- Council action put Question A on the 2020 ballot
- Would give the Council the ability to raise property taxes by unanimous vote
- Passed 62.5% to 37.5%

Question B

- Petition action put Question B on the 2020 ballot
- Would have capped any increase in the property tax rate to track with inflation
- Failed 42.9% to 57.1%

Council Composition

Question C

- Council action put Question C on the 2020 ballot
- Would expand the Council from 9 members (5 district members and 4 at large members) to 11 members (7 district members and 4 at large members)
- Passed 62.5% to 37.5%

Question D

- Petition action put Question D on the 2020 ballot. This action was lead by a group called Nine Districts for MoCo
- Would have kept the Council at 9 members, but remove at large members
- Failed 42.5% to 37.5%

Frederick County 2022

There were 2 questions on the 2022 ballot in Frederick County.

Question A

- Council action put Question A on the 2022 ballot
- Sought to clarify that the Council had the final say in arbitrated labor disputes between firefighters and the County
- The County spent nearly \$100,000 advocating for Question A
- Failed 45.65% to 54.35%.

Question B

- Council action put Question B on the 2022 ballot
- Would have allowed the part-time County Council members to receive benefits, like health insurance
- Failed 22.2% to 77.8%.

Talbot County 2022

There were 2 questions on the 2022 ballot in Talbot County.

- Both questions focused on council compensation.
- One question would have raised the compensation for council members, while the second questions would have empowered the Council to raise their own compensation.
- Both questions failed.

APPENDIX B. REFERENDUM IN OTHER CHARTER COUNTIES

TABLE 04: CHARTER COUNTY REFERENDUM DETAILS AT A GLANCE

County	Ref.	Authority	Signature Threshold	Percentage of	Submission Window
Anne Arundel	Yes	Art. 3, § 308	10.00 %	gubernatorial voters	45 days
Baltimore City	No			N/A	
Baltimore	Yes	Art. 3, § 309	10.00 %	gubernatorial voters	45 days
Cecil	Yes	Art. 3, § 308	10.00 %	registered voters	59 days
Dorchester	Yes	Art. 3, § 307	10.00 %	registered voters	59 days
Frederick	Yes	Art. 3, § 308	7.00 %	registered voters	59 days
Harford	Yes	Art. 2, § 220	5.00 %	qualified voters at last general election	60 days
Howard	Yes	Art. 2, § 211	5.00 %	gubernatorial voters	60 days
Montgomery	Yes	Art. 1, §§ 114, 115	5.00 %	registered voters	90 days
Prince George's	Yes	Art. 3, § 319	10,000	N/A	45 days
Wicomico	Yes	Art. 3, § 312	< of 20.00 % or 10,000	presidential voters	60 days

TABLE 05: BALTIMORE CITY SIGNATURE THRESHOLDS BASED ON OTHER COUNTY METHODS

Threshold	Registered	Gubernatorial	Presidential
5 percent	19,670	7,363	19,984
7 percent	27,538	10,308	27,978
10 percent	39,340	14,725	39,969
20 percent	78,679	29,450	79,937

Review county charter amendments regarding referendum.

APPENDIX C. OTHER PROPOSALS AND CONSIDERATIONS

PRESENTATIONS TO THE LEGISLATIVE AND COMPLIANCE COMMITTEE

REDISTRICTING

The Legislative & Compliance Committee included within its report to the full Commission a recommendation to support Councilman Dorsey's proposal regarding redistricting. At the time the recommendation was presented to the entire Commission, however, a quorum of Commissioners was not present, and, therefore, the recommendation was not voted upon.

PRESENTATIONS TO THE COMMISSION

Each of the 3 Commission committees received reports on or discussed the following items. None of these items, however, were recommended by a committee to the full Commission.

Legislative and Compliance Committee

- Committee Member Proposal:
 - Council President to be elected by the City Council rather than by City-wide vote.
This idea was put forward by a Committee Member but later withdrawn.

Administrative & Executive Functions Committee

- Committee Member Proposals
 - Office of Nightlife

Board of Estimates, Finance and Procurement Committee

- Committee/Commission Member Proposals:
 - Council Conditional Funding
 - Council Control of Benefits
- Office of the Comptroller Recommendations:
 - Council Vice President as a member of the Board of Estimates in place of the Director of Public Works
 - Four members of Board of Estimates constitute a quorum
 - Transition bid opening responsibility to the Bureau of Procurement

Councilmember Presentations to Full Commission

- Councilman Dorsey Presentation:
 - Abolish the City Council President as an at-large-elected official. The Council would elect a President from among its members.
 - Council authority to legislate:
 - Conditional budget constraint
 - Employee benefits and hiring
 - Employee take-home vehicles
 - Procurement
 - Repeal term limits
- Councilwoman Ramos Presentation:
 - Department of Legislative Reference