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November 12, 2017

Members, Baltimore County Council
Old Courthouse
400 Washington Ave.
Towson, MD 21204

(Sent by email attachment)

RE: Proposed amendment to Section 505 of the County Charter

Dear Councilmembers:

The purpose of this letter is to submit my comments on the amendment to Section 505 of the County Charter proposed by the Charter Review Commission. I support the amendment, but there is an explanation about the effects of the amendment that was not made explicit in the Commission's report dated November 6, 2017. Based on reports in the media about the amendment, the absence of a fuller explanation appears to have caused some confusion.

That explanation is: The amendment would not confer any new powers on the County Council. The amendment would compel the County Council to do that which it currently has the power to do – and should have done a long time ago – under Sections 505 and 801 of the Charter.

If the amendment is adopted, the Council will be required to adopt a "system" – presumably some sort of salary scale with positions assigned to pay grades – governing the compensation of department heads and other County employees in the exempt service of County government. The amendment would force the Council to exercise its existing power over the compensation of County employees in the exempt service in a more systematic and transparent fashion to protect the interests of the taxpayers.

Here is the scheme of the provisions of the Charter as they currently read: The language in Section 505 of the Charter recognizes the one constraint placed on the Council's otherwise-plenary power over the compensation of County officers and employees in the Administrative Services. That constraint is imposed by the requirement in Section 801 that the Council "enact a county personnel law establishing a merit system of personnel administration." Section 801

also identifies the positions that must be exempted from the merit system – hence the name, “exempt service.”

The fact that the Council is required by the Charter to yield certain of its authority over the terms and conditions of employment, including compensation, for employees in the merit system does *not* mean that the Council could not choose under current law to establish an exempt service pay plan by ordinance, if it wished to do so. Sections 505 and 801 place certain limits on how the Council determines the compensation of individual employees in the merit system, but leave the matter of the compensation of the exempt service officers and employees entirely within the discretion of the County Council.

How the Council chooses to exercise that discretion is up to the Council. The Council must, however, exercise that discretion in the form of an ordinance. Section 505 of the Charter states that officers and employees in the Administrative Services shall “receive such compensation as may from time to time be provided by this Charter or by law.” No current provisions of the Charter apply, which means that the compensation of exempt service officers and employees must be established by law, and only the County Council is empowered to enact law for the County.

The proposed amendment would not take away any power from the County Executive over compensation of officers and employees in the exempt service because, under current law, the County Executive has no power over their compensation to take away. There is no provision in the Charter or in County law giving the County Executive – or the County Administrative Officer – the power to determine the compensation of officers and employees in the exempt service.

The Council has acceded over the years to the practice of allowing the County Executive to determine the salaries of officers and employees in the exempt service. That practice is sanctioned nowhere in the law, and it would be ended by the amendment.

In summary, the amendment is an attempt to address what I would describe as the institutional negligence of the Baltimore County Council. I agree with the observation yesterday by Councilman Kach that Baltimore County government is “out of control.”

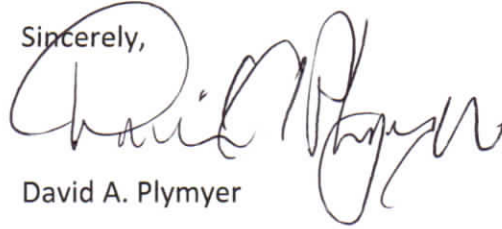
In my opinion, part of the reason that it is out of control is the chronic failure of the Council to perform its role as part of the checks and balances of County government, deferring almost obsequiously to the wishes of the County Executive in many areas of governance. The proposed amendment would force the Council to step up to its responsibilities, at least as to the compensation of exempt service officers and employees.

I also want to respond to comments reported in the *Baltimore Sun* expressing dismay about the prospect of imposing some sort of process on the way that compensation for high-ranking officials is determined. My experience is that thoughtfully assigning various position to pay grades, and setting the salary ranges for the pay grades, can be a good way of making sure that

compensation is both competitive and equitable. And doing so in an open and transparent manner would be a refreshing change for Baltimore County government.

Thank you for considering my comments.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Plymyer". The signature is fluid and cursive, with the first name "David" being the most prominent.

David A. Plymyer

cc: Charter Review Commission