

[PUT ON SPECIAL LETTERHEAD]

April 21, 2004

The Honorable Sheila Dixon  
President  
Baltimore City Council  
Room 400, City Hall  
Baltimore, MD 21202

Re: Interim Report of the Baltimore City Council Transition Commission

Dear President Dixon:

I am pleased to submit this Interim Report of the Baltimore City Council Transition Commission, created by Resolution No. 03-1264 on December 8, 2003.

Since our formal creation, we have added modestly to our membership, held an organizational meeting, accepted public testimony and comments on two occasions, created a series of sub-committees to develop and make recommendations to the full Commission on various subjects, and developed for inclusion in this Interim Report several initial recommendations on matters that should be considered now and should not be held for inclusion in our subsequent final report and action by the Council thereafter. The Baltimore Efficiency and Economy Foundation (BEEF) has been providing organizational and administrative support to the Commission.

### **Budget**

The most urgent issue we have considered, and hereby report on, pertains to the budget for the City Council for the Fiscal Year 2004-05, beginning July 1, 2004. The changeover of the Council from a 19-member body to a 15-member body will occur in December, following the November, 2004 general election. At that time the Council and the City Budget will have four fewer councilmembers to support, and the council will begin its transition from six 3-member districts plus an at-large President to fourteen single-member districts plus an at-large President. The four councilmembers whom the Council will no longer be serving beginning with the second half of the 2004-05 fiscal year, are supported by an allocation of approximately \$540,000 in City General Funds over the full year, or half that for the initial partial fiscal year. This amount is divided into two general categories: \$240,000 for salary and benefits, and \$300,000 for staff and other support services. The Commission recommends that while all of the money supporting the salary and benefits of \$240,000 (or half that for the partial fiscal year) can and should be deleted from the proposed City Council Budget, half of the remaining funds (currently spent on staff and other support services) should be retained in the budget and dedicated to enhancing the capacity of the President's Office to provide constituent services for the Council and citizenry generally. It is further the Commission's recommendation that those retained funds (of \$75,000 for the initial partial fiscal year) should be dedicated to enhanced technology and not to the creation of new positions or the retention or enhancement of existing positions. The net result of this will be the saving of \$120,000 in the first (partial) fiscal year and the retention of \$75,000 for better constituent services in that same period. The rationale for this recommendation is at

least in part that the loss of four councilmembers will diminish to some extent the Council's resources to provide constituent services, and that that continuing need can best be satisfied by a technological enhancement of the capacity of the Council President's office.

### **Council vacancies**

The second item that we think it is important to address early and not simply in our final report is the matter of filling council vacancies. While the process by which vacancies are filled is spelled out in Council Rules, there are related provisions of the City Charter that should be changed at this time – which requires the prompt passage of an Ordinance placing any proposed changes on the ballot for consideration by the voters at the November 2004 General Election.

The Charter (Art. III, Sec. 6) simply directs that vacancies shall be filled by the Council. In effect, this ultimate decision is made in the manner prescribed by the Council Rules. But the Charter provides that vacancies shall be filled in this manner only until the next primary and general election held in the City, at which time a successor shall be elected by the voters. By way of example, if a vacancy were to occur in February 2005, under the current Charter the “interim replacement” named by the Council would only serve until the 2006 Gubernatorial elections, rather than until the next Municipal Elections. However, neither the City nor its voters have the power to dictate when such elections may be held for municipal offices; rather that power rests **solely** with the General Assembly. And the General Assembly has not ever approved the holding of such “vacancy elections” in Baltimore City at any time other than the regular Municipal Elections held every four years. The Maryland Attorney General's office has opined that City Councilmembers may only be voted on at these Municipal Elections. In short, the City Charter needs to be conformed to the law. We attach to this Interim Report a draft Ordinance that would propose changing the Charter accordingly. It should be introduced and considered promptly in order to appear on the ballot at this November's election.

In addition, and perhaps more importantly, the Council Rules need to be changed to deal with the fact that the Council will be changing from multi-member districts to single-member districts. Council Rule 5-11 currently gives the power to nominate a person to fill a vacancy in a multi-member district to the “remaining” members of the district delegation. That typically, but not always, results in the ultimate selection of their choice by the Council. The Commission feels strongly that the power to nominate, and thus often to select, a successor should not be given to the single departing member (where he or she is even available). The Commission believes that there should continue to be a nomination process that results in the presentation of a single name to the Council for its consideration, rather than simply leaving it up to the Council as a whole to make the selection from start to finish. The Commission's recommendation is that the Nominating Body should be a committee consisting of the President of the City Council and the Chairs of the various Standing Committees. We recognize that this places considerable power in the hands of the President (who is responsible for selecting the committee chairs), but the President is after all accountable to all the voters in the City whereas the other councilmembers are elected by everyone **except** the voters whose representative is being replaced. In addition, we are recommending certain refinements to the nominating process designed to insure that it is a completely open process and proceeds to a prompt conclusion.

These changes are embodied in a proposed amendment to Council Rule 5-11, attached to this Interim Report.

### **Other issues considered**

In addition, the Commission has considered the possibility of changing the number or percent of council votes required to override a veto by the Mayor. We are not recommending any change, although we realize that the Stokes Committee recommended lowering the percent required from 3/4 to 2/3 in the context of a 19-member council. At this time, no compelling case has been made to the Commission supporting the need for such a change.

While our Charter and Ordinance & Rules sub-committees have made substantial progress in developing their recommendations for the Commission, those recommendations have not been acted on in time to be included in this Interim Report. None requires immediate action by either the Council or the voters.

### **Remaining issues to be considered**

Finally, we have made certain determinations as to the matters we propose to consider for the remainder of our service. Some of these will be considered by necessity, while others will be the subject of consideration because they were recommendations of the Stokes Committee never acted upon by the Council to our knowledge. While this is our “working agenda” going forward, we are willing to hear from interested persons who believe that various items should or should not be on our agenda. We intend to consider the following matters:

Retention (or not) of current line-up of standing committees and sub-committees?

Procedures for land use legislation and related matters. (Commission’s Land Use Committee).

Ordinance and rules provisions that must be changed because of change in number and composition of Council. (Commission’s Ordinance/Rules Committee).

Budget and staffing implications directly resulting from the changes. (Commission’s Budget Committee).

Enhanced information access (e.g., web access to bills and legislative information, Public Information Act access).

Committee voting procedures and Open Meetings Laws issues.

Staffing, equipping, etc. of 14 individual member offices, President’s office and other central office functions (Budget Committee).

Method for considering changes in Council compensation..

Taking committee votes in public and as a matter of public record.

Placing Council resolutions on a separate consent calendar similar to ceremonial resolutions and separate from the Council agenda.

Whether the Council should continue to meet year round.

Giving the power to the Council to reallocate funds in the budget, subject to the concurrence of the Mayor and other limitations.

Giving the Council the authority to employ separate counsel.

Authorizing the Council to require members of the Mayor's cabinet to testify under oath.

Overview of the relative roles of legislative and constituent service functions.

We have briefly discussed, but do not intend to further consider, the following matters:

Consolidating all Charter provisions relating to the Council in Article III of the Charter.

Requiring that the Council meet regularly with the City's legislative delegation.

Creating a new Commission to re-evaluate the structure of the Board of Public Works

This concludes the Commission's Interim Report. We expect a Final Report to be completed during the Summer. If you or any Councilmembers or any members of the public have any questions, please let us hear from you. All of our meetings are open and our schedule of further meetings can be found on the Council's website. The next two scheduled meetings will be held on May 11, 2004 and June 8, 2004. We intend to conduct at least one additional public hearing. We would appreciate it if your office could appropriately publish and publicize this Interim Report and advise us periodically of action taken with respect to the recommendations contained herein.

Very truly yours,

Zelig Robinson

ZR/cr