

MEMORANDUM

TO: SNOHOMISH COUNTY CHARTER REVIEW COMMISSION

FROM: DAVE GOSSETT, SNOHOMISH COUNTY COUNCILMEMBER

DATE: 5/15/06

RE: ISSUES BEFORE THE COMMISSION

I'd like to begin by thanking all of you for your work. I know you put in long hours in order to get citizen input and craft proposed amendments to the Charter. You play a vital role as the Charter's self-correcting mechanism—an institutional method of constantly updating the Charter and addressing any problems.

The original freeholders established a broad structure of government while leaving the document flexible enough to adapt to changing circumstances and still preserve the separation of powers. The Charter has provided a sound framework for county governance and the principals in which the County must operate.

I believe that the Charter is fundamentally sound. As someone who has been involved with county government for over 15 years I have found the Charter to be a document that serves the citizens of Snohomish County well. As you discuss issues I urge you to always remember that old admonition—"if it ain't broke don't fix it". Be sure you know precisely what the problem you are trying to fix with any proposed change is and what the unintended consequences (and financial impacts) are.

I particularly caution you to avoid the error of changing the structure of local government because you don't like the policies of local government. I read science fiction and I'm reminded of a story by H. Beam Piper in which a planet's government had a president, a premier, an executive cabinet, a tricameral legislature, and two completely independent and separate judiciaries. The president and premier each controlled independent and competing security agencies. This mess was created because every time someone disliked a government policy they changed the structure and added something new.

Changes of county policies you do not like should be made through the electoral process by voting the policymakers out of office, not by amending the Charter. I acknowledge that the legislative process can be long, multifaceted, and at times quite frustrating but the Snohomish County Code can and does change through the democratic process long established in this country and adopted by the framers of our charter.

Size of the Council

The first issue I wish to discuss is the size of the Council. I do not believe there is any need to expand the Council beyond the current 5 members. The current size of Council districts is roughly 135,000 people, which makes it almost identical to the size of State Legislative Districts. The State Legislature has not found it necessary to expand the number of Representatives and Senators as population grows and similarly I do not believe it is necessary here. The cost is probably in excess of half a million dollars and it is difficult to identify a benefit that justifies a cost of that magnitude.

I know there has been discussion of setting a “trigger” whereby after the population reaches a certain level the Council would automatically expand. Should you decide to follow this approach I urge you to set a high “trigger”. For example, a “trigger” of 700,000 will be reached almost immediately. Even using a “trigger” of 800,000 would lead to districts with populations smaller than today. While I see no need for expanding the Council I suggest that if you decide to use the “trigger” mechanism you choose a number of 800,000 or higher. I feel using a lower “trigger” is being dishonest with the voters—the issue is presented as if it will not happen for some time (and therefore don’t worry about increased costs) when in fact it will happen in 2 or 3 years. However, if you do not choose a high “trigger” I urge you to simply be straight with the voters and propose the change to take place immediately. My advice is to not change the size of the Council at all.

Checks and Balances:

The system of government established by the Founders is based on the theory of checks and balances. The maintenance of this system is vital. There are several proposals that I believe would fundamentally alter the checks and balances adopted by the citizens of Snohomish County when they approved the Charter.

Contract Authority to Elected Department Heads: In the American system of government budget control is the paramount power and duty of the legislative branch. The original freeholders and Snohomish County voters recognized this important principle when they placed the ultimate power over contracts in the hands of the Council. While this proposal has a certain superficial appeal upon closer inspection it completely removes budgetary oversight from the contracting process. While the Snohomish County budget is written, for purposes of planning and information, at a line item level it is adopted at a fund level. The result is that elected department heads could move funds from any line item except salaries and benefits to fund contracts. Currently oversight for small contracts is provided by Executive review and for large contracts by Council review. If elected department heads had the authority to sign contracts there would be no oversight.

Section Veto: Crafting legislation is often a complex negotiation between individual Councilmembers and the Council and Executive. Giving the Executive the ability to sidestep that process by after the fact vetoing only portions of an ordinance

fundamentally changes Snohomish County government. It is possible that by vetoing sections of the ordinance the effect of the ordinance could be completely reversed. It is also possible that the crucial third vote to pass an ordinance would be dependent on the inclusion of a section which was later vetoed by the Executive. Approving the section veto will fundamentally alter the balance of power between the Executive and Council. As I've said, I believe the current charter works well and strongly discourage you from making changes which change it in fundamental ways. This is not simply a position of convenience for me—as you will see later I also oppose several proposals which would shift the balance in favor of the Council.

Financial Issues

Fiscal responsibility: I need to begin by setting the record straight regarding the county's fiscal policies and past spending. The county has never engaged in deficit spending. The county has for nearly a decade had a reserve policy which is much stronger than comparable jurisdictions. The county's budget difficulties in the early part of this decade were not the result of deficit spending and fiscal irresponsibility. They were caused by a combination of the steepest recession in three decades and the need to hire approximately 80 new employees to open the new jail. It was the fiscally responsible way the county has handled its finances that allowed Snohomish County to weather that storm without the massive cuts many other jurisdictions experienced.

In late 1997 or early 1998 the County Council adopted a reserve target of 11%. Attachment A shows what the actual year-end fund balance has been in each year since 1998. Please note that only during the recent steep recession did the county not reach that goal. Even then the fund balance only declined for two years followed by steady increases until it is projected to reach 11% again in 2008.

Let me speak for a moment about the purpose of having a fund balance/reserves. It is not to hoard money in an account like some latter-day Scrooge. The purpose is to allow governments to deal with fiscal crises without catastrophic spending cuts or increases in taxes. Put simply, the purpose of a "rainy day account" is to spend it when it rains.

Snohomish County has quite appropriately done so. What is truly remarkable is that even during the worst recession in decades and at a time when the county was absorbing the costs of opening a new jail, fund balance only declined for two years and never reached a level below 7.8%.

Compared to other jurisdictions this is extremely conservative fiscal management. Attachment B shows reserve targets for other jurisdictions. As you see, Snohomish County's target of 11% is higher than the State of Washington. It is higher than King, Clark, Spokane, and Pierce counties. It is higher than the cities of Seattle, Bellevue, Everett and Tacoma. Only Whatcom has a higher target and their actual reserves are roughly half of that. Indeed, the low point of reserves for Snohomish County is **higher** than all the listed jurisdictions' **goals** except for Tacoma and Whatcom and Spokane

counties. And Whatcom and Spokane counties' targets only exist on paper, not in the bank.

I not only believe that the county has a sound record of fiscal management, but that to increase the goal beyond 11% as has been suggested would be fiscally irresponsible. Reserves need to be large enough to do their job—no larger and no smaller. Too small and they are not adequate in an emergency. Too large and you are picking the taxpayers pocket.

Biennial budgets: The budget process provides an arena in which public priorities on programs and spending are articulated, debated, and ultimately decided upon by the county's elected officials. The balancing of priorities makes for high-quality debate. The current annual budget process is a very public process involving a wide range of people and issues. It works and ultimately ends with a collaborative final product.

I do not believe the Charter should be amended to require biennial budgeting. However, I do believe the Executive and Council should explore the possibility of moving in that direction. I would support an amendment that allowed the Council and Executive to decide to try a biennial budget. I should also note that state law seems to encourage this approach by authorizing jurisdictions to “pilot” a biennial budget by applying it to a single department.

I have several reasons for opposing any mandate for biennial budgets. The potential pluses and minuses need to be explored in more detail. Only three counties (Clark, Kitsap, and Whatcom) currently use a biennial budget. Clark County has reported to my staff that there have been no savings in terms of the number of staff required or salaries. Some reduction in comp time in the off year has been experienced.

For this small gain there significant negatives.

- It will not truly eliminate a budget in the second year—at least a supplemental will be necessary and it is likely that some grant agreements will require annual budgeting.
- Every year the Executive provides the Council with his budget at the end of September. By the time we adopt the budget 7 weeks later the revenue assumptions have already changed. If we cannot accurately predict revenues 7 weeks into the future what are the odds we will be accurate two years into the future?
- In the American system of government the key legislative power is the power of the purse. Biennial budgets would reduce the Council's ability to weigh in on most budget issues to once every two years. This is a fundamental shift in the balance of power between the branches.
- The Executive has a wide range of resources at its disposal in preparing the budget. The Executive can direct the staff in his office, in Finance, and the budget people in each individual department. This is a significant staff resource. The Council runs a very lean operation. Total staff to deal with the budget is six, and

these same staff handle all policy issues and many administrative duties for the Council. If budget is to be a once every two year process I believe the Council would need additional staff to fulfill its responsibilities. Consequently, I believe that a biennial budget is more likely to increase costs, not decrease them.

Fiscal notes: There is a proposal to attach a fiscal note to all ordinances. I am aware of no ordinance requiring funding passed in the last four plus years, whether originating with the Executive or the Council, which did not already include a fiscal analysis. This is a standard part of the Executive Council Approval Form which accompanies ordinances.

Emergency Appropriations: As a housekeeping matter I urge you to change the name of “Emergency Appropriations” so that the word “emergency” is deleted. Calling them “emergency appropriations” is confusing to the public for two reasons. First, emergency appropriations, as currently described in the Charter, almost never involve an emergency. They are simply appropriations which were not anticipated at the time of the budget. They require a simple majority and can be vetoed. Second, they become confused with “Emergency Ordinances” which are special ordinances used when a true emergency exists and that are enacted with a super majority and not subject to veto. Perhaps the phrase “Additional Appropriations” would be appropriate.

Performance Auditor

I disagree with two of the recommendations of the Performance Auditor. The audit function should not be guaranteed by Charter a specific percentage of the county budget. No other county department, including public safety services which can literally affect issues of life and death, is guaranteed a specific amount of funding. The Performance Auditor should be part of the budget process like every other county department.

I also disagree with the recommendation to move the Performance Auditor under the direction of the County Council. The Council already has the ability to ask for Performance Audits (and to my knowledge has never been denied). However, I believe placing the Performance Auditor under the Council offers great opportunities to use the office for political purposes. It is more appropriate that the Performance Auditor be under the Auditor’s supervision. It is important to keep the Performance Auditor under supervision that is primarily administrative, as opposed to policy-driven, if true objectivity is to be maintained. This was recognized by the Charter Review Commission 10 years ago when they purposely recommended this function be placed under the Auditor. The voters agreed with that decision.

Long Range Planning

I also do not believe that Long Range Planning should be under the control of the Council. It would be very cumbersome to place such an important function under the direct operational control of a legislative body. To whom would Long Range Planning report—the Council administrator, the Chair, the Chair of the Planning Committee, or the Council as a whole? I believe providing the department with day-to-day direction (given

that ultimately it would have 5 masters) would be very confusing and difficult. I suggest you ask yourselves what the reason for considering this change is. If it is dissatisfaction with planning policies the solution is to change the policy makers not to change to whom the staff report.

Rules of procedure/night hearings

As someone with 12 years experience on a city council where all hearings are held at night I can tell you that the vast majority of the time the public simply does not attend. Only when the issues are significant and controversial does the public come to meetings. For those kinds of issues the Council already holds night hearings. Seven night hearings were held on the recently adopted comprehensive plan. One night hearing has been held on this years land use docket and more will be scheduled. Two night hearings have been held on the Critical Areas Review, and more will be scheduled. I particularly caution you to not require night hearings for all development regulations. Most changes to the development regulations are housekeeping in nature and would not justify the additional expense of night hearings.

I believe that the Council will someday televise its sessions, but that it is unwise to require this in the Charter. There are costs associated with televising sessions. Additionally, I am frankly concerned with the possibility of grandstanding by Councilmembers as they play to the cameras. I know this has been a problem in other jurisdictions. I also know that when there is a large crowd at a hearing the speechmaking by Councilmembers increases. When and how to implement televising meetings should be left up to the Council.

Finally, both of these issues reflect back on my earlier comments regarding what are appropriate topics for the Charter. The Charter should be reserved for broad principles of governance. Details such as these should be addressed in the county code.

Salary Commission

I strongly support a salary commission that removes salary setting from the hands of the Council and Executive. In the past I have always felt that it was the Council and Executive's job to set salaries based on the recommendations of the commission. I felt that this was a part of necessary fiscal oversight. Last fall I saw the political gamesmanship and manipulation that is involved in the process when the Council and Executive make the decision. Snohomish County should follow the example of the state and take this function out of the hands of elected officials.

Move Corrections/Courthouse Security to Sheriff:

I urge you to make neither of these changes. There is a fundamental difference between the duties and skills of a sheriff deputy and a corrections or courthouse security guard. I have attached job descriptions for your information.

Just as the duties of deputies differ from those of a corrections or security guard, the duties and necessary skills of the persons in charge of those functions differ. Both Corrections and the Sheriff's office have high levels of risk and liability. It will not serve the taxpayers well to change the current system, where each is supervised by a person who is expert in that specific area.

I believe the citizens of this county are best served by a Sheriff who can focus his or her efforts on enforcing the laws. The Sheriff has a difficult and complex job. County government operates in an environment of limited resources. As a result the Sheriff's office, like all county departments, is not able to provide all the service it would like. Allowing the Sheriff to focus on the department's core duties, without being distracted by issues involving corrections or courthouse security, facilitates the most efficient use of resources.

Campaign Finance/Ethics

Snohomish County code already has campaign contribution limits. The amounts are identical to those in state law. Council members must comply with the limits for state legislators and countywide officials must comply with the limits for state wide elected officials. It is my understanding that it is unconstitutional to limit expenditures. I also urge you to carefully consider what your goal is in changing the existing limits. If your goal is to reduce the cost of campaigns and you attempt to do so by restricting candidates you will simply expand the influence of independent campaign groups. These independent groups have no limits on the money they can spend or the size of the contributions they can receive and often can prevent the public from finding out the source of the contributions. This would not be a positive impact on county elections.

Charter Fiscal Notes:

I strongly urge you to include a fiscal note for any proposal you submit to the voters. This note should be reviewed by both Executive and Council staff. In the interests of transparent government and full disclosure to the citizens the costs should be included in the language of the ballot proposition.

Conclusion:

In conclusion, I want to stress again that the system today is working. The Founders of this country recognized that government, with its all important checks and balances, is a delicate organism. Changing the balance between branches can have serious consequences. It should not be done without a clear and compelling reason. I do not believe a clear and compelling case has been made for any of the changes to our system of checks and balances that have been proposed.

I thank you again for the opportunity to address you today. I apologize for the length of my remarks but coming late in the process allows me to comment on the wide range of proposals submitted by others. I am open for questions or discussion.