

Open Work Session
Proposed Charter Amendments
May 1, 2018

Mr. Taylor said he does not know exactly how Council wants him to proceed because, at the last meeting, it was left on the table as to what everybody wanted to do. He said he can run through the items again if Council wants him to, and he has a list of ten, which are the same ten discussed previously. Mr. Cannon said Council is aware of those ten, to which Mr. Taylor responded, as he recalls, the thought was Council was going to narrow it down to two or three items. Mr. Cannon asked if anybody has an idea of how many they would like to see, to begin with, on the ballot, to which Mr. Hall responded, he has an idea. He then said he would like to see it revert to the Charter Review Committee and have them review it since, technically, Council does not have the expertise to do this type of thing, and they should not be doing it. He said it should be up to the Charter Review Committee, but, once they have gotten past that, and apparently Council did at the last meeting, he thinks they could probably narrow it down pretty easily with again going through and doing a consensus whether yay or nay, or whether anybody has any immediate concerns. Mr. Cannon said that is a good point, and he thinks because they have ten, they know they do not want ten as it is going to be a crowded ballot anyway. He said he thinks they should look at any amendments they may do as absolutely necessary for a functional part of how they operate, not housekeeping measures. He said he is not very interested in housekeeping measures at this time because that can come at another time, and simple housekeeping measures do not compromise how Council operates. He said he is more concerned about events that have occurred where Council found corrections need to be made just so they operate better.

Mr. Taylor said he will add one thing which he should have said previously regarding one of the items, and that is item number five in reference to the County Internal Auditor. He said, as he said at the last meeting, he has seen language in another County's Code, and he was not quite sure at the time if it was in their Code or their Charter, but he determined it was in their Code. He said it does much of what was proposed under that particular item, which could be done by amendment of the Code, he believes, rather than having to have a Charter amendment. Mr. Kilmer said, obviously, the intent of what they are proposing is clear. He then asked if everything in that proposal could be done by Code and there would not be a need to change the Charter to, basically, stop any interference with an internal audit or investigation, to which Mr. Taylor responded, he will have to think about it, but, he thinks much, if not all, of what is listed in item five can be done by Code amendment. Mr. Kilmer said, if they could do that by Code, it would be quicker and could take affect within 60 days, and would not have to go through the Charter process, so that would definitely be preferable, to which Mr. Taylor responded, and it could also be modified from time to time. Mr. Cannon asked if Mr. Taylor is suggesting they can take number five off, to which Mr. Taylor responded, he believes it can be done by amending the Code, so he thinks they can take that off. Mr. Kilmer asked if Council could direct Mr. Taylor to draft legislation for their consideration as soon as possible, to which Mr. Taylor responded, certainly. Mr. Kilmer said he does not want to step out of bounds, but, if the rest of Council is okay with that, he thinks they have all identified that, to which Mr. Hall asked, legislation for what? He then asked if Mr. Kilmer means to take it off this list, to which Mr. Kilmer responded, no. He clarified, for ensuring that the County Internal Auditor cannot be interfered with during his or her investigations. Mr. Hall asked if the same thing would apply for item number six, which comes under the Code of home rule status, to which Mr. Taylor responded item number six was really purely housekeeping just to change where it says Article 25A in the Charter. He said Article 25A was repealed by the General Assembly four or five years ago, and is now in the local

government article, so that was purely housekeeping, and he thinks that could wait, easily, until the Charter Review Committee. Mr. Cannon said, right now, they can take five and six off.

Mr. Cannon said, going back up to number one, which is to add a new Charter section to define Local Governing Body. Mr. Taylor said this was a combination between housekeeping and also somewhat substantive, the reason being there are many provisions of the State Law that refer to the Local Governing Body. He said, under the definition of Local Governing Body in many of them, and he will not get into all of the weeds on this or they could be here for a long time, it says the Local Governing Body is either the County Council just by itself, or the County Council and the County Executive, depending on what the Charter says. He said Wicomico County's particular Charter does not say anything, so it kind of leaves them somewhat in legislative or legal limbo. He said he thinks probably right now, the way most of these sections are worded in the Code, if they went to court and had to define Local Governing Body, it would probably be Council. He then asked what they would do if they have a situation where the State Law reads like that, and then just leaves them hanging, and they just do not know. He said that is why he suggested the Charter could be amended to define that. He said, again, he thinks that could wait. He said they have, obviously, been operating alright, but, on the other hand, if Council wants to do it, they can do it.

Mr. Cannon said number two is discussion on adding term limits for both Councilmembers and the County Executive. He then asked if anybody wants to do term limits, to which Mr. Hall responded, he is the only one who does, and, of course, Council already discussed this, and he is sure he is still the only one who does, so he has no problem with what the rest of Council decides. Mr. Cannon said he thinks it might be a good idea, but they do not have enough votes, to which Mr. Hall responded, that is true, but thank you for your support.

Mr. Cannon said number three is regarding compensation to remove "Within fifteen days after the beginning of the fourth year." Mr. Taylor said this is the item for which he sent Council a memorandum, and one of the reasons he did is because it is so complex, and it is a little hard to remember each time they do it. He said, to save time, he will not read the whole two pages, and will just read what he concluded. He said, if the Charter and County Code were properly amended, it would be possible for a future Council to act at any time during its term on a future salary commission's recommendation in regard to compensation of the County Executive and the Sheriff during the next succeeding term of those offices. He said the reason for that is because State Code does not really say they cannot, and it does not really address that particular matter. He said, however, the State Code does address the Council's salary, and he will read Council the next paragraph of his summary. He read "However, because of a requirement discussed below in the Maryland Code, it may be impossible for a future Council to act prior to the fourth year of its term upon a future commission's recommendation in regard to compensation of members of the next succeeding Council." He said there is a lot of stuff there, but what it means is they are kind of stuck with what the Maryland Code says, and they do not have the power to change it, and the thinking from the last meeting was not to do anything on this. He said maybe Mrs. Hurley can recall too, but it was his view that it seemed to be Council could not do it for all of the offices that are normally reviewed by the Compensation Review Commission, so they decided to just leave everything like it is. Mr. Cannon said he thinks Council can also think for themselves on a lot of this as well. He said they have been given a recommendation this year, and it is a recommendation they can apply next year. He said it is always felt that when this Commission comes before Council, it is a decision Council has to make within a month or two, but it is something Council can do next year, to which Mr. Hall responded, not if it is Charter change. Mr. Cannon clarified, he is not talking about Charter change. He said the reason for the Charter change was the fact that there was a lot of concern

that Council did not take their advice. Mr. Kilmer said, as the Charter stands, it has to be in the fourth year of the Council term, to which Mr. Cannon responded, they wanted to change that, but he sees what Mr. Kilmer is saying because not all of them may be on Council after this election cycle. Mr. Hall thanked Mr. Cannon for looking out for him. Mr. Kilmer said he thinks it is good to keep it uniform. He said State Law mandates Council can change its salary only in the fourth year of the term, the election year, essentially. He then asked Mr. Taylor if that is correct, to which Mr. Taylor responded, yes. He said they are locked in under State Law for Council. Mr. Kilmer said it makes sense to keep that in place for the Executive just to keep it all on the same system, basically. Mr. Cannon asked if they are locked in, to which Mr. Taylor responded, for Council, but they are not totally locked in because they could change the Charter and the Code with regard to the Executive. Mr. Cannon asked if this is something that can wait two years, to which Mr. Taylor responded, he would think so, but that is just one person's view. Mr. Hall said they have waited this long, to which Mr. Cannon responded, Council can wait on this item.

Mr. Cannon said number four is Charter Section 304C – Council Administrator and special assistance, to remove “by resolution.” Mr. Cannon asked if there are any comments. Mr. Dodd asked what it means because it seems kind of vague to him right now, to which Mr. Taylor responded, if Council wants a little background on this, it is a fairly short section. He continued, it says “Experts, consultants, attorneys - The Council may, at its discretion, and subject to the provisions in its budget or supplementary appropriation, by resolution engage the services of experts, consultants, or attorneys to aid in its inquiries and investigations for the drafting or codification of legislation.” He said it can do all of those things by resolution, and someone, he does not think it was him, was wondering if they should take “by resolution” out. Mr. Cannon said he has already forgotten what created this problem. Mrs. Hurley clarified, the background on this particular item is, during the fraud investigation, Council went out and hired a forensic auditor, and that was not initially approved by resolution. She said, once it was brought to Council's attention that the Charter says they have to do this by resolution, they did do that. She said the question is whether Council wants the public to know if they have to hire a forensic auditor in the future. Mr. Joe Holloway said sometimes they need to do things so that everybody does not know they are doing an investigation, to which Mrs. Hurley responded, that is correct. Mr. Kilmer said, on the other hand, this would allow Council to do anything without Resolution, such as appointments, which is shielding it from public view, which Council should not do either. He said he thinks it is a dangerous thing to do. Mr. Joe Holloway asked if that could be a Code issue, to which Mr. Taylor responded, he thinks they would have to change the Charter because, right now, it requires resolution. Mr. Cannon asked if what Mr. Kilmer is saying is, if they remove “by resolution” from this particular section, it would give Council the authority to do whatever, to which Mr. Kilmer clarified, to make any of those kind of appointments without public knowledge, basically. Mr. Cannon asked, if Council chooses to make this amendment, is there some other verbiage that has to be included to make it more specific, to which Mr. Kilmer responded, there could be. Mr. Taylor said it could, obviously, be drafted so it would not be across the board. He said, if they just take the words “by resolution” out right now, as Mr. Kilmer points out, that is then across the board for experts and consultants to aid in drafting or codification of legislation, and other things too. He said, if the concern is that there are times, such as in a fraud investigation, where they do not really want to alert the potential targets of the investigation that they are doing an investigation, then they could do that, but it is going to be a little more complex. Mr. Cannon asked if there is a way to tweak it to address Councilman Kilmer's concerns, to which Mr. Taylor responded, yes. Mr. Cannon asked Mr. Taylor to see what he can do. Mr. Hall said Mr. Roser has taken all of these courses on fraud investigation. He then asked what other Counties and municipalities do, to which Mr. Roser responded, he does not know, but he would be happy to ask them and get back to Mr. Hall. He then said, his thinking is, for their County, when the Internal Auditor runs into a situation which, in the opinion of Council and the Internal Auditor, needs an outside investigator, they hire one. He said

they have done it two or three times. He said the Internal Auditor is intimately involved in the daily operation of the County. He said, if they have a situation where they need an independent trained forensic auditor to solve a problem, they should be able to hire that forensic auditor without making it public. Mr. Hall asked if it should come through Mr. Roser's office, to which Mr. Roser asked for clarification. He asked if Mr. Hall means if, bureaucratically, he should do the hiring instead of Council, to which Mr. Hall responded, bureaucratically, they would not have to do a resolution if it came through Mr. Roser's office. Mrs. Hurley said she thinks that is a decision Council has to make. Mr. Cannon asked Mr. Taylor if Council would still be obligated to make that decision, to which Mr. Taylor responded, yes. Mr. Cannon said this only pertains to Council's role, to which Mr. Taylor responded, they could certainly take "by resolution" out on a selective basis. Mr. Cannon asked Mr. Taylor to tweak that, and they will see how that pans out.

Mr. Cannon said the next item is number seven, Section 315A, confirmation of appointments, to add "Assistant Director of Administration and all Deputy Directors." Mr. Dodd said he was watching Harford County Council's first meeting in April, and they voted on a Department Head and two Assistant Directors that night. He said he looked at a couple of other Counties, and they do the same, and he does not know why they are not doing it here. Mr. Kilmer said, if that is going to be done, he thinks they would probably also have to modify Section 413 of the Charter where it talks about within six months of an election and temporary administrative appointments because those are all about those sort of appointments too. He said, if they just did the one section, there would be a loophole. Mr. Cannon asked Mr. Kilmer to run that by Council again. Mr. Kilmer clarified, there are two other Charter sections that talk about administrative appointments and temporary administrative appointments, and temporary Department heads. He said, if they change the section being talked about, they also need to change the language of those other sections so they do not leave a loophole for someone who is in there prior to an election, or a temporary appointment. Mr. Kilmer said they should not leave any loopholes if they are going to do this. Mr. Cannon asked, if they are going to address those loopholes, can they do it all as just one Charter amendment? Mr. Kilmer asked if Mr. Cannon means to change three sections with one amendment, to which Mrs. Hurley responded, she believes they have to be individual. Mr. Taylor said he thinks that is right. Mr. Hall said, if Council moves forward on this, they currently have 19 Directors. He said he looks at the other half the County funds, which is the Board of Education, and they have 105 Administrators compared to the County's 19 Directors. He said all they are doing is adding another layer of bureaucracy by vetting these people, so eventually they will get to the point where they become Administrators just like the Board of Education, and that is the way he looks at it. He said he does not think Council should get involved in micromanaging the County too much. Mr. Joe Holloway said he looks at it a little differently. He said he understands what Mr. Hall is saying, but they had a situation back when they had their prior County Executive where they had an Assistant Public Works Director who did not want to take the job, and remained Assistant Public Works Director for two or three years. He said Council could have that happen in every Department because there are exempt and non-exempt employees, and that is the reason he heard this employee would not step up to the plate. He said he does not know whether that is correct or not because he never told him that himself, but that is his reason he would support this Charter amendment. Mr. Hall said they are talking about 800 employees, and one person out of 800 employees, to which Mr. Joe Holloway responded, no. He clarified, they are talking about one person out of 19 Departments. Mr. Hall asked if they should just keep growing this, to which Mr. Joe Holloway responded, no. He said he does not think it is growing, and Council, for the most part, takes the advice of the County Executive on who he wants to hire, and very seldom do they turn down people. He said they have done so, but seldom. He said the fact of the matter is it could happen with a future County Executive where, if Council turns somebody down, he would just hire the person as Assistant Director and have them there anyway. He said he thinks this is a little bit of

insurance that closes loopholes. Mr. Kilmer said it does not grow the bureaucracy, the bureaucracy is already there. He said this is just a little more oversight of the bureaucracy. Mr. Hall asked Mr. Kilmer if that is what he thinks, to which Mr. Kilmer responded, yes. He said they are already there, and it is not creating new positions, to which Mr. Hall responded, it will. Mr. Joe Holloway said they will still have the same title. Mr. Cannon then said they are going to leave that in. Mrs. Hurley asked if they will add the additional items mentioned by Mr. Kilmer, to which Mr. Taylor responded, he knows Mr. Kilmer said Section 413 but he cannot remember the other one. Mr. Kilmer said it is 414, and maybe the word "temporary" would not apply, but it is something to look at because they are tied together. Mr. Cannon thanked Mr. Kilmer for pointing that out.

Mr. Cannon said next is Charter Section 507B – Department of Law - Should the County Attorney review all contracts of the Legislative Branch of Government. Mr. Taylor said he thinks the idea with this one was whether the Charter should be changed to remove contracts by the Legislative Branch of Government from the section that says the County Attorney shall approve all contracts, so it is intended to be a subtraction, not an addition. Mr. Cannon said that came about, again, because of some action Council took and were told it was inappropriate. He asked Mrs. Hurley if that is correct, to which Mrs. Hurley responded, yes. Mr. Kilmer said, in terms of importance, he is not sure this ranks up there. Mr. Cannon said he thinks it can wait.

Mr. Cannon said next is Section 508 – Citizen Advisory Boards, to add "County Council" after County Executive, so the County Council can also appoint Citizen Advisory Boards. Mr. Taylor said he believes that, on this item, no action may actually be needed in order for Council to appoint either Citizen Advisory Boards, or possibly they might want to use some other terminology, such as task force, so they do not get hung up in Section 508, which simply says the County Executive may appoint Advisory Boards. He said that particular section only has to do with Advisory Boards in regards to County administrative policies and programs, whereas the appointment by Council would presumably be almost entirely legislative. He said he thinks probably no action is needed to do what they might want to do in the future.

Mr. Cannon said the next item is Section 708A – Transfer of Appropriations, to add "The County Executive, however, is to notify the County Council of appropriations between general classifications of expenditures within the same office or Department that total over a certain dollar amount." Mr. Dodd asked if there is a plan to add a dollar amount, to which Mr. Cannon responded, he would just say \$1,000. Mr. Cannon asked if this is to keep funding where it is supposed to be, to which Mrs. Hurley responded, right now, the County Executive can authorize the Departments to transfer money between accounts, such as from salaries, operating, or capital. She said she believes Mr. Taylor made the recommendation that, perhaps, if it is over a certain dollar amount, Council should approve it. She said they did do a little research on this, and there are some other jurisdictions, she thinks Prince George's County, and maybe Montgomery County, who have a dollar limit on theirs. Mr. Cannon said it says "to notify." He said, in other words, it does not say Council has to approve it. He then asked if this would be making the Charter amendment just so they have to be notified, to which Mr. Taylor responded, he was going to comment on that. He said he thinks, if it is just notification, that could probably be done by Code. He said he is not totally certain of that sitting here tonight. He said approval, obviously, would have to change the Charter. Mr. Cannon asked if that is what they are looking to do, to establish some type of control where approval would be required, to which Mr. Taylor responded, some notification on major changes. He said, right now, it is only talking in terms of notification. Mr. Cannon said what he is getting at is whether they are talking about notification, or are they talking about approval, to which Mr. Taylor responded, that is up to Council. Mr. Dodd said he does not think notification is what they

discussed. Mr. Cannon said they are looking for something stronger than approval. Mr. Joe Holloway asked if they are just looking at dollars, or anything else, and how would they word that if they wanted items other than dollars. He then said, a few years ago, there were some items transferred to the airport, and there was no money exchanged. Mr. Taylor said Mr. Joe Holloway is talking about goods and physical items, which could be capital items. Mr. Cannon asked Mr. Taylor to see how he would word that. Mr. Taylor then asked if Council is interested both in approval and notice, to which Mr. Cannon responded, he thinks so. Mrs. Hurley said they can also do it by percentage. She said Baltimore County's says transfers in excess of 10 percent, and Prince George's County uses a dollar amount of \$250,000, so that is something to consider as well, to which Mr. Taylor responded, of course, they have a billion-dollar budget. Mr. Cannon said he thinks they need to look to Mrs. Hurley for guidance on an amount as to how appropriations are made, and what is more of an unacceptable level. Mr. Kilmer added, a number more reasonable for their County's size, to which Mrs. Hurley responded, she will see if she can do some research on that. Mr. Cannon said nothing detailed with facts and figures, but something from Mrs. Hurley's experience in her position, just to get a feel for what would be too much.

Mr. Taylor said he wants to make sure he understands the items Council wants him to focus on, which he believes are 3, 4, 7 and 10, to which Mrs. Hurley responded, she has number 3 as being off. Mr. Cannon said it is 4, 7, and 10. Mrs. Hurley said number 7 also includes two additional items, to which Mr. Kilmer added, to be thorough. There was no further discussion.



John T. Cannon, President



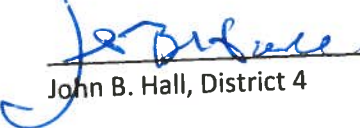
Larry W. Dodd, Vice President, District 3



Ernest F. Davis, District 1



Marc Kilmer, District 2



John B. Hall, District 4

Joe Holloway, District 5

absent
Matt Holloway, At-Large



Laura Hurley, Council Administrator