

**Open Work Session
Proposed Charter Amendments
May 15, 2018**

Mr. Cannon said he believes they want to finalize this today so they can have a Public Hearing at their first meeting in June, to which Mrs. Hurley responded, that is correct. She said she believes Mr. Taylor has been working on the items, to which Mr. Taylor responded, this is now round three of the work session discussions on the proposed Charter Amendments. He said, if Council will recall, they originally started with ten on a list that was drawn up, he thinks, primarily by suggestions from members of Council. He said they are now down to three items as seven have been eliminated for various reasons. He said one of those items was discussed earlier today having to do with the Internal Auditor, and they feel that can be addressed by Code amendment rather than Charter amendment, as he said a little while ago. He said, of the three that are left, one of them was to possibly amend Charter Section 304C to remove the words "by resolution" with regard to contracts that the County Council might make for various services, including forensic auditor services, and he thinks this is an outgrowth of the situation from last year. He said, discussing this with Mrs. Hurley, he thinks the two of them feel this would be a little bit edgy to do under some of the laws that have to do with how Council should operate, and also the Open Meetings Act. He said they believe there are ways in which Council could achieve their goal, which is, if they were doing a forensic audit to not tip off the people they might be looking at that they were being audited. He said, if they got into a contract, it could, perhaps, be prepared a little bit differently, and some of that shielding could be done then. He said, obviously, it would not shield the fact they were contracting with a forensic auditor, but the particular subject, he thinks, could be shielded. He said, on that item, he thinks it probably should be put to rest. He said, if there is no discussion on that point, he will just move onto the other two items which are still on the playing field, so to speak, and are a bit longer.

Mr. Taylor said he will start with number 10 on the list, which is in regards to the transfer of appropriations. He said, right now, under Charter Section 708A, it provides that transfers of appropriations between general classifications of expenditure within the same office or Department may be authorized by the County Executive. He said transfers between offices, Departments, institutions, boards, commissions, or other agencies of the County Government may be made during the last quarter of the fiscal year, and then only on the request of the County Executive, and with the approval of County Council. He said, based on their discussions previously in those other two rounds, his understanding is that Council wants to, essentially, expand this somewhat in terms of Council's role in any kind of a transfer, be it within a Department or between Departments. He said, on that basis, he and Mrs. Hurley have looked at language primarily from other County Charters because there are others that have to do it other ways than they are doing it now. He said they have come up with the proposal that is on Page 215 of the Brief Book, and he has also provided Council today with a printout of that page on which there are a few interlineations and amendments by insertion. He said the reason for those particular interlineations is that he asked Mr. Roser to look this one over in terms of what would be normal accounting methodology, and for his suggestions in terms of trying to make something that is as reasonable and workable as possible, and he suggested those changes. He said he will get to them in a minute, but going through the several items they have come up with, he read "The County Executive may transfer then unencumbered appropriations in the expense budget within the same Department, agency or office and within the same fund provided that the County Council is giving at least 15 days advanced written notice of any such transfer in cumulative excess of \$," and there is a dollar sign there with a blank because he has left the amount up to Council. He continued, "except in the case of an emergency in which case such notice shall be given as soon as possible but no later than five days after

the transfer.” He said, as he said earlier, this is based, to some extent, on some of the language they found in other County Charters. Mr. Taylor asked if Council would like him to discuss them individually, or to go through each of the several items because there is a dollar amount that needs to be decided. Mr. Matt Holloway asked if there is an average dollar amount he sees, to which Mr. Taylor responded, he will defer to Mr. Roser in the sense that he has not been involved in this for long, and he thinks there is only one matter he has been involved in period, so he cannot give Council an average based on that. Mr. Matt Holloway clarified, he was asking about other Counties, to which Mr. Taylor responded, some Counties have it required for anything, and he does not have that information at the tip of his tongue. He said, if Council wants him to just throw something out there, he would say \$1,000. He said the idea is to prevent having to come in for everything under the sun, and it is only a notification provision where Council would have notice of any transfers within a Department that would exceed a certain amount, and would not require approval but only require notice. Mr. Cannon asked if Mr. Taylor is suggesting the dollar amount be included in the Charter, to which Mr. Taylor responded, yes, unless they do not want to have a dollar amount and just make it for anything. Mr. Cannon asked if there is any way to keep the Charter amendment as simple as possible, but in the Charter amendment reference a document they could have that would be separate and could be changed without having to go through that whole process again, to which Mr. Taylor responded, they could provide that the amount can be changed by resolution from time to time, but then they would have to set this by resolution. Mr. Wayne Strausburg, Director of Administration, came before Council. He said he is comfortable with notifying Council of any such transfers. He said, from an administrative standpoint, it is easier for them just to simply say that with any such transfer they have to notify Council. He said, if they establish a dollar amount, he does not want to have to remember it, or have his Department Heads remember the amount, as he is happy to notify Council of all of them. Mr. Cannon said this brings up a point he was wondering about initially, and that is what the purpose is of only notifying Council. He said he does not understand what the purpose is, to which Mr. Taylor responded, it is because Council wanted to be notified. He said that was the sense of the previous discussions. Mr. Strausburg said he thinks if Department Heads find there is movement inside the budget, and it does happen where they have to move money from one account to another because something has come up, and because Council approves the budget in the form that it is approved, he certainly, from a standpoint of transparency, has no issue at all with advising the Body that approves the budget that it has happened and why it happened. Mr. Cannon asked if it was the intention of Council to be notified if something happened, or if the intention was to try to create some preventative measures so it could not just arbitrarily be done, which is what he thought, to which Mr. Joe Holloway responded, he thinks it is both. He said, a few years ago, before this Administration, he was on the Airport Commission, and they got some tractors and mowers from County Roads transferred to the Airport. He clarified, there was no money transferred, but they just ended up with it, to which Mr. Taylor responded, bear in mind, this item they are talking about now is only transfers within a Department, and they will be getting to transfers between Departments in a minute. Mr. Joe Holloway then continued, there was no transfer of money, but at that time they were having problems with the budget because they were in a recession, and he guesses his question was why they were just giving tractors to the Airport. He said the Airport at that time was an enterprise fund, so he thinks this just cleans up the process of knowing where the money is at, and where it is going. Mr. Kilmer said Council sits at these budget meetings and goes through the budget saying what they should cut. He said, if there is then money being transferred within the Departments, it would be nice to know since Council wanted money cut out, but now money is being transferred. He said they do not have power over that, but at least they would know. He said that is within Departments, but, looking further down, it talks about between Departments later on. Mr. Matt Holloway said the main concern Council had was between Departments. Mr. Taylor said, based on what Mr. Strausburg just said, they could simplify this by just taking out the words “In cumulative of excess of \$_____,” so there is no threshold. Mr. Cannon said he

thinks this whole idea of within a Department is just common policy they could establish between the Executive and Legislative Branches of Government, and they would not have to have a Charter amendment to do that. He said he thinks the Charter amendment comes into play between Departments, and he does not want to muddy the waters, but he thinks they do not need the Charter amendment to discuss both. He said, again, if it is within a Department, certainly they can establish a policy with the Executive. Mr. Taylor asked if the consensus then is that Council does not want terms for within Department transfers, and Council does not want any notice at all, to which Mr. Cannon responded, he does not think so. He said he does not think it warrants a Charter amendment as it is something they can establish with an open relationship between the Executive and Legislative Branches. Mr. Matt Holloway said they just do not always know what the relationship is going to be between the Executive and Legislative Branches, and he would rather have it set in perpetuity that is the policy, to which Mr. Strausburg responded, he agrees. He said he is just, personally, far more comfortable with Council being aware. He said because Council is the appropriating Body, he feels more comfortable with them being aware of that activity, and he would rather it just simply be that, when it occurs, Council is notified. He said Council would then have the opportunity to question him or the Department Head as to why it became necessary, or why they had to do the transfer. He said he certainly does not do these things willy-nilly, and never approves any internal departmental transfers without real justifications as to why it is happening, such as a mistake in the budget, and always asks why they are doing this. Mr. Cannon said his reason for bringing it up is only that he would hope to keep these Charter amendments as simple as possible, to which Mr. Joe Holloway said this is pretty simple. Mr. Cannon then said this is Phase I of this Charter amendment, to which Mr. Taylor responded, yes, but the other matters are distinct matters, so he thinks they should be in separate paragraphs. Mr. Dodd asked, if somebody on Council does not agree with the notification, what good is notifying Council? He said, if Council approves one budget and then there is going to be a change in the budget, maybe that should be approved, to which Mr. Taylor responded, he did not find any Counties that inter-Department type transfers have any requirement that it be approved by Council. He clarified, he only looked at County Executive Counties, and he did not look at all 23 Counties. Mr. Cannon said this is within the Department too, so it is a little bit different, to which Mr. Dodd responded, it is just a formality. Mr. Taylor said, to finish up on this item, is the idea to just strike out the line about the dollar amount, to which Mr. Matt Holloway responded, he thinks so.

Mr. Taylor said the second part of this item is that County Council may transfer then unencumbered appropriations in the expense budget between Departments, agencies, offices, or funds by ordinance and upon written authorization by the County Executive stating the reasons for the transfer. He said this does two things that are different from what they have now. He said, first of all, it eliminates the provision of the last quarter of the year, so these types of transfers can be done at any time during the year, but have to be done by ordinance and upon recommendation of the Executive, and that is a change. He said the language is somewhat different from what is there now because it points out that County Council can make the transfer, and that is, realistically, what happens now. He said the County Executive recommends, and the County Council approves, and it would be an ordinance amending the budget. He said that language formulation is found in a lot of other County Charters. Mr. Kilmer asked if what Mr. Taylor is saying is that right now the Executive can recommend this to Council in the last quarter only, and this would open it up for the entire fiscal year, to which Mr. Taylor responded, yes. He said he sees no reason not to do that, and, if some reason arises to do that, it should be done. He said that was the thinking, and a lot of Counties do not have this last quarter requirement. Mr. Kilmer asked if it actually expands the Executive's power a little bit, to which Mr. Taylor responded, no because it still has to be done by County Council approval. Mr. Kilmer asked if the Executive can do it during the other three quarters of the year instead of just the last quarter, to which Mr. Taylor responded, yes, but

Council can say no, so it is not really much of an expansion. Mr. Kilmer said it gives both branches more power to alter the budget. Mr. Dodd asked, when Mr. Taylor says other Counties do not do it, is he suggesting this Council cannot do it because other Counties do not do it, to which Mr. Taylor responded, no. He clarified, he is saying that he thinks, for flexibility, there is no reason to provide for that type of transfer only in the fourth quarter. He said Council has control because they have to pass it by ordinance. Mr. Cannon said this started with a concern about transferring between Departments, and now with this Charter amendment it looks like it is going to be half a page long, to which Mr. Taylor responded, it is because there is yet another item on it Council wanted, and that is probably the longest and most complex of the batch. Mr. Strausburg said he was not here when the Charter was written, but he suspects the underlying reason for limiting that to the fourth quarter of the year is that, by the fourth quarter of the year, they have a fairly good idea of where each one of their Departments is going to land in terms of what their budget execution is going to be. He said he would personally be very reluctant to make those kinds of interdepartmental transfers early in the budget year because they do not know what is going to happen. He said he is reluctant to make those kinds of transfers until they get through the winter months because that is when they can really have things happen, so he thinks that was the original rationale. He said, if Council has the appetite to give the Executive more flexibility, he is certainly not going to argue against that, but he does not recall in the time he has been with the County coming up against an issue where he felt he needed to take money from one Department and transfer it to another Department. He said maybe in the fourth quarter, but he cannot even remember that ever happening. He said, again, if Council wants to give the Executives from here on out more flexibility in that regard, Council still would have to approve it, but he thinks the underlying rationale was that they do not know where they will be on the budget until they get into this time of year, to which Mr. Taylor responded, he thinks the rationale was that they copied this out of the two County Charters, and he thinks at least one of those has now changed and eliminated the four months just because of the idea of flexibility. He said, if they do not want to do it, they do not have to do it, and they can say no. Mr. Cannon said the fourth quarter restriction never bothered him, and he does not think it was an encumbrance on Council or the way they were governing. Mr. Taylor said he can add in language at the start of number 2 stating during the fourth quarter of the fiscal year, or words to that affect, and limit that just like it is now. Mr. Cannon said he thought those words were already there, to which Mr. Taylor responded, he said he has made that suggested change to eliminate the fourth quarter restriction because he believes it provides flexibility, though they do not have to use it. He said Mr. Strausburg, or his successor, does not have to ask for it. Mr. Cannon said the purpose here is to keep this to a minimum for the public, verbiage-wise. He said they had ten to begin with, and the reason they cut it down to three was because they are trying not to have so much information for the public in general to absorb. Mr. Taylor said if they want to keep it the same, he will add in there "During the fourth quarter of the fiscal year," and then it will be exactly like it is now, to which Mr. Cannon responded, if it is exactly like it is now, he is not getting it. He then asked, if it is exactly like it is now, why are they doing anything if Mr. Taylor is suggesting they make it exactly like it is now. Mr. Cannon said he is confused, to which Mr. Davis responded, Mr. Taylor said he would add "In the fourth quarter." Mr. Kilmer said Mr. Taylor is proposing to replace 708A with this section, so, if they repeal what is in A now, they should just keep the language that is there now in the Charter, and then just add these on as A1 and A2, to which Mr. Taylor responded, if that is what Council wants to do, that is fine. Mr. Kilmer clarified, keep the language that is there now, to which Mr. Taylor responded, he thinks with the way they are now discussing it, numbers 1 and 2 would not even be necessary if they just want to keep it exactly the way it is now. He said, if Council does not want the notification provision about the transfer within a Department, then what they have now would fit that mold perfectly. He said, if Council wants notification, they will have to add "For notification." Mr. Kilmer asked Council if they want notification or not, to which Mr. Matt Holloway and Mr. Davis responded, yes. Mr. Taylor said he will then have to stick that in with what they have now. He

said that, essentially, brings them down to number 3, which is a completely new item. He said it is a new item because Council indicated they wanted something like that, and that is the language he has come up with after some discussion with Mrs. Hurley, and Mr. Roser has suggested some changes as well. Mr. Cannon said he is assuming this came from another County's Charter, to which Mr. Taylor responded, he does not know that this is from another County. He said this is what Council wanted, and he tried to formulate something he thought was the subject of the discussion in their first two rounds.

Mr. Joe Holloway said he will give some of his thoughts on this. He then said, back when they were building the collector road by the landfill, and Mr. Strausburg was not here when that was going on, but County Roads apparently was using diesel fuel from the Solid Waste Division, and they were comingling a lot of stuff over there. He said he remembers that day, and that was before they found out about the thefts that were going on. He said Mr. Sharma, Mrs. Peterson, and he forgets who else, were asking about diesel fuel because they saw that the usage had gone up, and they were told it had gone up because they were using diesel fuel for the collector road, and using equipment over there. He said the collector road was being built using diesel fuel from the Solid Waste Division, and there was no transfer going on with all of that, and, of course, at the same time there was theft taking place. He said, basically, it says in here, other than real estate, capital assets may not be used regularly except under extraordinary circumstances. He said extraordinary circumstances, he guesses, would be County Roads going out and cleaning the Airport during a snowstorm, so that would be okay. He said, on the other issues, that is why he thinks this part is important. Mr. Strausburg asked what Council is trying to accomplish, just so he understands. Mr. Kilmer then asked Mr. Taylor to read number 3. Mr. Taylor said he will read it and try to add in the changes by Mr. Roser, so if he goofs that up, he apologizes. He then read "A depreciable capital asset, regardless of how and when acquired, may be transferred between Departments, agencies, offices, or funds by the County Council by resolution and upon written recommendation of the County Executive describing the asset and stating its book value and the reasons for the transfer provided that in the case of an asset having a book value of less than (blank dollars to be filled in), the transfer shall not require passage of a resolution unless requested by two or more members of Council within ten days after receipt of such recommendation by the Council Administrator. Other than real estate or any other items designated by resolution of the County Council, a depreciable capital asset may not be used regularly except under extraordinary circumstances by Department, agencies, office or fund unless it is purchased or otherwise acquired for or subsequently transferred to such user." Mr. Cannon said he thinks in that statement he would be more comfortable if it started out by saying the assets, etc. may be transferred between Departments by written recommendation of the County Executive, and then approval of County Council by resolution. He said he thinks in everything Council does, it should be recognized that the initiation process should be by the County Executive with the consent of Council. He said it seems backwards, and it seems as if they are all of a sudden allowing Council to do something but then saying if the Executive gives them the written recommendation. He said they should keep it in chronological order because he would like it to maintain similarity to the rest of the Charter where the Executive makes the proposal to Council, and Council has to approve it. He asked if that is simple enough, to which Mr. Taylor responded, if the idea is to try to simplify this language or shorten it, he does not think it is going to do that. He said they would just be moving some of the phrases from one place to the other. Mr. Cannon clarified, he is just saying he thinks the County Executive should be recognized as the one who is initiating the process, and it has to be done with the approval of Council. Mr. Joe Holloway said, if they look through the Charter, in most anything else it recognizes it that way. Mr. Kilmer said the purpose of this is to recognize transferring funds between Departments, and it is just kind of expanding that to equipment, assets, and things like that, so it is the same principle, but it is just to include another set of things being transferred between Departments.

Mr. Strausburg asked if they are looking at the depreciated value of the asset, to which Mr. Cannon responded, that is lingo he does not understand. Mr. Roser said that would be the Blue Book value, which the definition is cost less depreciation. Mr. Strausburg said the thing he thinks he heard that could be problematic is usage by a Department of an asset assigned to another Department. He said, for instance, they have pool cars, and virtually every Department in the County uses those pool cars, although they are booked as an asset of the Executive Department, and he gets a little nervous about hamstringing a normal operation. He said they have crews going out to clear snow, and he does not care where the truck comes from as long as it is clearing snow on County property. He said that part of the language, he thinks, is somewhat problematic in terms of the day-to-day operations of the County. He said he understands the physical transfer of an asset from one Department to another, but it is just a matter of a reasonable threshold. He said, if they are moving a filing cabinet from Planning and Zoning to Human Resources, he does not want to get into that. Mr. Joe Holloway asked if the pool cars are designated, to which Mr. Strausburg responded, they have two or three pool cars that are assigned to the Executive Department and carried on the Executive Department's books that any Department in the County can reserve and use. Mr. Roser said, if he may offer, when someone uses one of their pool cars, they are not necessarily transferring that asset to another Department, to which Mr. Strausburg responded, that is correct, but it was the language he was talking about. Mr. Matt Holloway clarified, Mr. Strausburg is talking about where it says the capital asset may not be used regularly, to which Mr. Strausburg responded, most pool cars are not used regularly by everybody in the County, so that was the only part of the language that made him nervous. Mr. Taylor said he thinks the word "regularly" saves him because, if they are being used by "X" Department today and "Y" Department tomorrow, they are not being used regularly by either, so he thinks that really covers that waterfront, although he guesses he could tweak it somewhat, but he does not think it needs much tweaking, to be honest. Mr. Joe Holloway asked if they have a pool car that the Health Department, for example, uses all the time, to which Mr. Strausburg responded, each one of the major County Departments has its own pool car, but the Executive also has at least two pool cars, maybe even a third, that are available to anybody to use in the event that their assigned pool car is being used. He said the County has people traveling all of the time. Mr. Kilmer said, under this, it says other than real estate or any other item designated by resolution, so he thinks it would be simple, and they could have a list from the Executive Office and under resolution say all of these items can be used regularly by other Departments. He said this is not an ironclad prohibition on things being used regularly as long as a resolution is passed, to which Mr. Strausburg responded, he would like it just simply to not get too torturous, and he would also like it to include terms that are not subject to broad interpretation. Mr. Cannon said he agrees, and he thinks the term "may not be used regularly" is the kiss of death as that right there is a broad interpretation. He said he does not think there needs to be any qualifier of whether it is being used regularly or not as that speaks for itself. He said he thinks, if they are going to use such a term as that, it needs to be much more definitive than regularly. Mr. Strausburg said he thinks the thought process, again, is that if someone wanted to do an end run around this, they could say they are not transferring the asset to another Department, but they are just going to let them use it all the time, and that is what they are trying to prevent. He said he does not know how they would craft that language, but he understands the intent.

Mr. Cannon said he is not comfortable with and does not understand, and the section that references "Requested by two or more members of the Council within ten days after the receipt of the recommendation by the County Administrator." He said he just thinks they should leave it as a very simple process, such as, the Executive makes the request, and Council has to approve it. Mr. Taylor asked if Council wants a threshold, to which Mr. Cannon responded, he does not. Mr. Taylor said that would then be every single transfer, to which Mr. Kilmer responded, he thinks they should probably have a threshold. Mr. Cannon said he wants there to be a threshold but does not want the part in there

about the two Councilmembers. Mr. Kilmer clarified, a threshold, such as a desk, and things like that. Mr. Taylor said he will take out "Unless requested by two or more members of Council." Mr. Dodd asked if they should limit it to capital, to which Mr. Strausburg responded, it is limited to capital. Mr. Kilmer said they should pick an amount, such as \$5,000 or \$10,000, to which Mr. Strausburg responded, some assets at \$5,000 would not be capitalized, so it gets a little tricky. He clarified, he is saying he does not want to run into issues if they want to move a file cabinet from one Department to another, or a desktop calculator, etc. He said he understands what Council wants to prevent, and what they want to be aware of and approve, and he gets that, but he is just asking they do not tie themselves collectively in knots chasing rabbits down holes. Mr. Roser said the way they would do that is to set the threshold high enough where that would not happen.

Mr. Cannon said he thinks the last sentence after "May not be used regularly" is redundant. He said he thinks what they established up in the beginning saying any transfers have to be approved by County Council is sufficient. He does not think having to reiterate whether it is used regularly or not has anything to do with it, and it is just transfers period. Mr. Kilmer said he thinks they do need to recognize extraordinary circumstances. He said, again, when there is a natural disaster, it should not matter where it comes from, and they should be able to use equipment across Departments that would not be used regularly, and, hopefully, they will not have regular natural disasters. He said they need some flexibility, and they cannot have an emergency session of the County Council to approve using equipment. Mr. Dodd said, during a blizzard, some Departments may need every four-wheel drive in the County, to which Mr. Strausburg responded, that is what he is trying to prevent. Mr. Taylor said that is the extraordinary circumstances. Mr. Kilmer said they have to leave some leeway.

Mr. Matt Holloway asked what Council thinks about the dollar amount, to which Mrs. Hurley responded, the budget actually breaks out the capital assets. She said there is an under \$5,000 category for furniture, under \$5,000 for certain other capital assets, and then they have the over \$5,000, so perhaps that \$5,000 mark is a good place to start.

Mr. Taylor said he will read what he thinks Council wants. He then read "Upon written recommendation of the County Executive describing the asset and stating its book value and the reason for the transfer, a depreciable capital asset, regardless of when and how acquired, may be transferred between Departments, agencies, offices or funds by the County Council by resolution, providing that in the case of an asset having a book value of less than \$5,000, the transfer shall not require passage of a resolution." Mr. Kilmer said he would suggest putting the threshold in there but not needing a separate clause for that if they just say a depreciable asset over \$5,000 and go from there. Mr. Taylor asked which clause Mr. Kilmer is referring to, to which Mr. Kilmer responded, the last part of the sentence where he said "provided." Mr. Taylor said he would change it to read "a depreciable asset having a book value in excess of \$5,000," to which Mr. Kilmer responded, that would make it not as wordy. He said they could then have something in there about extraordinary circumstances, to which Mr. Taylor said that is the first sentence. He said it now would read "Upon recommendation of the County Executive describing the asset and stating the reasons for the transfer, a depreciable capital asset having a book value in excess of \$5,000 may be transferred between Departments, agencies, offices or funds by the County Council by resolution." He said that would then take them down to the very last sentence that begins "Other than real estate," and he does not know if Council wants to change that. Mr. Cannon then read "A depreciable capital asset, regardless of when or how acquired, or extent of accumulated depreciation, may be transferred between Departments, agencies, offices or funds upon written recommendation of the County Executive and approval by the County Council by resolution," to which Mr. Taylor responded, yes. Mr. Cannon said he would lead with the capital asset part. He said, again, "A

depreciable capital asset, regardless of when or how acquired, or extent of accumulated depreciation, may be transferred between Departments, agencies, offices or funds upon written recommendation of the County Executive and approval by the County Council by resolution. The recommendation shall describe the asset and state its original cost and the reasons providing the case has an original cost of less than \$5,000." Mr. Taylor asked if Mr. Cannon wants to break that into two sentences, to which Mr. Cannon responded, yes. He said the rest would read "Other than real estate or other items designated by resolution, a depreciable capital asset may not be used regularly, except under extraordinary circumstances by Departments," although he has expressed his reservations on using the word "regularly." Mr. Strausburg said he thinks it should say "Current book value of \$5,000 or less" because they do not want to get themselves into going back and trying to determine what the original cost of something was and whether it was more than \$5,000. He said, if its depreciated value is \$5,000 or more, he has to come to Council, to which Mr. Cannon responded, he does not think so. He said he understands what Mr. Strausburg is saying, but the purpose of it is that it leads back to what they originally approved in the budget, and they are trying to maintain the integrity of what was approved in the original budget. Mr. Strausburg said he is talking about capital assets because they might have acquired the asset 15 years ago. He clarified, rather than going back and finding out the original value of the asset, it would be quick for them to say what the current book value of the asset is, and, if it is more than \$5,000, they would have to go to Council to transfer that asset, but if it is \$2,500, they would just move it. He said it would keep them out of chasing their tails with a lot of administrative processes. Mr. Roser said he agrees with Mr. Strausburg, and, the Blue Book definition of book value is actually what he just described. He said, if Mr. Strausburg wants to add the word "current," that may clear it up. He then asked, when they talk about these assets being greater or less than \$5,000, he is thinking that a lot of the \$5,000 assets they purchase are in that category because they are not depreciated, they are expensed, so they are not even talking about depreciable assets when they are at that level, and he thinks that maybe the \$5,000 figure may be too low. Mr. Strausburg said it has to be classified originally as a depreciable asset, to which Mr. Roser responded, which means, by definition, that it is over \$5,000, for the most part. Mr. Strausburg asked if that confuses the matter more because a lot of these items would be \$5,000 or less if they just expense what he calls departmental capital because its useful life does not warrant carrying it as an asset on the books and depreciating. He said, if it is not originally classified as a depreciable asset, it does not fall into this. He said that then gets very confusing when they try to draft a Charter amendment the public would understand. Mr. Roser said he is thinking they may want to go above that to the \$15,000 level. Mr. Cannon said he just emailed all County Council users what he wrote so Council has it on their email if they want to pull it up right now to make it a little easier. Mr. Joe Holloway asked Mr. Roser if he is recommending \$15,000, to which Mr. Roser responded, he thinks that would do. He said, if they go below that, they are muddying the waters, as Mr. Strausburg said, and he thinks it puts them in the class of things they are talking about.

Mr. Cannon asked Mr. Taylor if there is anything else he would like to expand on, to which Mr. Taylor responded, this one looks good to him if they change the number to \$15,000. Mr. Cannon said that item was originally number 3, so would they attach that to number 1, to which Mr. Taylor responded, right now in Section 708 there is an A, which they talked about already and is going to stay the same with the recommendation being added about notification. He said, in other words, on the transfers within a Department, the only thing Council wants is notification. He said B refers to inter-fund borrowing, and that was not supposed to be changed anyway, so it is still there as B. He said number 3 would just be a subsection C. He said he thinks the title of the section should probably be changed to Transfer of Appropriations and Capital Items.

Mr. Taylor said they have one more item, and this is the proposal or the request that was on the list of ten regarding confirmation of appointments in Section 315A of the Charter with the suggestion to add "Assistant Director of Administration and all Deputy Directors." He said, if Council recalls, at the last meeting Mr. Kilmer pointed out that there are two other sections of the Charter that are closely related, and those are 413 and 414, and should at least be consistent with this, he thought, and he thinks there is some logic to that. He said, in any event, there is some complexity to it because right now under the County's personnel system, Deputy Directors are part of the merit system personnel. He said the only County they could find that requires Council confirmation of Deputy Directors appointed by the County Executive is Harford County. He said, in Harford County, the Deputy Directors are not within their merit system, but are defined out by their Charter. He said, just like in Wicomico's County's case, Department Heads are defined out in the Charter. He said he thinks there is a problem there in terms of what he would call the initial appointment of a Deputy Director, which would be under 315, and that is the first time someone is appointed to that particular position. He said the problem would arise after they have been appointed under section 413, which is the section that requires all of the Department Heads have to be reappointed after each election, essentially, and if the Deputy Directors were added to that list and one was not reappointed, then there would be an issue because that person is under the merit system. He said he thinks unless that change is made to remove them from the merit system, there could be a potential problem there suggesting to him that it does not make sense to amend what he calls the reappointment Charter Section 414 in regard to Deputy Directors. He said there is only one County Charter that does that anyway, and that is Harford. He said that is one thought on that, but how Council wants to proceed is something to discuss. Mr. Dodd asked how they would remove them from the merit system, to which Mr. Taylor responded, they would have to amend the Personnel Section of the Charter. Mr. Kilmer said that would be a pretty big change. Mr. Strausburg said he would urge extreme caution with this. He said they have to have continuity of operations, and there is a significant reluctance of people to "bubble up," or accept appointed positions that are subject to political confirmation. He said a lot of people just do not want to be there. He said Wicomico County is one of the only Counties that does not provide Department Heads and other appointees with some sort of contract so that they are not totally hanging out to dry. He said he thinks if Council were to take the Deputy Directors they have in the County and put them into the same political winds that prevail, if they will, and he is being candid, he thinks they run the risk of losing people, they run the risk of people not wanting to accept those positions, and they run the risk of disrupting continuity of operations. He said he would strongly urge Council not to go down that path. Mr. Cannon said, in view of continuity of operations, if anybody is in an Assistant position and is not willing to break that bubble and take that next step, they are not doing the County much good as an Assistant if they are not willing to accept that. Mr. Strausburg said they could have a person who has been with the County for 20 years, and they now want them to step up to a Deputy Director level with the employee knowing that with the next election they may not be confirmed and out of a job, to which Mr. Cannon responded, it is the same with the Director's position to which they are supposedly supposed to be advancing towards anyway, continuity wise. Mr. Strausburg said he thinks there is a certain level within the organization where they have to maintain what he will call continuity, and he just urges Council to really think long and hard about this, to which Mr. Cannon responded, they do realize what territory they are getting into. Mr. Strausburg said he would be remiss if he did not say that, as the Director, and he has asked a number of people if they would consider bubbling up, if they will, and they have said they are not going to put their career at risk like that, and he understands that. Mr. Cannon asked what they are actually accomplishing if they have an Assistant Director who does not want to go to that next level, to which Mr. Strausburg responded, Assistant Directors do a lot of things, but it does not necessarily mean they are going to become the next Director. He said there are a lot of work assignments and responsibilities at that level that continue irrespective of who the Director is. Mr. Cannon said they spend so much time training that individual

and preparing them for the next level, and then when it is time to go to the next level, they say they are going to stay right where they are, and he does not think it makes much difference. Mr. Strausburg said he thinks it is a mixed bag. He said, with some of the people, they are priming that person to take that next step, but there are other people who do a great job at that level, and that is what they are cut out for, and that is just fine. He said not everybody has to bubble up to the next level. Mr. Dodd said the same people Mr. Strausburg is talking about may not want to go to the Assistant Director position, and they are the same ones who had the opportunity to go to the Director's position. Mr. Strausburg said, if they want to put themselves in a position where they are a political appointee, they make that choice, but there are a lot of people who simply do not want to put their careers at risk like that. Mr. Dodd said he understands that, and that is when they would bring somebody in from the outside. Mr. Joe Holloway said they had a Public Works Assistant Director for a number of years who did not want to step up, but, in reality, for him to be there, he should have stepped up, and he thinks this is one of the reasons they are discussing this. He said he sees Mr. Strausburg's side of it too, but they could come out here and have all of their Assistant Directors be actual acting Directors, to which Mr. Strausburg responded, he thought they covered that and trimmed it back. He said he understands Mr. Joe Holloway's concern, but, on the other hand, they actually do not have that many Deputy Directors. He said he does not know where the heartburn comes from, but he has heartburn when it comes to good, stable, steady people who he knows do not want to be political appointees. He said he knows when they advertise for filling positions, when people find out they are subject to a political confirmation and they do not have any contractual coverage, a lot of people just do not want to put themselves in that position. Mr. Cannon said Mr. Strausburg makes a valid point, and he appreciates it. He then asked how they fine tune what they do have, and whether they know if they are even going to go forward with this, to which Mr. Taylor responded, for the moment they should stick to the Deputy Directors to decide what Council wants to do. He said they could either amend 315A, which is what he calls the initial appointment. He said he does not think there would be a problem under the personnel system for the initial appointment, and it would only be after the election for what he calls the reappointment under a different section, which is 413. He said, if Council wants to at least confirm the initial appointment of a Deputy Director, that section could be changed to put them in it, and that would be 315A. He said, if Council did not want to do either, then there would not be an amendment of either section in that regard. Mr. Cannon said he thinks both are fine because it is not as if it is creating any more work for them as far as what they are trying to accomplish in the changes, to which Mr. Taylor responded, he thinks what Mr. Strausburg has just been talking about is, he thinks, primarily related to 413, the reappointment. Mr. Strausburg said 413 is the issue. Mr. Kilmer said, if they are a nonexempt position, they are protected from being let go, so he thinks what Mr. Taylor is saying is, if a Deputy Director comes in and is under the exempt position, and then Council declines to reappoint them, it means they have, essentially, fired them, and they cannot fire them. Mr. Strausburg said, in their mind, they would be getting fired without cause. Mr. Kilmer said, unless they remove them from the exempt category, which he would not recommend doing, it seems that there is kind of a circle they cannot square. Mr. Cannon asked if they are talking about making this an appointment process only, and not with a reappointment, to which Mr. Kilmer responded, yes. He said it would not be quite the level of oversight that Department Heads have. Mr. Dodd asked if they are saying that if they get appointed once, in the future they will not have to move up for reappointment in the next term, to which Mr. Kilmer responded, yes, and they would still be subject to being let go under the personnel system. Mr. Strausburg asked if what Mr. Kilmer is saying is Council would want to approve the initial appointment, and then once a Council approved that initial appointment, that Deputy Director was in place and could only be removed through the merit process, to which Mr. Kilmer responded, he is not necessarily saying that is what he wants, but he is saying that is how it would have to work under this. Mr. Strausburg said he thinks that addresses the concern he has. Mr. Cannon said he thinks it is cleaner as far as worrying

about what this person's expectations were when they came in. Mr. Taylor said, to him, it does not make sense to have the reappointment requirement if they cannot effectively use it. He said there is no point in putting it in there. He clarified, the idea then is to put in Deputy Directors for the initial appointment in 315.

Mr. Taylor said there is another aspect to this, and that is the Assistant Director of Administration, which position is one of the exempt positions from the merit system, so this issue about reappointment they have been talking about does not apply the same way to the Assistant Director of Administration as it does to the Deputy Directors. He said he guesses they have the same questions, and does Council want to put that position in for initial appointment in 315 and/or in 413 for reappointment after an election. Mr. Dodd said they will probably have to give this some more thought. Mr. Davis asked if this would be for the initial appointment or reappointment, to which Mr. Taylor responded, it could be either because they do not have that merit system issue on that particular position. Mr. Cannon said, again, for matters of simplicity, he does not want to create too many options for the public to review. He said he is okay with doing the initial appointment for the Assistant Director of Administration as well, to which Mr. Taylor responded, oddly enough, he could not find anything in the Charter about how the Assistant Director of Administration is appointed. He said, in any event, they have one, so it probably would also cover the waterfront about how he is appointed. Mr. Cannon asked, when they put the amendment in, would they have to say the Assistant Director of Administration and all other Assistant Directors, to which Mr. Taylor responded, there is only one Assistant Director of Administration. Mr. Cannon said they have to distinguish that position from all of the other Assistant Directors when they make the Charter amendment, to which Mr. Taylor responded, that is a question he cannot offer right off the top of his head because he thinks the term Deputy Director is used for the Departments in the same way as Assistant Director. Mr. Cannon said initial appointment is fine for all. He then asked if that is okay with everybody, to which Council agreed.

Mr. Taylor said Mr. Kilmer also raised questions at the last meeting about Section 414, and this is the one about the temporary appointments if there is a vacancy. He said, right now, that covers only the Director of Administration and Department and Agency Heads, and does not cover Deputy Directors or the Assistant Director of Administration. Mr. Kilmer asked if they have temporary Deputy Directors, to which Mr. Strausburg responded, they typically do not do that. Mr. Taylor said it does not seem to him there is any need to address this at all. He said one thing that occurred to him, which he will mention in passing, is the Charter does not provide what would happen if the Director of Administration suddenly disappeared, and who would fill in. He said he thinks, logically, it would be the Assistant Director of Administration, but the Charter does not provide for that. He said whether Council wants to live with it that way or make a modification at this go around is up to them. Mr. Dodd asked how they would change it without it being a Charter change, to which Mr. Taylor responded, it would have to be a Charter change. Mr. Cannon said so far they are okay.

Mr. Cannon asked if they are all clear on the language in all three of these items, to which Mr. Taylor responded, he thinks they are. Mr. Cannon asked Mr. Taylor to refine everything that needs to be done to make it as simplistic as possible and get it to Council exactly as it will be on the ballot, to which Mr. Taylor responded, what they were just talking about is going to be very simple where they will just be adding Deputy Directors and Assistant Director of Administration in Section 315A. Mr. Kilmer asked if there will only be two Charter amendments, one with the transfers, and one with the Deputy and Assistant Directors, to which Mr. Taylor responded, correct. There was no further discussion.

Signatures on next page

**Open Work Session
Proposed Charter Amendments
May 15, 2018**



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

Matt Holloway, At-Large



Laura Hurley, Council Administrator