

## **Open Work Session**

### **Discussion on Process to Fill a Vacancy on the Wicomico County Board of Education**

**October 15, 2019**

Mr. Taylor said he would like to point out that this is a continuation of the third or fourth meeting on the matter of the provision of the State law pertaining to the structure of the Board of Education, and, in particular, vacancies on it. He said, in September, Council made certain decisions as to what they would like to see in a revision of the State ordinance, which included that a vacancy appointment would run for the remainder of the term of that particular seat for up to four years. He clarified, in other words, it would not require the appointee to run in an interim election; for example, there will be an interim election next year, and there was an appointee this past summer, so, as things stand now, that person will have to run next fall in that interim election. He said Council also made some other changes, which he can go through if they want him to. He said they did not fully resolve the situation with either doing away with or changing the Nominating Commission, but that was discussed at the last two meetings. He said, since it has been awhile since the initial presentation on this, he will point out that there are four Counties of the 24 in Maryland, if he includes Baltimore City, that have a Nominating Commission, and Wicomico is one of the four, but next year at this time there will only be three because Anne Arundel County, which now has a Nominating Commission, will cease to exist this time next year per State law.

Mr. Cannon said there are members of the Nominating Commission in the audience, and he invites them to come before Council, and he appreciates each of them taking the time to be there. Mr. Ben Brumbley, Chair of the Nominating Commission; Mrs. Mary Ashanti, President of Wicomico County NAACP; Mr. Charles Gray, Commission Member representing the Town of Fruitland and the Fruitland Chamber of Commerce; and Ms. Chrystianna Gosnell, Commission Member, came before Council. Mrs. Ashanti pointed out that the Wicomico County NAACP is one of the entities listed in Senate Bill 145. Mr. Cannon said he appreciates them all being there. He clarified, he does not think the reason Council went in this particular direction was just off the cuff where they just decided to change something with the Commission, and creating more work was the last thing they really wanted to do. He said he thinks there was a legitimate concern as to the vacancies that were occurring, and whether or not substantial measures were in place to address vacancies when people were just not showing up, and whether or not that impacted the fact of whether or not they had a quorum, so Council was concerned about that. He said he thinks the concern was whether or not, in the name of diversity, they sort of created an insurmountable goal of trying to get so many people to the table at one time, and it might not be something that is physically possible, so the thought was that maybe they need to downsize. He said, in the interim, as Mr. Taylor mentioned earlier, Council found out that, even though Wicomico County had formed a Commission, there were a lot of Counties that were not using Commissions, so a second thought was whether they were going down the right road at all. He said this is open for discussion, as they said before, and Mr. McCain made some very good points at the last Work Session, such as maybe they have not given this enough time, and maybe they need to continue on as they are and not be so quick to make adjustments. He said, then again, they still want to make sure they are listening to the Commission members, and that Council looks into any substantial changes that might need to be made. He said there was the question of whether the number of Commission members was too large, and he has always asked if they are requiring too many Public Hearings where the public is not really attending at all, and it just created sort of a nuisance for everybody as opposed to any benefit, but he will leave it to the Commission members as to whatever input they might like to add.

Mr. McCain said, just to repeat some of the comments from the last meeting, in their packet they keep referring back to the September 3 meeting, but they have talked about this twice since then, and there is not really an updated version of this. He said he felt at the last meeting they sort of had a consensus that certainly they felt that eliminating the Commission was not a path they were interested in. He said, whether they are going to make any changes to the Commission in terms of the makeup, going back to the history of the makeup of the Commission, there was a lot of input when it was formed to make sure there was community representation, and that there was diverse representation on the Commission. He said, going back to the statements from the last meeting, he, for one, did not feel necessarily this was the best test because this was the first time they actually tested the process, and, for one thing, they only had two candidates, which kind of meant there was not much from the Commission's standpoint because they were supposed to recommend two, but they only had two. He clarified, from that standpoint, when someone volunteers to serve on a Commission, they certainly expect them to fulfill their duty, but, at the same time, there was not necessarily a whole lot of motivation there when the work was kind of done for them because there were only two candidates, and they were supposed to recommend two. He clarified, with all of that said, he feels the process worked. He said he thinks the bigger question for Council to actually address now is the issue of whether they serve out the remainder of the term, which he certainly thinks they should once they get appointed. He said the situation they have right now is a little unusual where they get appointed and then have to run in the next election, which he is not so sure it was intended to be the next election or the next County election, but the way it is worded is the next election. He said the person appointed is now out of cycle, and has to run next year, and, if elected, has to run again in two more years, and, obviously, that just does not seem to make logical sense. He said he, for one, is not real enthused about Council necessarily trying to tinker with the make-up of the Commission because a lot went into making sure those different aspects of the community were represented, so trying to pick and choose which ones to eliminate, or which ones to put back in he thinks disagrees with the intent of the original makeup of the Commission.

Mr. Brumbley said he would like to make some clarifications. He said this was the second time the Commission met for the appointment of someone after Mr. Goslee passed away. He said the first time the Commission met they had to submit six names, and they had 13 candidates who applied. He said, in the Public Hearings, they had questions and answers. He said they did not have the attendance they would have liked to have had, but they had a decent attendance, and there was time for the public to ask the candidates questions. He clarified, they limited what kind of questions, so they could not get into their personal life, but more about their commitment to the students of Wicomico County. Mr. McCain said that is a good thing because the whole purpose of that was to give the public the opportunity. Mr. Brumbley said the last time the Commission met it was only for District 3 and could not be the entire County because Mr. Goslee was elected from District 3, and was representing District 3, so that limited how many people could apply. He said they had some issues with advertising, and it seemed that the different advertising venues did not respond to the Commission and help them out like they did the first time. He said the Commission asks that, if Council changes things, they present some type of a budget for secretarial issues, and also for advertising. He said he thinks this Commission did a fabulous job and gave up a lot of time, but, from what he has heard from members of the Commission, and the public, is they almost feel a little bit unappreciated for the action that has been taken. He said he knows people hear things and add to it, but the thought of doing away with the Commission, in his opinion, is taking away the voice of the people. He said he does not care if they are the only County in the State of Maryland that has a Commission because they are now giving the citizens of Wicomico County a voice in a process they elected to have with an elected School Board, and for the Council or the County Executive to go forward with filling a vacancy, he thinks, is a slap in the face of the citizens of Wicomico County.

Mr. Dodd said he thinks at the last meeting they established that the secretarial staff from the Board of Education would assist the Nominating Commission. He then asked Mr. Brumbley where this budget would come from, to which Mr. Brumbley responded, that is Council's job. Mr. Dodd asked if it would come from the Board of Education, to which Mr. Cannon responded, he thinks it would come from the Board of Education, and that was his understanding from the last meeting. Mrs. Ashanti added, the budget is not the Commission's role. Mr. Dodd said they need to establish that at some point. Ms. Gosnell said they are not talking about a huge budget, but advertising was the biggest issue, and they worked around a lot of things with postage, and things like that. She said, when she sent out press releases, she was told it would be put out, but it just was not given the time, and it was not as important the second time around as it was the first time around. Mr. Dodd said it would be a good idea to find out what kind of budget the Commission needs so they can discuss it with the Board of Education.

Mr. Gray said he thinks the timeframe is something that needs to be addressed because, during this last process, the Commission was really jammed up for a length of time to get everything done. He said, to him, the advertising is a crucial part of this because he thinks there is a lot of misconception in what the actual Board Member is supposed to do, for one thing, and he thinks that information needs to get out there at the same time they notify the public of the opening. He said he thinks there then needs to be an adequate number of ads with the given amount of time for people to respond, and he believes one of the objectives should be to get a number of qualified candidates to come forward. He said this last time around they had two applicants, and presented them both, so it made their job a little bit easier, but he does not know if that really accomplished what the County would like to have for filling these positions.

Mrs. Ashanti said she would like to correct something she said at the last meeting because she has since talked to Mr. Brumbley, and the African American community was well represented on the Commission, so she wants to correct that. She said she reviewed the advice memorandum dated September 8 from Mr. Taylor, and they do not support any of his recommendations on that memorandum, and she just wants that on the record. Mr. McCain said he was getting at that earlier, and he is not really sure why they are still referring back to that because Council has met twice since then, and, certainly, has moved past several of those items, yet they keep going back to that first meeting they had.

Mr. Holloway said one of the issues they talked about is the attendance of the Commission members, and it was brought up that there was not a quorum a number of times, to which Mr. Brumbley clarified, one time. Mr. Holloway then asked if they could operate without a quorum. He said, if only seven people show up, they cannot operate, so how can they alleviate that problem? Mr. Brumbley said he believes Council goes by Robert's Rules of Order, to which Mr. Holloway responded, they do not. Mr. Cannon clarified, they do informally, to which Mr. Holloway responded, they have never adopted them. Mr. Brumbley said, serving on the Maryland State PTA, they followed Robert's Rules of Order, which says a quorum is one more than half of a Committee, so that is how they operated. He said he does not know if the Board of Education officially adopted Robert's Rules of Order, but they follow it to some extent, so that is why, as Chair, he tries to follow it so if anybody has any issues they have some kind of a standard they are following. Mr. McCain said, just to clarify, Mr. Brumbley said there was only one time where they did not have a quorum, but he has heard the comment repeated several times that they could not get a quorum, when actually they only had that one occasion, so that was not necessarily a big problem. Mr. Cannon clarified, similar to what Mr. Gray said, it was a big problem because of the time restraints, to which Mr. Gray responded, they probably were fortunate because the same people ended up showing up every time, so, basically, they had a core group who pretty much made all of the scheduled meetings. He said, if they are going to have 14 people, he thinks they ought to have a commitment from 14 people because who knows the input they might have been able to get if they had

14 people contribute. He said either that, or they go the other way and limit the number of people to 7. Mr. Holloway said he will ask his question again, but will probably get the same answer. He then asked, if they have not adopted Robert's Rules of Order, do they have to have a quorum to operate, to which Mr. Cannon responded he thinks they need to establish something. Mrs. Ashanti said they have to have a quorum to operate, but, like Dr. Boyd said, that was not done, and going forward it needs to be done. She said, when they have members who are not attending, that is where the Commission could ask the secretary to send a letter to Mr. Culver recommending that the person be replaced. She said that has not been done in the past, but, going forward, it could be done. She said she has been involved in many executive committees over the years, and when there were not enough people, they conducted business, but knew they had to have it ratified, even if that meant having a conference call or a special meeting where they could get everybody on the phone and go over everything and have it ratified. She said she thinks sometimes they make things too difficult. Mr. Holloway asked if an alternative would be to cut it back to nine members with five alternate members. He said they could ask who would be at upcoming meetings, and, if someone could not come, they could call an alternate. He then asked if that is an idea, to which Ms. Gosnell responded, it could be, but they had some people not respond at all who were on the Commission, and she kept an attendance record, but some did not even respond to emails about the meetings. Mr. Holloway asked if it would be better to cut the Commission back to nine full-time members and five alternates, and when they put out emails and do not get a response they could then call an alternate, to which Mr. McCain responded, the only complexity with that is it is not just members. He clarified, each of those people is designated to represent a certain aspect of the community, so then they get into which five aspects would they cut. Ms. Gosnell said maybe they should have let those organizations or municipalities know that their person did not show up.

Mr. Cannon said, from what has been shared with Council today, it looks like they need to address four issues, and one issue is to adjust the timeframe to give them more time to address their concerns. He said replacing a Commission member is a time consuming process, but by the time they are replaced, they could be beyond the deadline, so they have to look at recreating the deadline. He said the second issue might be strengthening the rules in reference to absenteeism, and they cannot give them too many strikes because, again, they will be out of time. He said the third issue is making sure they substantially establish support staff with a secretary and funding for advertising. He said the fourth issue was touched on by Mr. McCain, which is to possibly redefine the next election, and he thinks that is a good point because they had to go between attorneys two or three times to define what exactly was the most appropriate time for this individual, once appointed, to then have to run for election. He concluded, those are the four issues that he sees, but he does not know if there is anything else.

Mr. Gray said background checks were an issue. Mr. Cannon asked if he means as far as the time, or not having the staff to do them, to which Mr. Gray responded, it was an issue of who would be responsible for paying for a background check. Mr. Holloway said that falls into the budget part of it.

Mr. Brumbley said, if Council is going to submit a rewritten Bill to the Legislature, he thinks they should look at two things. He said, in this last process, Council had a tie vote, and there is nothing written as to what happens in the case of Council having a tie vote on the candidates they want to appoint, so he thinks something needs to be set in stone as to what is to be done if that happens. He said they could start the process all over again, so the applicants who applied and were put forward would have to reapply, but he thinks that is something they need to look at because that was an issue this last time. He clarified, it was not an issue the first time, but it was this last time. He said the other issue is who pays for background checks, and how many they do. He said the first time they had to send six names forward, but it could have been a little larger if someone failed the background check, or had an issue.

He said it was also brought up about the privacy issue of the background check, and who would get to see what the issue was, or why that person would not be put forward because of a background check. He said those are the kinds of issues they saw, and he thinks the things that need to be written out are who pays for it, how many they pay for, and do all the names sent to Council have to have a background check. He said that is the type of thing he thinks needs to be worked out going forward, as well as what should happen if Council has a tie like the last time. Mr. McCain said they can incorporate the background check aspect into the budgetary aspect because he thinks those are all part of the same bucket. He said a fifth item to add to the list is the situation with the tie, if they want specific language. He said that is always going to be a reality because, the way the law reads, it is the remaining Council, so in their Council situation, they could have a tie because it is always the remaining Councilmembers. Mr. Cannon said he actually had this issue on his list, but did not bring it up yet. Mr. Brumbley said they have not had an issue with the Commission having a tie because, actually, in Robert's Rules of Order, the President or Chair does not vote unless there is a tie, and that is when they vote. He clarified, he meant the Council had an issue of a tie, so that is what needs to be addressed.

Mr. Brumbley said he thinks they have to be careful about the timeline because they are talking about reducing a person, or however many seats on the Board they are filling a vacancy for, to make sure their work goes forward, so it really is tight, but they are also talking about making decisions for their children. He said by the time the Commission does 60 days and Council does 60 days, they are talking about 120 days with an empty seat on the Board, and that also throws their numbers off. Mr. Gray said the hearings are what add a lot to that. He clarified, trying to squeeze them into that timeline and advertising them, and he does not know whether Council can narrow that down to just one, to which Mr. Cannon responded, that would be his recommendation. Mr. Gray said he thinks they have to give at least one, but two is pushing it. Mr. Dodd said this time was a rare situation, and hopefully it will never happen again where they were hit with a double whammy when they were down one Councilmember and they were down a Board of Education member, so that was why they ended up with the tie. He said, with that being said, they need a plan B, and they need to move forward with that. He suggested they have one or two more Work Sessions to work out the Commission's concerns.

Mr. Taylor said he would like to add something that was an open item from the last meeting. He said one member of the Commission is to be a member from the Wicomico Council of PTAs. He said, at the last meeting, it was mentioned that this organization either does not exist anymore or is defunct, so that would be, he thinks, an open item to possibly revise no matter how they do this, as long as they retain the Commission. He said he would also like to make a clarification. He explained, there was mention of his memorandum of September 8, but that is not recommendations by him. He clarified, it states right at the top that the following is based upon his understanding of Council's comments at the Work Session on September 3, so it was a synopsis, in effect, of what Council discussed at their meeting on the 3<sup>rd</sup>.

Mr. Brumbley said, at the present time, there is not a Council of PTAs in Wicomico County, but that does not mean there will not be one in the future. He said there has been talk about revising that group, so he thinks it would be a little preliminary to take it out prior to something happening. Mr. Taylor said right now it is defunct, so he thinks it kind of leaves an open question, and they do not know what is going to happen. Mr. McCain said the PTAs still exists, just not the Wicomico Council of PTAs, so the language could be changed to say someone from the PTA as opposed to the actual Council. Mr. Dodd asked who would choose that representative out of all the schools, to which Mr. McCain responded, it would be just like it is now where they would have to be appointed by the Executive.

Mrs. Ashanti said Council was talking about how people who are appointed may have to run for Office in November. She then asked, when Council appoints someone to the County Council, do they have to run in the next election, to which Mr. Cannon responded, yes. Mrs. Ashanti said this is the same difference, and she does not see the difference just because they are appointed. She said, if they want to remain in that position in the next election, and they want to continue in their position, they need to run for their position, so she does not see that as a problem. She said she also has a question in reference to background checks. She said, whenever she has gone for a position, she has had to pay for her background check, and she is responsible for that because she is going for that position, so she is responsible, and the background check goes to whoever has the job she is applying for. She said she is just throwing that out there, and they are neither for or against that. She said also they are not against having just one Public Hearing instead of two, but it really would have to be widely publicized, and not just white media because there are other non-white media outlets out there, and they need to get in the habit of using them if they want to be one Wicomico. She said, basically, that is what her concerns are. She said instead of waiting until they have another problem or have to replace someone, if they already know and have a record that people are not attending, they should send a letter to the County Executive saying these are the people who have not been attending, and ask if he can please contact that particular organization and appoint someone to replace them. She said they do not need to wait until they have a problem and then try to address it because now is the time to do that. Ms. Gosnell said she can provide a list of attendance, to which Mr. Cannon responded, if she could provide that to Mrs. Hurley, that would be great. Ms. Gosnell then asked if Mrs. Ashanti could also provide her with a list of suggested media so they can put that in their file.

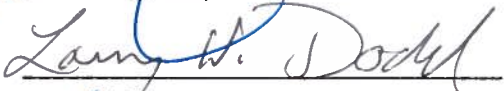
Mr. Taylor said he will add that he noticed one County, and he cannot remember offhand which one, says the nominees have to be run through the Case Search system, which is provided by the State and shows court records, to which Ms. Gosnell responded, they did that. Mr. Taylor said another way to do it, of course, is to provide a statement under oath regarding their background, and that might truncate some of the costs. He said, obviously, if they want to do a full formal FBI investigation, it is going to be more costly, so they need to look at that, to which Mr. Cannon responded, that is a good point. Ms. Gosnell said they used the judiciary system, and in the interview each candidate was asked if they understood they had to run for their position at the time of the election. Mr. Cannon said Case Search is a pretty thorough background, and they are not doing credit checks, but more or less criminal and civil checks. Mr. Dodd said candidates are not run through a background check during a regular election, so he thinks they can do something simple, to which Ms. Gosnell responded, they actually did both.

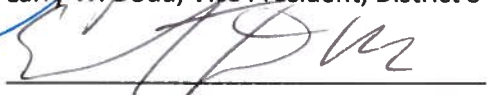
Ms. Gosnell said it was a pleasure working with the Commission, and she was afraid Council was looking to disband them. She said it started out with a lot of different personalities, but by the end they became a close little group. Mr. Holloway said Council appreciates what they are doing. Mr. McCain said he thinks he is speaking for all of Council, but they appreciate what the Commission has done, and their willingness to serve on the Commission. He said the comment was made that some of the affected people did not feel appreciated, but Council appreciates what they all did, and this discussion just evolved out of some of the questions that were coming up as part of the process, and by no means was coming out of the fact that no one appreciated the work because the work was very much appreciated. He clarified, that is not just for Council, but he is sure he is speaking for everyone in the County.

Mr. Holloway said, if they have the unfortunate opportunity to need the Commission's services again, in some cases they can see it coming, and in other cases it just pops up, but possibly they could get a letter stating that if some of the challenges the Commission had have not been resolved by then, maybe Council can help them get through it quicker at that time and solve some of the problems as it goes

along, and help them contact people. Mr. Dodd said Council appreciates everything the Commission has done, and this is not a goodbye, but that is what it sounds like. He said he thinks at the last meeting they discussed that the Nominating Commission should have regular meetings to keep updated whether there is a vacancy or not. There was no further discussion.

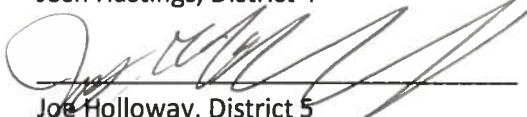
  
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John T. Cannon, President

  
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Larry W. Dodd, Vice President, District 3

  
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Ernest F. Davis, District 1

\_\_absent\_\_\_\_\_  
Nicole Acle, District 2

\_\_absent\_\_\_\_\_  
Josh Hastings, District 4

  
\_\_\_\_\_  
Joe Holloway, District 5

  
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William R. McCain, At-Large

  
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Laura Hurley, Council Administrator