

Open Work Session

Discussion on Declaring Wicomico County, Maryland a Second Amendment Sanctuary

May 19, 2020

Sheriff Mike Lewis came before Council and said, as a lifelong resident of Wicomico County, avid hunter and fisherman, and now about to be in his 37th year as a law enforcement officer, his views are certainly stronger than others. He said he will continue to enforce all State and federal laws as he has sworn to do; however, like many proud Americans, he opposes any law or regulation that further infringes or restricts a citizen's right to protect himself or his family, arguably the real interpretation of their Second Amendment rights. He said he will continue to work with Governor Hogan and local Delegation on issues regarding public safety, such as closing background loopholes to keep guns out of the hands of dangerous criminals, working with prosecutors to vigorously prosecute those that commit crimes with firearms, and making schools safer by enhancing security and working with school administrators to plan for critical incidents. He said he also believes in increasing access to mental health services for at-risk patients. He said these are all common-sense points of discussion identifying the real issues associated with gun control that do not infringe on a citizen's right to bear arms under the Second Amendment. He said, as a 36-year veteran of law enforcement, 22 years as a Maryland State Trooper, and 13½ years as Sheriff in Wicomico County, he has a pretty distinguished career in both gun and drug enforcement cases across the State of Maryland with thousands, not hundreds, of street and highway arrests he is personally responsible for, he feels qualified to be here today and say what he is about to say. He said, due to Maryland's systemic lack of vigorously prosecuting gun crimes under former Governor O'Malley's Administration, and his subsequent abolishment of the death penalty, there remains tremendous incentive for criminals to move to Maryland. He said law-abiding citizens who are discouraged from legally purchasing a firearm due to the passage of Legislative hurdles, which make it extremely difficult to purchase or legally obtain a firearm can only stand by and watch criminals flourish in a profession of terrorizing their innocent citizens. He said new gun laws repeatedly introduced in Maryland and passed are nothing more than feel good proposals that have done absolutely nothing more than impact their local law-abiding citizens, and undoubtedly make law-abiding citizens more vulnerable and victims of criminals who will continue to steal, rob, rape, and murder while holding a firearm to your neighbor's head. He said the Second Amendment protects an individual's right that existed before the creation of any form of government, and the Declaration of Independence made clear that all human beings are endowed with certain unalienable rights, and that governments are created to protect those rights; the unalienable right to freedom from violent harm, and the right to self-defense both existed before and outside of secular government. He said the right to keep and bear arms simply implements the unalienable right to an individual's self defense against aggression of any kind, and the Second Amendment refers to the right of the people, not the State, as a preexisting right the government must respect. He said the United States Supreme Court in U.S. versus *Urquidez* indicated that the word people in the Second Amendment referred to individuals, not States, and was not a holding or a ruling of the law, but simply an observation by the court. He said the language of the Second Amendment prohibits the federal government from infringing on the rights of the people, and there is nothing ambiguous about shall not be infringed. He said the language of the Second Amendment is about as clear as the First Amendment prohibiting congress from infringing on the right to freedom of speech, and that is why he is here today, and why those who came before him were there today. He said they have a right to freedom of speech that has never been challenged, and never will be, and now they want to challenge

the Second Amendment. He said they also have a freedom of press and freedom of religious expression. He said there is no logical reason to read the Second Amendment as a weak statement while treating the First Amendment as a strong protector of rights. He said the Second Amendment protects a fundamental right, and should be read broadly because it implements the right of self-defense, and self-defense is the ultimate right of all individuals to preserve life. He said the rights to free press, free speech, assembly, and religion are extremely important, but none of it matters if one cannot defend their own life against aggression, and none of it matters much when an evil government is fully armed and its citizens are disarmed. He said the Second Amendment protects a fundamental right, and should be read broadly because it implements the right of self defense and the right to preserve one's life.

Sheriff Lewis said nationally they have seen a huge surge by individual States to further restrict or encroach on the Second Amendment right to keep and bear arms causing many local elected officials throughout the nation to say enough is enough. He said one has to look no farther than their neighboring State of Virginia to see what happened during this last Legislative Session several months ago. He then asked, as Sheriff of Wicomico County, what excuse could he offer to any of his constituents for not helping them or protecting them from abuse or crimes by their own State or federal government? He said he has been asked before how he cannot enforce additional gun laws or gun restrictions if passed into law. He said he is more than willing to sacrifice his future for doing the right thing for the citizens of Wicomico County. He said that is all he has known, and that is all he has done for 36 years now; however, the Reverend Dr. Martin Luther King said it best when he stated, "I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice is in reality expressing the highest respect for the law." He said, if they want a good and strong America, then law enforcement must be an integral part in doing so, and that is why he is here today. He said he will not shrink from his duty or responsibility merely because of political correctness. He said, if they do not uphold the constitution and the principles of their founding fathers, then they are no better than any other country that has enslaved and continues to enslave and impoverish its citizens for their leader's power and personal gain. He then asked Council to please listen to him, and let that sink in for a second.

Sheriff Lewis said the Second Amendment was meant for every American regardless of race, ethnicity, or gender. He said every American has a duty and responsibility to protect themselves and their families, and having the ability to buy, possess, keep, and bear firearms is one's fundamental right to self-protection. He said it is the equalizer for the weak, and a neutralizer against the strong. He said their country revolves around their Bill of Rights, their country revolves around one's First Amendment right to free speech, and their country revolves around one's unalienable right to keep and bear arms. He said John F. Kennedy once said "Those who make peaceful revolution impossible will make violent revolution inevitable," and no one in this room wants that. He said he is here today to say that the regrettable catastrophe they are now a part of is the fact that their American Republic is being replaced every day by a corrupt system of political correctness. He said the founding fathers of this great nation warned repeatedly in their writing of their intent to avoid gun control. He said a limited central government was the goal as the framers of their country knew freedom could not exist with an all-powerful overreaching government. He said it is a mathematical certainty that the bigger the government, the smaller their freedom. He said they cannot continue to have huge government and abundant freedom simultaneously. He said he swore a solemn oath to protect and defend the Constitution of the United

States, and the Constitution of Maryland, and he is prepared to stand his ground with his constituents for the preservation of its traditional interpretation. He said Council should pass the Second Amendment resolution, and let their constituents know that, while they recognize such passage is largely ceremonial, largely symbolic, they also want to send a strong message to Annapolis, and to the State of Maryland, and to their Nation, that they stand with their people, they stand with their communities, and they stand firmly on the rule of law. He then thanked Council for allowing him to be here today.

Mr. McCain said he has some questions about some of the comments Sheriff Lewis made. He said Sheriff Lewis knows very well he is an avid hunter, and he is probably affected more by gun laws than anyone sitting there, being the hunter he is, and he supports the Second Amendment, and he obviously supports the Constitution. He said Sheriff Lewis said the current laws are keeping law-abiding citizens from buying guns, but he can walk out right now and go buy a new shotgun, or he could buy a new handgun. He then asked what law is keeping him from buying guns, to which Sheriff Lewis responded, their elderly population repeatedly come to his office all the time because they have no clue how to apply for an H12. He said they have owned guns, they have bought guns, and they have traded guns their entire lives, but, based on the Firearm Safety Act of 2013, it now virtually makes it impossible for most of their Eastern Shore men and women without proper education to go take a handgun qualification license course. He said they can load, they can aim, and they can shoot a gun by far better than the instructors who are teaching these classes, but now they can no longer legally go to any sporting goods store and buy a handgun or a semiautomatic weapon without participating and successfully completing the H12. He said they can buy a shotgun or a rifle, but they cannot buy a handgun, the most common weapon in anyone's home to protect their family. He said they can no longer do that, and they refuse to go to a course because they do not fundamentally understand it, but yet they possess, trade, and shot weapons their entire lives. He said these individuals now are elderly, and to send them to a course that costs \$300 to \$500 has discouraged most of them from lawful gun ownership today. He said he sees it and hears it every day. He said he was in a home last Wednesday of an 84-year-old resident in this County who has guns. He said her husband passed away over two decades ago, and she wanted him to show her how to handle and load a weapon. He said he spent over two hours at her house showing her how to do that, and she said she has no idea what she is going to do; she said she cannot get rid of the guns, she cannot take them to a dealership, so what is she going to do with her guns? He said she wants to be able to protect herself, and they have responded to her home twice in the last 30 days because of prowler reports of someone banging on her window terrorizing her. He said she is terrified, she is scared to death, but she cannot buy a new gun. He said she wanted a smaller gun, but what her husband left her were bigger guns. He said she cannot legally buy a smaller gun now, and she is 84 years old, but she cannot do it. Mr. McCain said Sheriff Lewis said she cannot legally buy that gun, but if she goes through that process, she can legally buy a handgun, to which Sheriff Lewis responded, not at 84 years old. He said she is not going to sit in a classroom for eight hours a day and go out on a range with a bunch of young men and women. He said she is not going to do it, not at 84 years of age. Mr. McCain said he is not getting that.

Mr. McCain said, getting back to his comment earlier, he supports the Second Amendment, but he is a Wicomico County Councilman, and they do not determine the constitutionality of laws by any stretch of the imagination. He said there is a process to challenge the constitutionality of laws, and he encourages anybody who has issues with gun laws to be at the State House in Annapolis when laws they think are

unreasonable are being proposed. He said he encourages them to be there, and that happens every year, and not just about guns. He explained, there are silly environmental laws, and things to do with education, and things to do with business. He said that happens every year, and that is why people go to Annapolis to lobby against those laws, and if a law is passed that someone does not think is constitutional, there is a process, and that is what the courts of the land are for. He said the courts determine the constitutionality of laws, not the Wicomico County Council. He said Bill McCain does not determine whether a law is constitutional, and the Sheriff of Wicomico County does not determine the constitutionality of laws. He said Sheriff Lewis stated in his comments that he took an oath to uphold the laws of the State of Maryland, and that is part of the same oath that Council takes when they take the oath to uphold the Constitution of Maryland and the laws of the State. He clarified, he does not get to pick which ones he likes, and which ones he does not like. Sheriff Lewis said he has made it very clear that he always supported State law, and he has always supported federal law, and he will continue to do that. He said he recognizes he does not determine what is constitutionally sound or not, they have to abide by the law, and they have to obey the law; but he also made it very clear what they are trying to do today in passing the Second Amendment sanctuary resolution is making it clear to their constituents that they recognize it to be ceremonial, and they recognize it to be largely symbolic. He said they also recognize their voices in Annapolis, and he and Mr. McCain both know that their voices mean nothing in Annapolis. He said it is Prince George's County, Montgomery County, Baltimore City, and Baltimore County that carry the State in everything. He said they do not care what Mr. McCain thinks, and they do not care what Sheriff Lewis thinks, and it does not matter what people think down here. Mr. Hastings asked, then why are they talking about it? He said, if that is the real issue, it is not like there is going to be a Bill that is going to go before Annapolis and suddenly they will say wait a minute, hold on, Wicomico County passed a resolution, stop all gun laws, Wicomico is right. He said it does not work that way. He said this is a nice effort, and he is a proud gun owner himself who proudly supports the Second Amendment, but realistically this is not something that is actually going to do anything. He said, if anything, they need to encourage folks to go to Annapolis, like Mr. McCain said. He said, if there are laws that someone suspects are unconstitutional, they have a process for that, they go and they challenge that law. He said what they need to do is encourage everyone who has reached out to have all of them band together and go challenge any particular law in court because that is how they actually get it done. Sheriff Lewis said he would encourage everybody to get involved in the process, and he continues to do that every single year during the Legislative Session. He said, while there are thousands who have shown up in Annapolis to oppose any further gun laws, any further encroachment, or restrictions on one's Second Amendment right to bear arms, thousands have shown up, and he can count on one hand the amount who have been there to testify in support of it, and it still passes every single time. He said they do not care what the Eastern Shore thinks, their voices are not heard on the Eastern Shore, so he thinks it sends a strong message to their constituents as locally Elected Officials that they agree that the Second Amendment shall be preserved, and it should be preserved. He said, as he has said several times and he will say again, he recognizes it to be ceremonial, and he recognizes it to be largely symbolic, but it sends a strong message that they recognize the importance of the true values of those living in their County who have elected them to their positions as they sit there today.

Mr. McCain said he will say it again, they are the Wicomico County Council, and Sheriff Lewis just said they do not determine the constitutionality of laws, to which Sheriff Lewis responded, but they also recognize the importance and how important this is to their constituents. He said they are passing

similar Legislation throughout the country today, especially in their neighboring State of Virginia after what they just went through. Mr. McCain said, but this resolution is not asking Council to say the Second Amendment is important. He said it does not say that, it says this is a resolution of them declaring that they are making this constitutional decision as to the constitutionality of the Second Amendment. He said he does not know who wrote this resolution. He then asked who wrote it, to which Mrs. Hurley responded, it is her understanding Mr. Paul Wilber worked with the Sheriff in drafting that language. Mr. McCain said it is totally incorrect, for starters, almost line by line. He said it starts right off quoting Heller, and he does not know who took this out of Heller, but they took one sentence out of Heller when Heller is a pretty lengthy opinion, but they took the one sentence out of Heller. He said Heller says the Supreme Court says they can use common use for defending oneself, but Heller went on at length and was very clear saying it does not mean one can have any kind of weapon or any number of weapons, and it goes way beyond this resolution, to which Sheriff Lewis responded, neither are they in the passage of this resolution. He said they are not giving people the right to possess, to which Mr. McCain responded, they took the one sentence out of Heller. Sheriff Lewis said they already have State laws that say they cannot possess a plethora of weapons, and he is not asking Council to do that. He said he is asking the Council to preserve what they have in place to send a strong message to Annapolis, and to the State of Maryland that they recognize the importance of the Second Amendment. He said that is all this does, and it is very clear that is all this does, to which Mr. Hastings responded, it does actually go into specifically imposing taxes on firearms and accessories. He then asked if Council has the authority to do that? He said, according to Mr. Taylor's memo, Council does not have that authority. He said, if Council does not have that authority, they can basically get rid of paragraph 1A, and then that leaves the other two, which is that the County should not maintain independent registration tracking, and that is fine because they do not have the authority or the ability to do that anyhow. He said paragraph 1C stating the County shall not impose independent measures for confiscation of firearms is fine, but this is not as simple as Council thinking Second Amendment rights are great, this is something a little more in-depth. Sheriff Lewis said, if they recognize that the County does not have the authority to maintain independent registration or tracking of firearms, why not recognize that the County has no authority to impose the tax on firearms, to which Mr. Hastings responded, he thinks they could actually amend this language to make it sound much better than it currently does.

Mr. Cannon said, if there are means by which Council could seek advice from legal, that is always part of what they would do to make sure the document they are actually approving is a legal document, and that is fine. He said they have to understand though that he looks at this as a statement, similar to what Sheriff Lewis has said. He said, at some point in time, his concern is always that the State is constantly encroaching on their local autonomy over and over again, and he thinks they do so with a lot of different regulations. He said he sees they have been trying to do that over the last couple of years, and they are beginning to do this in reference to gun rights, etc., so it is becoming more difficult to buy guns. He said, in all honesty, his personal opinion is that the people who are trying to buy guns through the legal process are most likely not the ones who are going to turn around and shoot somebody two weeks or a month later, so they have to ask why they are continuing to make it more difficult to allow people to defend themselves. He said he thinks that is the reason this is on their table today. He said they are concerned about their local autonomy, they are concerned about the over regulations on the part of the State, and at some point in time they have to send a clear message, and if it is symbolic, it is symbolic, but they have to send a clear message together with all the other Counties. He said, before they know it,

they may have somewhat of a movement where Annapolis may just sit back and ask how far they are going to go with this, and they begin to recognize where the pushback starts. He said, again, it is symbolic, to which Mr. McCain responded, then they should write a letter.

Mr. McCain said, once again, this is a resolution where the Council is determining whether laws that Maryland tries to pass, and laws that have not even been passed, and this basically is saying Council is going to determine the constitutionality of hypothetical laws as a County Council. He said he hates to say it, but that is just ridiculous. He said it is a political agenda whether they are for or against these issues. He said there are people who are for it, and there are people who are against it, so are they going to pick sides from here on out and do resolutions? He said, once again, that is not in their Charter, and picking political agendas is not one of the things Council took an oath to do. He said, to him, this has nothing to do with the Second Amendment. He said he is sitting there as a Council person, so, basically, if he voted yes to what is written right here, then he totally has just contradicted his oath he took as a Council person because the oath says he is going to uphold the laws of the State of Maryland, and he is going to uphold the Constitution of the State of Maryland, but this says no, he is not. He said they do not get to pick and choose, and they do not determine the constitutionality. He said he encourages people who are firm believers against gun laws to go to Annapolis because there is a process. He said, if a law is passed in Annapolis and someone does not agree with it, they go to the courts, and the courts make that determination, not the Wicomico County Council. He said it is plain and simple.

Mr. Holloway said he agrees with Mr. Cannon and Sheriff Lewis, and he does not want to get into a big debate about this with Mr. McCain because he knows they disagree. He said Mr. McCain said he could go out today and buy a gun any time he wanted to, but that does not mean he can buy a gun from anybody he wanted to. He said a lot of people today are having problems, and Sheriff Lewis was just talking about the 84-year-old woman whose husband passed away and she has guns. He said, if she went out to sell those guns to her son-in-law or her neighbor, she would be a criminal, and that is what is happening with these gun laws. He said they keep chipping away at them, and chipping away at them, to which Sheriff Lewis responded, that is correct, and if she loaned a gun to somebody so they could go hunting or protect their house, she would be a criminal, and that is ridiculous. Mr. Holloway said it is ridiculous, and he realizes this is symbolic, and everybody here at the table has said it today, but at some point in time they have to stand up and be heard. He said, from what he is hearing, he knows there are people on both sides of this, and he understands that, but he grew up in a rural area. He said they were on Zoom the other night and there were some statements made that he received a little criticism about. He said the Sheriff's Department and the State Police do a great job, but they cannot be to his house in ten minutes, and they cannot be to a lot of people's houses in ten minutes, and in some cases they cannot be to businesses in ten minutes. He said somebody should not be denied the right to own a firearm if they are legally allowed to, even if it is the time factor. He said they were talking today about people opening businesses back up, but say they opened a business and the person running the business wants a firearm. He said they might open the business tomorrow, but it might be two months before they can get a firearm to protect themselves. He said, in that time period, somebody could come in and rob them or shoot them, to which Mr. McCain responded, that simply is not true. He said he can go and buy a firearm today, to which Mr. Holloway responded, yes, he can, and he told Mr. McCain he could. Mr. McCain said, but Mr. Holloway just said if he opened a business tomorrow it would take two months, to which Mr. Holloway responded, he did not say that to Mr. McCain. He clarified, he said he

could go buy a firearm today, but he might not be able to buy a firearm from somebody he wants to buy a firearm from because he would make it illegal if he bought that firearm from them. Mr. McCain said he follows the laws of the State of Maryland. Mr. Holloway said, if an elderly person said they do not deal in guns and they do not have the licenses, but if he went to his neighbor who wanted to sell their guns, he could not buy them. He said they have made that against the law, whether he wanted to keep them for himself or give them to a neighbor or a friend. He said it really has made criminals out of people.

Sheriff Lewis said they have jurisdictions and municipalities right here in Maryland today, and these municipalities are run by attorneys, and they have refused not only to abide by federal law and State law regarding immigration issues, they have declared their respective jurisdictions and Counties as sanctuary Counties, to which Mr. McCain responded, he is well aware of that. Sheriff Lewis asked if they are violating federal and State law, to which Mr. McCain responded, yes. Sheriff Lewis said, but they do it every day because they interpret the law differently. He said he does not disagree with the interpretation of the Second Amendment. He said this has been etched in stone since their founding fathers created this document back in the 1700s, and he agrees with the whole part of it. He said they just want to send a strong statement, a strong message to Annapolis, that they want to declare Wicomico County as a Second Amendment sanctuary County protecting the rights afforded to their citizens of the United States Constitution. He asked if they are wrong for doing that when all of these lawyers in Annapolis, Montgomery County, Baltimore County, and Baltimore City can declare their respective jurisdictions and their municipalities sanctuary cities preventing law enforcement from doing their job, violating federal law and State law, but that is okay? Mr. McCain said this resolution, which he thinks Sheriff Lewis wrote, says that, as the Wicomico County Government, they are going to oppose any restrictions by the Maryland General Assembly the right to keep arms, so any restrictions are going to be opposed by all available legal means. Sheriff Lewis asked if that is the final resolution that Mr. McCain has, to which Mr. McCain responded, it is the resolution that is in front of Council. He said, as he said, this whole resolution is just fraught with nothing correct. He said, once again, the whole Heller section is taken out of context, and George Mason is quoted here by a quote that George Mason did not make, by the way, and Mr. Taylor, Council's Attorney, has already pointed that out, and that is taken out of context. He said then there is the whole issue behind the palladium of liberty, and Mr. Taylor can go into depth on that. He said then, once they get into the whole items that are stated, most of them are against the Charter for Wicomico County, and, once again, as Council people, they are violating their own oaths if they do any of these items on here. He said, once again, in his case it is not an issue of whether he supports the Second Amendment because he supports the Second Amendment, but he supports his job as a Council person, and he does not determine the constitutionality of laws, plain and simple. He said they do not do that, and they do not pick sides. He said he does not pick political agendas and say they should pass resolutions to support someone's political agenda. He said that is not what Council is there for. He said he hates to say it, but Council does dog laws and street signs, and the budget. He said they are the Legislative Body of the County, and they are not there to make "statements" and take people's sides on issues because that is not what they are there to do.

Mr. Cannon said it does not say Wicomico County will oppose Legislation, it says Wicomico County will oppose unconstitutional restrictions, to which Mr. Hastings responded, Councilmembers are not justices. Mr. McCain said he will read it, and it says "Wicomico County will oppose unconstitutional restrictions by the Maryland General Assembly in the right to keep and bear arms through all available

legal means," but, once again, who is determining that? Mr. Cannon said it is a fair statement, to which Mr. McCain responded, it says Council is going to make that determination. Mr. Cannon said it does not say Council is going to make that determination, it says if it is an unconstitutional restriction, to which Mr. McCain responded, if it is unconstitutional, it will not get passed. Mr. Hastings said they could fix that one line by saying Wicomico County will obey all constitutional law. He said they do not have to get all crazy in their language, and it is pretty simple if they flip it on its head and fix this. He said this is a very, very poorly written resolution, and the people who are sitting at home have no idea what Council is looking at because they do not have a way to even see what this resolution looks like, to which Mrs. Hurley responded, it was in the briefing material. Mr. Hastings asked if the public is able to access that on-line, to which Mr. Dodd responded, yes. Mr. Hastings said he grew up on a farm where they learn to use a firearm early on, but he thinks he is hearing that in Wicomico County this is something they care about, and there are folks who are basically trying to take away more of their rights and their ability to have access to firearms. He said there is a lot more they could say, and say it much clearer than what is very poorly written in this document, but he thinks there is great purpose, and he thinks there is great value. He said he does not doubt that all seven of Council could be on board with saying they respect the Second Amendment in Wicomico County, but they could be much more straightforward with that. He said they do not have to go into specifics on the things Council does not even have the authority to regulate. He said, on that note, he thinks they can definitely come up with some better ways to amend this to find better language, and then send it back to the Sheriff's Office. Mr. Dodd said this is a Work Session, so would Mr. Hastings be willing to work on some different language with the Sheriff and the attorneys, to which Mr. Hastings responded, yes. He said he does not think there is a single member on Council who either do not have a background with guns, do not own guns, or do not respect firearms, but, as Mr. McCain pointed out, to be political in saying they are going to impose unconstitutional restrictions, Council does not know what that means. He said, furthermore, this is Wicomico County Government, not the State of Maryland, and not the federal government, but they can send a message to be able to say that here in Wicomico County they respect the Second Amendment.

Mrs. Acle said she just wants to recognize everyone's concerns, but she also realizes why this is important. She said, to Mr. McCain's point, going to Annapolis is great, and she strongly encourages citizens to do that, but right now their constituents have come to them and the buck stops here. She said she hears their constituents, and she hears both sides. She said she recognizes they need to stand up for their rights, stand up for the protection of families, and stand up for Wicomico County. She said ceremonial as it may be, they should do the right thing and protect and serve the County, and that is why they are there. She said she strongly supports what Mr. Hastings said about working together to maybe revise some of the language to make it acceptable for all of them to be comfortable with.

Mr. Cannon said he assumes that since this resolution came to Council from the Executive that the County Attorney reviews all documents and all resolutions before they come to the Council table, so he would think maybe they need to talk to the Executive Branch one more time and ask if Mr. Wilber has reviewed this, and does this have Mr. Wilber's blessing. He said, if it is on their table and in their Brief Book, he has already assumed that it has been tested and reviewed, and their County Attorney considers it a legal document. Mr. Dodd said that is the impression he had, and he wants to point out that in their packet they have a memo from the Executive's Office stating the County Executive supports Sheriff Lewis' request to designate Wicomico County a Second Amendment Sanctuary County. Mr.

Cannon clarified, he is talking about the attorney's blessing. Mr. Dodd said he was just pointing out that the Executive does support this, and it did come from his Office where the County Attorney is.

Mr. Dodd asked how many Counties in Virginia and Maryland have sanctuary Counties now, to which Sheriff Lewis responded, he is not sure exactly how many have passed thus far, but a number have, and a number of Counties have it on their agenda. Mr. Dodd said he knows it is in the works, and when he checked there were six, but there were three when they first started talking about this in December. Sheriff Lewis said there were dozens passed in Virginia, and there have been hundreds passed across the country. Mr. Dodd said, in Virginia there are 30 Counties, so that is a statement there in itself.

Mr. Taylor said he turned in a memo on this, and Sheriff Lewis might want to look at it if he has not. He clarified, he is not against the Second Amendment or some sort of a resolution regarding it, but he thinks there are some real concerns with the provisions in this draft, and they are specified in the memo. He said he will not go over all of them, but the one that is particularly concerning is paragraph two about imposing unconstitutional laws of the General Assembly by all available legal means. He said that is more than symbolic, incidentally. He said he keeps hearing people say this is just symbolic and does not mean anything, but it means a lot because it says Council will do something. He said, if they cannot be people of their word, then what are they? He said secondly, the people who are supporting this all have different views about what it means. He said many of them do not regard it as symbolic, and they can tell that by the tone and, to some extent, the substance of the public comments made. He said, turning to number two, that essentially says that the Council is going to act as a court and decide which laws are unconstitutional and which are not before there is any adjudication, which, frankly, he thinks is a foolish thing to do, and it is not in the Legislative powers of the Council in the Charter. He said, if Council decides they are going to do that, he would suggest they act as a court, and that is to have people turn in legal memorandum on either side, read them, and decide before they do anything because who else is going to make the decision? He said Council would have to do it. He said that is issue number one, and, frankly, he thinks it would be better just to strike that out.

Mr. Taylor said, returning just for a moment to Mr. Hasting's comments, he agrees. He said he thinks paragraph number one could be made much simpler by just striking out what is there and simply saying that the Wicomico County Government shall not knowingly infringe the right to keep and bear arms in violation of the Second Amendment, period. He said that says it all, and that would be Council's policy to not do that. He said he thinks those changes as far as the declarations would help it an awful lot. He clarified, some of the whereas clauses he thinks need to be doctored, particularly the clause about Heller because that is just not a correct generalization about the holding in Heller. He said Heller actually held that a law passed in the District of Columbia outlawing handguns in homes violated the Second Amendment. He said that is the holding in Heller, and there is a lot of other discussion, and part of it is summarized there in the text, but if they are going to make a general statement about Heller, they have to add that right is not unlimited because that is what they said in Heller, and that is what they came back two years later and said in McDonald, and that is the law. He clarified, it is not an unlimited right.

He said Sheriff Lewis referred to the First Amendment, and that is not an unlimited right; one cannot cry fire in a theater, and that is adage that has been around for years, so there are certainly limitations on the First Amendment, just like there are in every Amendment. He said they are all subject to it, and that

is what Judge Scalia said in Heller, so he thinks that this needs a lot more than just tweaking, it needs some substantive change, particularly in regard to the two paragraphs that are in the declarations.

Mrs. Acle asked about changing the language as Mr. Hastings stated, to which Mr. Hastings responded, he thinks Mrs. Acle is asking if there are ways to amend this to make it look better and to have all of Council on board and support, and he thinks the answer is yes. He said he already has some ideas in mind just from listening to all of the folks here of ways they can make this a strong statement to say that all of Council are in favor of the Second Amendment, but also to have all of them on board. He said every other association from every other group, whether agricultural, or education, etc., have pretty good groups that can lobby, and they need to do a better job of that when it comes to going to Annapolis, or, more importantly, challenging something in court. He said they definitely had a lot of passionate folks who have reached out, and this is a time when a lot of folks are uneasy, but he does not doubt that they can not only make a strong statement, but also maybe put together a better framework going forward so that their voices are better heard around the rest of the State and the country.

Mr. Dodd said he would like the County Attorney and the Council Attorney to work out their differences because it is interesting that there seems to be two opposing views on this document, to which Sheriff Lewis responded, as much as he is around attorneys, that is not interesting at all. He said they get paid to litigate cases all the time. He said Mr. Taylor certainly has his interpretive views on what this document says, and Mr. Wilber has his interpretive views on what the document says. He explained, this resolution right here pales in comparison to what he had originally submitted. He said this final product was formally done by Mr. Wilber's office, and when Mr. Wilber's office sent it to him, he liked it, he approved it, and said he would go with it. Mr. McCain said all of the whereas paragraphs are incorrect, so they need to be stricken, to which Sheriff Lewis responded, this pales in comparison to the document he had originally submitted as a resolution to be passed in this County. Mr. McCain said, as Mr. Hastings said, and Mr. Taylor said the same thing, one sentence kind of sums it up, they support the Second Amendment. He said the whereas fluff in there, and the last part of it, especially number two, Council cannot even do that, so that needs to be struck. Sheriff Lewis said attorneys get paid to argue law, and they get paid to litigate law at the District Court, at the Circuit Court, at the Appeals Court, and the United States Supreme Court. He said they get paid to argue all day long, and they truly feel that their interpretation of the law is the right interpretation, but often a judge will decide. He said, as Mr. McCain said, they do not determine the constitutionality of the law, but what they are trying to do is send a strong statement to Annapolis that they recognize the importance of the Second Amendment to the people who hold them accountable in this County. Mr. McCain said that is a sentence that needs to be in the resolution. He said it does not need the incorrect information. He clarified, it is not Mr. Taylor's interpretation, to which Sheriff Lewis responded, Mr. McCain can rest assured this information was correct to Mr. Wilber's attorneys who drafted this document and sent it to him for his approval. Mr. McCain said he is quoting it, so he does not know who is incorrect, but it is whoever wrote this.


Mr. Taylor said he is not making a legal interpretation, particularly on paragraph two as that is a practical matter that is going to put Council in the middle of a dispute on every single statute that comes out of the General Assembly having to do with gun control because there is going to be one side or another, and Council is going to be in the middle on each and every one. He said it is what he refers to as a political and legal briar patch, and he does not think Council wants to get into that.

Mr. Holloway said he wants to take Council back six or seven years ago when they were talking about states of emergency, and there was Legislation sent over under the prior County Executive. He clarified, he does not know whether it was done intentionally, and he does not want to say it was done intentionally, but he thinks it was probably overlooked. He said basically it said no homeowner could own any explosive devices in a state of emergency. He said he thinks there was something in the Legislation about the County Executive having the power, but he does not think it ever really got to the Council table. He said he looked at it and said it means guns because bullets are explosive, so that was the problem with it. He said he thinks it was inadvertently put in there that nobody could own a bomb or dynamite, and that no homeowner under a state of emergency could own any kind of explosive device, but a bullet is explosive, so that would have meant that under the state of emergency like they are today that the government could have confiscated the guns of the people of Wicomico County if that had passed. He said that is where they have to be careful with this stuff.

Mrs. Acle asked what the process is if they want to amend this? She asked if they take a vote to table it until the next meeting, to which Mr. Dodd responded, this is a Work Session. Mr. Cannon said they will let Mr. Taylor and Mr. Wilber hash it out. Mr. Dodd said Mr. Cannon suggested that the two attorneys take the time to hash it out and resubmit it to Council. He then asked if the Sheriff would be willing to come back, to which Sheriff Lewis responded, absolutely. There was no further discussion.



Larry W. Dodd, President, District 3



John T. Cannon, Vice President, At-Large



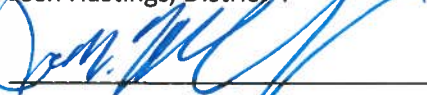
Ernest F. Davis, District 1



Nicole Acle, District 2



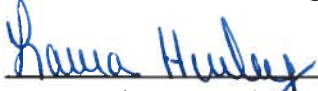
Josh Hastings, District 4



Joe Holloway, District 5



William R. McCain, At-Large



Laura Hurley, Council Administrator