

**Open Work Session**  
**Discussion with Board of Electrical Examiners**  
**June 2, 2020**

Mr. Taylor said the Code says the County Executive can remove any member from a Board for misconduct, and a bunch of other things, and then it finishes up by saying, or for any other sufficient cause. He said, in his letter of April 27, 2020, Mr. Culver says to Mr. Landing, "Pursuant to Section 138-5, this letter is notification that you are removed as a member of the Board of Electrical Examiners effective immediately", but it does not specify any particular reason. He said one would think that if he was doing that to someone, he would at least tell him why he was doing it, to which Mr. Dodd responded, as far as the Code, it states he can make terminations. He said the Code also says he makes appointments, but they are not being done, to which Mr. Taylor responded, that is another matter. He said, in terms of terminating Mr. Landing, that comes under 138-5. Mr. Holloway asked if the termination is valid due to the fact that Mr. Culver did not offer a reason, to which Mr. Taylor responded, he thinks they would probably have to go to the people across the street who wear black robes to get an answer on that. He said his guess would be probably it does not make any difference, but he does not know. He said he just thinks, as a matter of common decency, he would tell someone why he is removing him.

Mr. Rick Wheeler, Mr. Robert Simmons, and Mr. Brett Calloway, Members of the Board of Electrical Examiners, then came before Council. Mr. Holloway asked the members if there was any reason for Mr. Landing to be removed, to which Mr. Wheeler responded, he did not see anything that the man was doing wrong. He said every single thing he was trying to do was for the good of the Wicomico County Electrical Board. He said he feels the same as far as the things Mr. Landing was trying to get done as far as finding legal representation with electrical background. He said he thinks that is very important for what they are trying to do for Wicomico County.

Mr. Dodd said Mr. Landing was a holdover waiting for an appointment to be reappointed. He then asked how long that was going on, to which Mr. Wheeler responded, during COVID-19, he was starting to get emails from Mr. Paul Wilber stating they had to have an election. He said they knew that before the shutdown, but some of the members were not able to make it due to personal reasons, so they were not able to have the election. Mr. Dodd asked what the election was for, to which Mr. Wheeler responded, new members. Mr. Dodd asked if the Board would make the election for the new members, to which Mr. Wheeler responded, they would have voted on it. Mr. Dodd said he would have been elected, to which Mr. Wheeler responded, they were just going to see who wanted to take over because he has been Vice President for two years, and Mr. Landing was for a couple of years too, so they were just going to switch positions to stay within what the Code says, but they did not have the opportunity to do that because the Government Office Building was shut down. He said they all felt that in order for them to have a just meeting, they needed to be together like they are now. Mr. Dodd said then all of a sudden in April they got that letter, to which Mr. Wheeler responded, yes, and the next thing he knew he was told that Mr. Landing was removed with no reason at all, other than Section 138-5. Mr. Dodd asked if there was a replacement offer, to which Mr. Wheeler responded, no.

Mrs. Acle said she cannot find the bylaws now, but, as she recalls, their bylaws did not have Planning and Zoning as their administrative support, to which Mr. Wheeler responded, correct. Mrs. Acle said, with the Electrical Board, in accordance with the State law, they have to have a President. She said there are State standards for Electrical Boards because they do not have a County Inspector. She said it seems like the bylaws are not aligned with what is happening with the removal of Mr. Landing, to which Mr. Wheeler responded, as soon as Mr. Landing was removed, he stepped into that position mainly because they could not have the election yet. He said they really, in a sense, still cannot because it takes four heads to vote, and he does not feel that one can vote for themselves, and they only have four heads on the Board. He said also, during all of this time, he was getting emails from Mr. Keith Hall telling him what the Board needs to be doing, and he does not feel it is Mr. Hall's place. He said, over the years, Mr. Landing taught him very well about how the Board should be run, and he has helped him as Vice President for the past couple of years. Mr. Dodd said he knows Mrs. Acle has been trying to find information with the bylaws.

Mr. Cannon said he thinks the reason for this meeting is to sort of get an idea specifically of what the Board's concerns are at this stage, what their shortfalls are right now, and how they have been compromised, and probably most likely what legal alternatives there are to address this, or any measures through government action Legislatively. He said he thinks most of this would rest with Mr. Taylor to try to give them some closure as to where they are going from here because right now everything appears to be in complete limbo as far as an attorney is concerned, and as far as their members are concerned. Mr. Taylor said he can give Council some thoughts, but Council will have to make the decisions. He said, to address the attorney situation, it is provided in the Code that the County Attorney shall act as the legal advisor, so, if that is to be changed, there has to be a Code change. He said he thinks that at least part of the problem is the fact that some members of the Board, or maybe all of them, feel that perhaps the Planning and Zoning Department is kind of usurping or interfering with what their job is under the Code. He said there are a couple of provisions in the Code that refer to the Department of Planning and Zoning, and they issue the permits as a permit issuing agency for electrical work, but the standards for the electrical work are within the purview of the Board, not the people in the Planning and Zoning Department. He said the Planning and Zoning Department is also referenced as being the body that issues citations for civil infractions, but the inspectors are a matter within the Board's purview for the inspection of the work. He said he thinks maybe tension is understating it, but there are some concerns that the Planning and Zoning Department is, to some extent, acting as the Electrical Board. He said maybe he is overstating that, or maybe he is understating it, and he does not know which, but there seems to be that tension, and what Council does about it is an open question. He said there are different ways to do it, he guesses, but he has not looked to see how other Counties handle their Electrical Boards. He said every County, as he understands it, has one, and there is a State Electrical Board as well, but that is different from the County Boards. He said he does not know why it is that way, but it has been that way for a long time, as far as he can tell. He said it would be possible, he supposes, to set the Board up as essentially what he would call an independent Board. He said obviously that would mean they would need to figure out who would do the filing and administrative work that he guesses the Department of Planning and Zoning is doing now, but that would be a possibility. He said he guesses another possibility would be to amend some of the sections that refer to Planning and Zoning to make it absolutely crystal clear that they are just acting as an administrative body. He clarified, in other words, somebody comes in to get their permit, and they have to make sure they have paid the money

and have filled out their application, but they do not have anything to do with whether it is proper work or not. He said that is another way to look at it because, as he reads the general Code on the Board, that is the Board's job, they appoint inspectors, and they set the standards. He said that is an overview, and maybe he does not have it right, but, based on the hearing a couple of months ago and some things he has read, that is sort of the sense he gets of the problem.

Mr. Cannon said Council's responsibility is Legislative, so he guesses his charge would be for Council to establish the guidelines that might be necessary to help finetune this whole process Legislatively, and Mr. Taylor is suggesting that there are some Legislative measures Council can take to do that. Mr. Taylor said he thinks the Code can be changed to make it very clear, but he thinks they need to talk to these gentlemen and find out more specifically what the situation is now, and what they are concerned about. He said he is just kind of giving an overview based on the last hearing they had a couple of months ago, and some things he has seen since then, and just reading through the Code. Mr. Dodd clarified, it was a Work Session, not a hearing.

Mrs. Acle said she does not see any mention of the Executive as far as appointing Board Members, she just sees the County. Mr. Taylor then directed Mrs. Acle to look at Section 133-5 for removal, and to look at 138-4 for appointment. Mrs. Acle clarified, she is looking at the bylaws, to which Mr. Taylor responded, the Code controls the bylaws. He said he does not know why it would be in the bylaws other than to just reiterate poll parrot what is in the Code, but there is no need to do that because it is in the Code. Mrs. Acle said she was under the impression that the State Electrical Board set the bylaws, to which Mr. Taylor responded, not that he is aware of, and these gentlemen probably know more about that than he does. He said, after the last meeting a couple months ago, he looked just to see if there was any State overview of the County Boards, and he did not see any, so he does not think there is. He clarified, he looked kind of quickly, and he found the references to the State Electrical Board, but they have somewhat different functions than the County Boards.

Mr. Cannon asked if the gentlemen can give Council an idea of exactly where they think clarity needs to exist because that would be helpful, and maybe an extension of the Work Session they had before. Mr. Wheeler said he feels that Planning and Zoning should not be interfering with the Electrical Board at all, period. He said they did not start even coming to the meetings until the issue with an inspector license at that time, but after that it has been ongoing. Mrs. Acle said their Committee should be independent and nonpartisan. Mr. Dodd asked Mr. Taylor if there is anything in the Code that says anything about Planning and Zoning and their position with the Electrical Board, to which Mr. Taylor responded, he mentioned a couple sections, but, to him, those are administrative functions. He said, as far as he knows, there is nobody in Planning and Zoning who has any training in electrical matters, or any authority under the Code. He said they are to issue permits and to issue citations, but it would seem to him that the basis for the citation would be generated by the Board or the inspectors, not by somebody in the Planning and Zoning Department. Mr. Cannon asked if Mr. Taylor is suggesting Council could pass Legislation that would create that separation, to which Mr. Taylor responded, he thinks it ought to be clarified, from what he is hearing. Mr. Cannon said that could be one step. Mr. Dodd asked Mr. Taylor to work on that. Mrs. Acle said she thinks they need to have the Electrical Board as an independent body. Mr. Cannon said he thinks Council can create that independence.

Mr. Cannon asked the Board Members what else they would like to address, to which Mr. Wheeler responded, he would like to see if there is any way they can get Mr. Landing reinstated to the Board. He said he thinks Mr. Landing being dismissed like he was is a huge loss, mainly because of his qualifications. Mr. Dodd asked Mr. Taylor what his thoughts are, to which Mr. Taylor responded, at least from a standpoint of just general Legislation, it would be possible to change, he supposes, how people are appointed. He said there is a provision in the Charter, but he will have to look at that because he is not sure that the provision in the Charter is insurmountable, but it does reference appointments by the County Executive to certain bodies, and he does not know whether it would apply to the Electrical Board or not. Mrs. Acle asked if it would be similar to the Charter Review Committee, to which Mr. Taylor responded, yes and no. He clarified, it is a different Committee, and it does a different thing. Mr. Dodd asked if it would require a Charter amendment, to which Mr. Taylor responded, he does not know because he would have to look at that section. Mr. Cannon said he was under the impression that the appointment was no different than the Airport Commission, or the Planning and Zoning Commission. He said he felt that the Electrical Board might fall under that exact same section, but maybe not, to which Mrs. Acle responded, no. Mr. Taylor asked if Mr. Cannon is talking about the Charter, to which Mr. Cannon responded, yes. Mr. Taylor said he does not know, and he would have to look at that. Mrs. Acle said they issue citations, and it is more than just the Airport Commission, to which Mr. Cannon responded, he is just trying to see by Charter if they fall within that same realm, and if they do not, that may give Council more leeway to allow them more autonomy. Mr. Dodd asked if Mr. Cannon is referring to how Council changed the Department Head at the Airport, to which Mr. Cannon responded, no. He clarified, he is just saying that he has to be recommended by the Executive and approved by the Council to be on the Airport Commission, and Mr. Holloway has to have the same to be on the Planning and Zoning Commission. He then asked if there are the same restrictions and guidelines for the Electrical Board, or is it a completely separate entity, to which Mr. Taylor responded, there is certainly a distinction between the Electrical Board, the Airport Commission, and the Salary Commission. He said those are basically advisory Boards, and the Charter and Code provide that the Airport Commission is purely advisory, and they have no administrative power at all. Mr. McCain asked if Mr. Hastings has that section up on the computer, to which Mr. Hastings responded, yes. He then asked, to be clear, how many Members are there currently, to which Mr. Wheeler responded, four. Mr. Hastings asked if there are supposed to be six, to which Mr. Wheeler responded, that is correct. Mr. Hastings said, they have lost two, so maybe if Council could add into the Code that if the County Executive's Office fails to produce a name within 30 days, the County Council can then have the authority to do so, or something like that. He said he does not know if that would need to be amended, but currently it has to be the County Executive and confirmed by Council, just like anything else. Mr. McCain said that is a Charter amendment, to which Mr. Cannon responded, that is what he is getting at. He then asked if they are talking Charter, or are they talking Code, to which Mr. McCain responded, that is a two-year process.

Mr. Dodd said Mr. Wheeler said they have four members. He then asked if there is an additional member Council is not seeing, to which Mr. Wheeler responded, there is another one absent, Mr. Alan Carter. Mr. Dodd asked if they were not including Mr. Landing in the four, to which Mr. Wheeler responded, no. He said, with Mr. Landing being removed, they are kind of limited on what they can do. He said, if any member cannot come, they cannot vote on anything, and they have to table everything. Mr. Dodd said they are at a standstill, to which Mr. Wheeler responded, pretty much.

Mr. Hastings asked, just for clarity, they had four members, Mr. Landing is supposed to be gone, but then how did they acquire another one, to which Mr. Wheeler responded, there were five with Mr. Landing, and that gave them a little bit of a margin to still be able to do something if a member could not make it because of a personal reason. Mr. Dodd said, so they were already down one, and now they are down two with Mr. Landing, so it is hard to get a quorum, to which Mr. Wheeler responded, yes. Mrs. Acle asked, how are they issuing licenses? She asked if electricians have to come to the Electrical Board, to which Mr. Wheeler responded, they are not going to have their first meeting until next week since the shutdown.

Mr. Cannon asked if the appointment of the Electrical Board is done through Charter, or through Code? He said he does not understand, to which Mr. Taylor responded, it is, essentially, nominated by the Executive and confirmed by the Council. Mr. Cannon asked, through what basis; through Code, or through Charter, to which Mr. Taylor responded, Code. Mr. Cannon said Council has much more flexibility changing Code, and does not have to go through a two-year Charter process, and they can do it much quicker through Code, to which Mr. Taylor responded, but the only problem would be if that would violate that Charter provision, and he does not have that in front of him. He then asked Mrs. Hurley if she recalls what section that is, to which Mrs. Hurley responded, she can read it. She said it is Section 315-B titled Boards and Commission, and it says "Appointment by the County Executive to membership on a Board or Commission shall be subject to confirmation by the County Council. If the Council fails to act to confirm or reject any appointment within 45 days of its submission to the County Council at its Legislative Session by the County Executive, the appointment shall stand approved." Mr. Cannon said the appointments are by the County Executive, to which Mr. Taylor responded, he actually thought there might be another section, and this is kind of catching him in the cold here. He said this does not specifically say that the appointment has to be made by the County Executive. He said it says "Appointment by the County Executive", so if that is the way it happens, then it has to be confirmed. He said it is a little ambiguous. He said it could be read that it means the Executive has to make the appointment, but it could also be read that, unless somewhere else it says he has to make the appointment, it can be made some other way. He said that is ambiguity, and, unfortunately, there is a lot of ambiguity in laws and statutes and Charters. He said he is not totally certain sitting there tonight that just changing the Code would be okay because of this Charter provision they were just looking at.

Mr. Dodd asked how long they have been down the sixth member, to which Mr. Wheeler responded, quite a while. Mr. Dodd asked Mr. Wheeler to be more specific, to which Mr. Wheeler responded, three years. Mr. Dodd asked how long the appointments are for, to which Mr. Wheeler responded, three years. Mr. Dodd said Mr. Landing was sort of a holdover because his term expired. He then asked how long Mr. Landing was a holdover before he got that fancy letter, to which Mr. Landing responded from the audience, probably two years. Mr. Dodd asked if he was not appointed for two years but acting, to which Mr. Landing responded, yes. Mr. Wheeler said his time was up last September also, and he stayed on to help Mr. Landing. Mr. Dodd asked if Mr. Wheeler has been reappointed yet, to which Mr. Wheeler responded, he has not been reappointed since last September. Mr. Dodd said they have a big mess going on. Mr. Wheeler said he always thought a Board Member could not be removed until he was replaced. Mrs. Acle said it is very upsetting to her because of what the Board's responsibilities are. She said, if there is a Code violation, or if they are issuing permits, there is a lot they are doing, and they are not really a functioning Board because they do not have enough members.

Mrs. Hurley said there is a provision in the actual County Code as well, and she thinks Mr. Hastings touched on it, but she will read that. She said it says "The Board shall consist of six members, all of whom except for the electrical inspector must be residents of this County and citizens of the United States appointed by the County Executive and confirmed by the County Council. One shall represent the general public of Wicomico County, one shall represent a local electrical utility company, and one shall be an electrical inspector. Two shall be engaged in the electrical contracting business for a period in excess of five years, and one may represent a local electric utility company, or be an electrical inspector, or be engaged in the electrical contracting business." Mr. Taylor said, for all of them, they have to be nominated by the Executive and confirmed by the County Council, according to this language.

Mr. Dodd asked how accurate those backgrounds are? He asked if there is somebody from a utilities company, to which Mr. Wheeler responded, no. He said there is a lady in Delmar who Mr. Landing also knows, and he was going to see if she would sit on the Board. Mr. Dodd said technically they have to go through the County Executive with that nomination, to which Mr. Wheeler responded, yes, but he is going to ask if she would be interested. He said he has also been talking to other numerous contractors out in the field to sit on the Board, but they do not want to take the time. Mr. Dodd asked if there is a problem with adopting the Electrical Code, to which Mr. Wheeler responded, not yet. He explained, they just have not had a chance to completely go through it yet. Mr. Dodd said they do electrical work, but with his experience in the Fire Department, he has been on a lot of electrical fires, and he has seen lives lost if it is not done appropriately. He said they have a dangerous job, and it is important that it is done right. Mr. Simmons said that is why they take this seriously. He said, when they review the licenses and applications that come before them, especially for inspectors, they look them over as they should be looked over because they feel that it is their responsibility, or he feels that it is their responsibility to make sure that these people are properly vetted before the citizens of Wicomico County. He said, when he looks at it and if they do not have something adding up, whether they do not have the continuing education that has met the requirements they ask for, or if they have not taken an examination that meets their standards, then that is when they ask them to please either provide them with current continuing education, or take an examination that would be their standard, or reciprocate from a County that they accept reciprocation from. He said, going back to what Mr. Dodd said about being in the Fire Department, they take that seriously, and they want to make sure that the people who they are issuing licenses to deserve them. Mr. Dodd said he gets that, and he understands that.

Mr. Taylor said apparently it sounds as if for some time now, maybe months, or over a year, there have been several positions that have not been reappointed. He then asked if anybody knows why the County Executive is not making the appointments? He asked if it is because he cannot get the people? Mr. Cannon responded, the County Executive has stated that he is not making those appointments because he feels it is not in order, and he is afraid it would compromise his somewhat imaginary position of his responsibility to appoint and the Council's responsibility to approve. He clarified, that is why those appointments are not coming forward. Mr. Dodd said it goes back to that Charter amendment, to which Mr. Cannon responded, it goes back to the same argument they have been having now for a year and a half. Mrs. Acle said, but now they are falling into Boards with missing members, and there are other Boards that get grants that have to have certain members. Mr. Cannon said Mr. Holloway volunteered for Planning and Zoning over a year ago, to which Mr. Holloway responded, yes, he did. Mr. Cannon said

Council does not have a representative on Planning and Zoning. Mr. Holloway said it is just Mr. Culver's mode of operation, to which Mr. Dodd responded, something has to change. Mr. Taylor said he will leave out the reference to Denmark, but something is rotten.

Mr. Cannon asked Mr. Taylor if the only thing Council can do is really try to find out whether or not hopefully maybe the Electrical Board could be a separate entity from the Planning and Zoning Commission, the Airport Commission, and all the other appointments. He said, if that could be the case, then they could change the Code without violating the Charter. Mr. Taylor said the only thing he is really concerned about changing and conflicting the Charter is the appointment, but, for the rest of it, Council could set it up as an independent Board. Mr. Cannon said he thinks that is one thing they can accomplish, but he does not know if they are going to get as far on the appointment process for the individual members, but they will have to give Mr. Taylor some time on that.

Mr. Cannon asked if there are any other issues the Board would like for Council to try to have resolved for them, to which Mr. Wheeler responded, he would like to know if Mr. Landing can still help the Board out if he cannot be reinstated until a replacement is found. Mr. Dodd said he does not have an answer to that, and he knows where Mr. Wheeler is going with that. Mr. Taylor said he really cannot answer that because the Code says that the County Attorney shall act as legal advisor. Mr. Wheeler said, when he was appointed to the Board, he received a letter that stated that when his time was up he could not leave the Board until a replacement was found, so how can Mr. Landing be removed from the Board completely? Mr. Holloway asked Mr. Landing if he has that same letter, to which Mr. Landing responded, yes. Mr. Cannon said his personal opinion is that Mr. Landing can sit in on all of their meetings, he just does not have any authority to vote. He said the second part of that is that the Board may face retribution whereas they may be dismissed from the Board themselves. Mr. Wheeler said he has never been reinstated to start with, and he is staying on to help Mr. Landing out. Mr. Dodd suggested they not use Mr. Landing as a member, and use him as advice, but not have him sign anything, to which Mr. Wheeler responded, they are not using him as a member to start with. He said he has always looked at Mr. Landing for advice. Mr. Dodd said he knows Mr. Landing is around and they all talk to each other, and he would suggest they continue that.

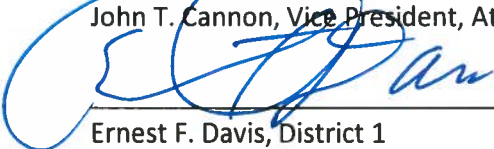
Mr. Cannon said he would suggest that this County needs to pay very close attention to the Electrical Board. He said, if these gentlemen decided to resign tomorrow morning, the County would be in one heck of a bind, and he thinks it is important that the Administration recognizes that.


Mr. Dodd suggested Mr. Taylor look at the Code information that he is going to look at, and get back to Council. He said, if the Board Members have any suggestions, they can let Mrs. Hurley know, and they can give it to Mr. Taylor. Mr. Taylor said, while they are kicking the gong around on this, he thinks they could also provide by Code change that they can have their own attorney, but there would have to be funds generated to pay the attorney. Mr. Calloway asked if the County Attorney is the Council-approved County Attorney, to which Mr. Dodd responded, that is a good question; they do not have a County Attorney per se. Mr. Calloway asked, therefore, when the Board gets advice from him, is it valid, to which Mr. Dodd responded, that is a good question. Mr. Taylor said, as he said earlier, he deleted his reference to Denmark, but Council knows his view.

Mr. Simmons asked, in the verbiage where it talks about the members of the Electrical Board, it says that every member in there actually has a vested interest in Wicomico County except for the electrical inspector, who does not have to be a resident of Wicomico County, to which Mr. Dodd responded, he thinks it should be. Mr. Simmons said all the Board Members think so too, as well as the contractors. He said, as far as the public utilities go, they are serving the County anyway, but, for the electrical inspector, that is not in there, and he does not know if there are not many inspectors who live in the County, but he knows of one who happens to be sitting behind him. He said he does not know what it would take to amend that. Mr. Taylor said it is in the Code, which was last amended in 2006. Mr. Cannon asked if Mr. Simmons is suggesting it should be, to which Mr. Simmons responded, in his opinion, he thinks it should be a resident of this County. There was no further discussion.

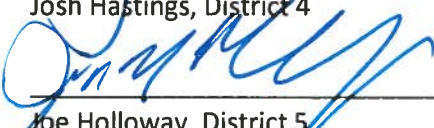
  
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Larry W. Dodd, President, District 3

  
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John T. Cannon, Vice President, At-Large

  
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Ernest F. Davis, District 1

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

  
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Josh Hastings, District 4

  
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Joe Holloway, District 5

  
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William R. McCain, At-Large

  
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Laura Hurley, Council Administrator