

**Open Work Session  
Pay and Classification Plan  
June 16, 2020**

Mr. Dodd said Ms. Jaclyn Curry, Director of Human Resources, was invited to be at the meeting, but, per Bob Culver, the Human Resources Director nor anyone from Administration will be attending this Work Session.

Mr. Dodd said the Budget Bill has a provision that the changes to the classification plan shown in the FY21 budget are not approved by Council. He said the Internal Auditor has provided a list that contains position title changes and paygrade changes that are different than what was shown in the fiscal year 2020 budget in comparison to the fiscal year 2021 budget. He said it is the Council Attorney's position that these changes should be submitted separate from the Budget Bill for Council's approval. Mr. Holloway asked what the reason was for them not coming to explain this, to which Mr. Dodd responded, Mr. Culver sent a letter, and he will read it to the County Council. He then read the letter:

*This letter is in reference to June 16, 2020, "open" work session #3 titled Pay and Classification Plan. This letter is to be read as a matter of record during the work session.*

*During the June 2, 2020, Council meeting regarding the Annual Budget and Appropriation Bill, Mr. Robert Taylor, County Council's "Special Counsel," made allegations that the Pay and Reclassification process was not adhered to by the Executive Administration. Mr. Taylor misled Council with an analysis of classification changes (prepared by the County's Internal Auditor), and neither party presented any questions, inquiries, or concerns to the Executive staff throughout the budget process.*

*To respond to Mr. Taylor's June 2, 2020 comments, reclassifications on occupied positions are submitted "concurrently" with the budget proposals (MPPP §409(a)). While Mr. Taylor is citing a Personnel Manual (MPPP, hereafter) that was established before the Executive form of government, per Article VII of the Wicomico County Charter, departmental budgets are directly submitted to the County Administration/Executive for final submission to the County Council. These requests are not submitted directly to the County Council, nor should they be. Through this process, all reclassifications are processed by Human Resources in accordance with policy and procedures and submitted to me to be incorporated into my budget proposal. I have attached the budget process memo distributed to all departments instructing them to the budget process. These procedures align with other local governments.*

*The list of positions provided to County Council by the Internal Auditor (also found in the June 16, 2020, Council brief book) incorrectly consists of:*

- *Qualifying promotions such as Correctional Officers and Sheriff Deputies are based on certification and years of experience in the position. This has been adopted in the classification system for decades.*
- *The Head of the Department of Human Resources is by County Charter exempt from the classification system (§601 of the Wicomico County Charter and §104 MPPP).*
- *Part-Time, seasonal, and grant positions are exempt from the classification system (§104 MPPP).*

- *Finance consists of promotions from retirements and separations. The titles that were already established/adopted within the classification system (§602 of the Wicomico County Charter and §1118 of the MPPP).*
- *Positions were titled correctly to align with job duties, with titles already established in the adopted classification system.*
- *The jobs established in the Wicomico County classification system has been a result of several compensation studies.*

*Furthermore, Mr. Taylor advised the Council to approve amended legislation to the budget bill referencing a classification issue without any communication with the Executive's office. These actions are detrimental to County governmental functions, causes uncertainty amongst the employees, and negatively impacts the public perception of County government operations.*

*Regardless of the issue, the public is beginning to frown upon the unnecessary controversy between branches and it needs to stop. As the County Executive, my responsibility is to oversee these operations without continuous interference (§314 of Wicomico County Charter). I am committed to my oath to serve this community and work in the best interest of this County. The Executive staff will not participate in work sessions based on inaccurate analysis and unauthorized actions. I am more than happy to work with any of you to accomplish our goals and serve the citizens of Wicomico County, but you need to place your efforts on working with me, not against me.*

*Respectfully,*

*Bob Culver  
County Executive*

Mr. Davis asked if Council is going to talk about this because they cannot do anything. Mr. McCain said Council all got that letter in an email, so he is not sure why Mr. Dodd just read it. Mr. Dodd said, again, Mr. Culver refuses to attend, to which Mr. Davis responded, then they should move on to the next item.

Mr. Cannon said he thinks it is important, and the reason it is on the Agenda is because it is important. He said they cannot change pay and classification plans through the budget, they do it through Resolutions, and that is all Council is requesting, for the Human Resources Director to be here in cooperation with the County Council to discuss this plan since it is Council's responsibility. Mr. Dodd said that is why it was requested they be here. Mr. Cannon said it has nothing to do with trying to get into any type of conflict with the Executive Branch. He said Council is just trying to get a Department Head in front of them to go over the pay and classification plan because it is very clear, from the information Mrs. Hurley supplied Council through email, that several issues in the budget just reclassified titles and positions, and they just cannot do that in the budget. He said Council wanted to make sure they were all on the same page on how they were going to structure the County's business and the County's affairs. He said he does not understand the reason for any type of attacks against the County Council as a whole, and they would just really love to have a Department Head sitting in front of them when they have business they would like to address because it is still an open issue.

Mr. Cannon asked Mrs. Hurley if they need to come to some conclusion on how they want to do this, to which Mrs. Hurley responded, she thinks that is actually more of a legal question. She said Mr. Taylor added a whereas paragraph to their Budget Bill that said none of these changes were approved by

Council. She said her question to Mr. Taylor is, if Council took no action, does that mean none of those changes were legally made in the budget, to which Mr. Taylor responded, what the personnel manual says, which Mr. Culver did not bother to refer to, in Section 0411 is that evaluation of positions for classification by the Human Resources Director will be presented to the Administrative Director and the County Council for final decision. He said the next Section, which is 0412, says the County Council shall approve or disapprove all changes and requests for reclassification of positions. He said, regardless of whether it is a new position to be classified, or an existing one to be reclassified, Council has the final word. He said Mr. Cannon, he believes, is correct completely when he says they do not do this in the budget, and there is nothing in the Charter talking about reclassification of positions. He said, in an earlier portion of the personnel manual that Mr. Culver does refer to, which is 0408, it says requests for new positions shall be made concurrently with budget proposals for the ensuing year, and requests must identify estimated budget year cost requirements to fund the position and must be accompanied by a position analysis questionnaire form outlining the duties and responsibilities of the position. He said none of that has been submitted for any of these positions. He clarified, he is referring to the positions that are on Mr. Hitchens' list he prepared of a couple dozen or so positions, and, in particular, since it is a very significant amount of money, the Budget Officer position that is in the budget this year for \$128,500, which happens to be the same salary that is in the budget for the Finance Director. He said there is no discussion of what that position entails, and he does not think the notion that Council can tell what it entails from the title holds water. He said, in effect, as he said in the whereas clause he suggested, there are things in the budget that have not been approved by the proper manner, and he guesses that is his sin in Mr. Culver's view.

Mr. Dodd said Mr. Culver made reference to Mr. Taylor a couple of times in the letter. He then asked if Mr. Taylor addressed both of those items, to which Mr. Taylor responded, he thinks they all kind of revolve around that same thing. He clarified, he did not have anything to do with drawing up the list of positions, and he did not ask anybody to do that, but he thinks it was a good idea because now they know, to some extent, what the extent of the problem is. He said Mr. Culver makes it sound as though he generated all of this, and he did not, but he made the comment after he saw the list that it does not comply with the provisions of the personnel manual. He said he might also point out that, in the Charter, it is the County that has responsibility for the personnel system to establish it and make changes in it, so it is not as if Council is somehow intervening or trying to supersede the authority of the Executive.

Mr. Cannon asked how Council is going to correct the titles as they are now being suggested if they do not have job descriptions of some of the titles, to which Mr. Taylor responded, to him, the starter is to get job descriptions and maybe some explanation of why these particular positions are being changed, if they are being changed. He said that would seem to him to be consistent with the two provisions he read to begin with, which were 0411 and 0412. He said that is what it says, to go to the Council for a final decision. Mr. Cannon said it is a little late now, but, if they do not come to Council with proper titles and classification, he does not know how they can justify funding, to which Mr. Taylor responded, there are a lot of things here where they could open up the law books and not find much precedent on because they are in such an unusual situation.

Mr. Cannon said the question is where Council goes from here, and how they can at least try to get some control over this so Council knows who is working where, what their title is, and what their job description is, but how are they going to do that without the HR Director here? Mr. Dodd said Council has already established this is a legal issue, so what does Mr. Taylor suggest, to which Mr. Taylor responded, he hates to suggest something just slapdash so to speak, but he thinks more formal analysis and action is needed. He said he is at a loss right now to say what that is, and he might talk to Mr.

Hitchens and Ms. Hurley, and put their heads together to come up with a suggestion for Council, but it just looks to him that there is a lot out of whack going on here. Mr. Dodd said the County is paying for positions that are not even approved yet. Mr. Taylor clarified, he is not saying anybody in any of those positions is not doing a good job or is not needed; he is not saying anything of that kind, but, in terms of the approval and classification of the positions, that is certainly, in his view, out of whack, and is not in conformance with the personnel manual. Mr. Holloway asked if it also has to do with the amount they are getting paid, to which Mr. Taylor responded, it could, but it would depend to some extent on what the position entails and what the salary is, and whether it is reasonable or not. He clarified, he is not as conversant with the salary plan, the Singer study, and exactly how somebody progresses in that, so he does not want to suggest anybody is getting overpaid or underpaid because he just does not know, but certainly, in terms of the classification provisions, that has not been conformed to.

Mr. Dodd said Council needs to know where to go from here, to which Mr. Cannon responded, the only thing they can do is send a request for these titles and positions, and the reason for why they are changing the title or the classification, and, if it is a new position, to supply Council with a job description. Mr. Taylor said there are a couple of things in the Charter that might be ways Council may go to give them some leverage. He said one is that Council has the ability to subpoena information, which is in Section 906, Subpoena Power. He said Council also has the power to assign duties to people in the Executive Branch. He said there is a provision in there for that, but he does not have it right in front of him this minute, but it allows Council to do that, and that would not be in violation of the provision that is also in the Charter about interfering with the Executive Branch. He clarified, in other words, Council has the ability to do certain things with the people in the Executive Branch under this particular Charter provision, as well as subpoena information. He said, as far as getting the job descriptions or the form he referred to a few minutes ago, the position analysis questionnaire form, he would think Council could try asking for it, and, if they do not get it, either do a PIA or a subpoena for everything. He said it is information, and there is also a section that says the County Executive will provide to Council any information they ask for to do their duties. He said there are several sections in the Charter Council can use, to which Mr. Holloway responded, none of that has worked for the past six years, so why does Mr. Taylor expect it to work now? Mr. Taylor responded, the only thing he can say is it is there, and Council can give it a shot, and if it does not work out, that is one more log on the fire. Mr. Dodd asked what will happen if Council does not act on this, to which Mr. Taylor responded, maybe they can talk about that in the upcoming Closed Session, but it seems to him that if Mr. Culver is violating the Charter, there is pretty good grounds there, but they have to go through the motions, and they have to establish it. Mr. Dodd said Council can talk about that in Closed Session.

Mrs. Hurley said she wants to point out that Chapter 4, which is in the briefing material, is the current chapter that is in the personnel manual that is posted on the County's intranet. She said this is what all employees are provided with, either by CD, or directed to the intranet to take a look at that, so this is current, even though Mr. Culver said in his letter that it was outdated and done prior to the Executive form of government. She clarified, that may be true, but this is what they currently have in their personnel manual. Mr. Taylor asked whether the personnel manual was pretty much reviewed in 2010, to which Mr. Dodd responded, it says revised August 4, 2010. Mr. Taylor said that was after they switched to the County Executive form of government. He said he noticed Mr. Culver made a comment in his letter that it was from before the County went to the County Executive system, and some of the language truly may be, but it has been revised and adopted since then, so it is not exactly like it is from ages ago.

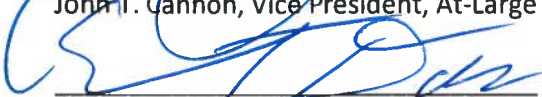
Mrs. Acle asked if the Council did the personnel manual, to which Mr. Dodd responded, Council had been working on it, but he does not know if they would get any assistance with that or not. He said Council can put in a request for that as well. There was no further discussion.



Larry W. Dodd, President, District 3



John T. Gannon, Vice President, At-Large

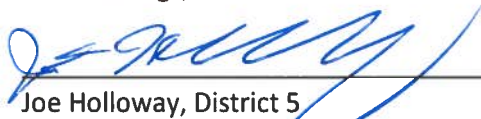


Ernest F. Davis, District 1




Nicole Acle, District 2

Josh Hastings, District 4



Joe Holloway, District 5



William R. McCain, At-Large



Laura Hurley, Council Administrator