

Open Work Session
Review of Charter Committee Recommendations
May 17, 2022

Mr. Mike Dunn, Chair of the Charter Review Committee, and Mr. Paul Wilber, County Attorney, came before Council.

Mr. Cannon said Mr. Wilber has prepared a revised Charter, to which Mr. Wilber responded, he tried to take the whole Charter and incorporate the sections with the changes they have agreed on, the deletions or additions from their earlier discussions, and then incorporated the possible deletions and changes roughly from the 500 section on to the back, but he thinks that is where they need to go today.

Mr. Cannon said, as of right now they left off on Section 400.

Mrs. Hurley said there is a summary sheet that will give them the status of each one of the sections that have been discussed. She said they will see that Section 405, which is Qualifications of the County Executive, Council decided to keep that as written, and in Section 407.C, Vacancy in the Office of the County Executive, Council decided to keep that recommendation as written. She said they are looking at Section 408, which is removal of the County Executive from Office, and she has the suggested change to that section on the screen behind her. She said the question was whether there should be a censure process and then removal, and then should they include willful violation in the language, and she believes Mr. Wilber has added in the title of Section 408 Censure or Removal of the County Executive from Office. She said then he added a letter B that says the County Executive may be censured by the County Council for actions which are repeated substantial violations of this Charter.

Mr. Dodd asked, if this is approved, will it have a definition of censure because some people get censor and censure mixed up, to which Mr. Wilber responded, really censure is a term of art in the government world where, as he said, it is a public reprimand from one Body to another.

Mr. McCain said this might sound petty, but in part B where it says the County Executive may be censured by the County Council, part A says they need five members if they are going to try to remove him, so should it be the same thing for censure as well? Mr. Wilber responded, he thinks if Council wants it that way, they should state that. Mr. McCain said it just says by County Council, it does not even say majority, to which Mr. Wilber responded, he thinks that would be interpreted as four.

Mr. Dodd asked if it should say supermajority, to which Mr. Wilber responded, that is Council's call, but if they feel it should be five, then he thinks they should state five. Mr. McCain said he thinks, for consistency, he would say five, to which Mr. Dodd responded, he is okay with five.

Ms. Acle asked if they all agree to add this section, to which Mr. Cannon responded, based on their last work session, this is what Mr. Wilber put together, but it is open for discussion today. Ms. Acle said she is strongly opposed to this and does not think they should be removing any elected officials, she thinks that is what the election is for. Mrs. Hurley clarified, it is not to remove them. Mr. Wilber said it is a reprimand. He clarified, A is removal primarily for physical or mental incapacity reasons, to which Ms. Acle responded, who are they to judge that? Mrs. Hurley said that is already existing in the Charter now. Mr. Wilber clarified, A is the old language, and B would be the new language.

Mr. Dunn clarified, the Committee did not make this recommendation, the recommendation they put forward and was across the board was asking the Council to consider making their code of conduct stronger with the addition of punitive action, such as censures to deal with conflicts or Charter violations that may occur. He said, as a Committee, they talked about this fairly extensively, and they knew what had happened over the last several years, so they were sort of talking about it as a code of conduct within their rules, not as a change to the Charter. He clarified, he is just simply pointing that out, and it is Council's decision. He said he guesses he would like to suggest that, if they are going to add censure as a tool, he thinks it also needs to be addressed from within the County Council also so they have a tool should one of them rise to the level of some sort of Charter violation so they have the ability to censure one of their own members, again recalling that the Town of Ocean City Council just did a censure action against one of its members. He said, on behalf of the Committee, they did not recommend this, but, if they are going down this road, the Committee talked a lot about that there needs to be the tool within the Council, as well as this tool they are recommending.

Ms. Acle asked if the County Executive could then censure Councilmembers because it seems, if they are going to do this, it has to be across the board.

Mr. Dodd said this is not only a tool, but the document has to have teeth.

Mr. Cannon said that is his concern too, but he is all for this because he lived through it like everyone else here for the most part, and they recognize the damage they felt was done. Mr. Dunn said the Committee saw it too. Mr. Cannon said one thing they emphasized over and over again was that they need something that has teeth, and, unfortunately, he is afraid censuring does not have teeth, he just does not think it does. He said it is not going to accomplish anything and it is just going to create another embarrassing argument. He said they know they can go to the courts, but they just have to go to the courts sooner, to which Mr. Wilber responded, that is the Writ of Mandamus that they discussed.

Mr. Holloway said he knows how to solve this problem, and it is very simple and is one referendum.

Mr. Cannon said, in order to not create one more item on the ballot, he does not think this is going to be worth the squeeze, in his opinion. Mr. McCain asked if Mr. Cannon is saying to leave it alone, to which Mr. Cannon responded, yes. Mr. Holloway said history can repeat itself, to which Mr. Cannon asked, does he think censuring is going to make any difference to that? Mr. Holloway clarified, he is not endorsing this, so he did not mean it like that, he is just saying it could happen again.

Mr. Davis said, if they are going to do this, they have to put something in about what they can do to them, and that is the problem they ran into the previous years. He clarified, they can say a person did something wrong, but that person knows they are not going to do anything to him. He said, if they are not going to do anything to him, why put it in there? He said, if they are not going to do anything but censure them or suspend them, what are they going to do? Mr. Holloway said that goes back to the fact that the Council positions are elected by the people.

Mr. Cannon said, even if they put in the Charter that they could kick them out of Office, it still is going to go to the judiciary because they are going to appeal it.

Mr. Wilber said, to him, whether it is the Councilmember who violates the Charter or the Executive, the route is to a court for a Writ of Mandamus where one Body is asking that the other Body either stop doing something or do something that they should be doing, and that is in the courtroom. Mr. McCain

said, unfortunately, the courts also have a history of saying they do not like dealing with those problems and they send it right back.

Mr. McCain said, going back to their history and their previous issues, the big problem was there is nothing in the Charter that addresses the issue if the County Executive chooses to ignore the Charter and is going to do whatever. He said there is nothing in the Charter that addresses that, so, if they leave it the same, there is still nothing in the Charter. He said they can impeach the President of the United States, but they do not have anything in their Charter that says they can impeach the County Executive.

Mr. Mitchell said there are really only three ways to address an Elected Official, and that is either impeachment, Mandamus to make them do what they are supposed to be doing or stop doing what they are doing, or, if it involves finances, they have the purse strings so they cannot legally spend anything that has not been approved, and if they spend it anyway, they are back to Mandamus again.

Mr. Cannon said he gets that they are talking about censure and he 100 percent understands what Mr. McCain is saying, but they are not proposing that the Council has the authority to impeach the Executive because they cannot do that in local government. He said this just seems to be a feel-good measure that is not going to accomplish a lot. He said they can say they are censuring him, but what are they accomplishing?

Mr. Dunn said the Committee talked about this at a fairly good length, and, while they understand at the end of the day that a censure is what it is, a nonbinding thing, it is at least something. He said, should there be a time to censure one of the Councilmembers or the Executive, the Committee was frustrated because they were acknowledging that there were likely Charter violations that had occurred, and they asked what they could do, so this is not nothing, but there also is not a whole bunch of teeth behind it. He said, as a member of the public, when picking up the newspaper and seeing that one of the Councilmembers has been censured by the other six members, or that the Executive has been censured for repeated violations of the Charter, the only reason he knows that an Ocean City Councilperson was censured was because he read about it in the news, so it at least says as a Body that something has happened. He said this is the tool at their disposal and they think it is serious enough that they are censuring one of their individual members or the Executive.

Mr. Holloway said Mr. Dunn is correct on all of those aspects, but what happens is that just makes that person harder to work with between the two Bodies. Mr. Dunn said it is all political. Mr. Holloway said, if they did not like the Council before, now they hate them. Mr. Wilber said that is a valid point. Mr. McCain said that is going to happen anyhow, and, to that point, it has already. Mr. Dunn said relations soured pretty quickly even without a censure.

Mr. Cannon said he wishes they had some type of documentation that gave them more authority.

Mr. McCain said he is not creative, but he can copy what works somewhere else. He then asked if the other Counties that have the Executive form of Government have mechanisms in their Charters, to which Mr. Wilber responded, he does not think they have removals. He clarified, they have removals for those reasons that are already in the Charter, but not for violating the Charter. Mr. Holloway said there have been some County Executives removed, but it has been through the court.

Mr. Cannon asked if they should keep Section B or remove it, to which Mr. McCain responded, he is pretty indifferent whether they keep it or not. Ms. Acle said she wants to remove it. Mr. Holloway said

he thinks they should keep it in. He said they need something. Mr. Davis said, even if they just censure the person, at least it draws the public's attention that something is going on. Mr. Cannon said he hopes it warrants enough to justify another issue on the ballot.

Mr. Dunn said, again, the Committee suggested they do this through code of conduct rules of Council as opposed to putting it as an official Charter amendment. Mr. Cannon said he thinks the code of conduct is to deal with the Council and their issues, and he thinks, if they were going to talk about the Executive, the Executive could not care less about the Council's code of conduct.

Mr. Cannon said he made a note about A because he thought it was very vague that an Executive may be removed from Office, but there were no primers to define it more clearly. He then asked if they could add terminology that would require some type of cognitive assessment. Mr. Wilber asked, such as a doctor's report? Mr. Cannon said there is really not anything that says this person is not doing their job, to which Mr. Wilber responded, it says physical or mental disability, and he does not think that is a decision a Council would make, he thinks they would need a third party, probably a medical statement. Mr. Cannon asked, how do they have the authority to send a doctor to do an assessment? He said they have to have something that says they are required to take a cognitive test or something to that affect.

Mrs. Hurley said they looked at some other Counties on this and their language is very similar to what they currently have, and there is not anything really spelled out.

Mr. McCain said, if they made that decision, they are saying it is based on their physical disability to perform the duties because the person is in a long-term care facility due to a terminal illness or something, but they have not relinquished their duties, then he thinks it is pretty clear, but if they think something different, they can appeal it. He said he is not sure this is a can of worms they want to open.

Mr. Dunn said they had this circumstance and the Council showed great empathy toward Mr. Culver, who was in declining health, and they all kind of knew what that outcome was going to be. He said the Council could have invoked this, but they did not. He said they came as close to invoking 408A, or this Body certainly could have, and they made that decision not to, and there is humanity in that. He said he thought it sort of stood okay as it was.

Mr. Cannon asked if anyone wants to see any adjustments to 408A, to which Mr. McCain responded, no. He said the only question is if they need to say five members, to which Mr. Cannon responded, he thinks they are all in agreement with that.

Mr. Wilber said, to finish the circle, back in the County Council section do they want a censure section that would be internal to the Council, to which Mr. Cannon responded, he would say yes. Mr. Dunn said, for balance, if they are going to have this tool available for the Council to the Executive, it is only fair. Mr. McCain said he thinks, if a Councilmember is doing the same thing, he thinks it is fine.

Mr. Cannon asked if that will be as one question on the ballot, to which Mrs. Hurley responded, she thinks they are two different articles, so she thinks they would have to add a whole new section.

Mr. Dunn said, never wanting to predict what the public would do, he thinks the public would look at this and say this is a good tool knowing what has been going on.

Mr. Cannon asked if everyone is okay with this, to which there was consensus.

Mr. Cannon said the next item is Forfeiture of Office by the County Executive. Mrs. Hurley said there was some discussion on that and she thinks they need to make it consistent with D, and she thinks Mr. Wilber just made 202D consistent, to which Mr. Wilber responded, 202 and 409 should be the same.

Mr. Dodd clarified, they are the same, but in two different sections, to which Mr. Wilber responded, correct. Mr. Dodd asked if they need two sections, to which Mr. Mitchell responded, one is for the County Executive and one is for the County Council.

Mrs. Hurley said, for Sections 412, 413, and 414, Council agreed with the recommendation of the Charter Review Committee, so they are looking at Section 502C. Mr. Cannon clarified, is Mrs. Hurley saying Council already agreed to 412 and 413, to which Mrs. Hurley responded, yes, there was consensus for the recommendation of the Charter Review Committee. Mr. Cannon said he thought they missed the point on 414 because they are talking about notifying the Council within a certain period of time, but he thought their issue was the continuing extension of the 90 days in perpetuity when they came into a situation where there was not a proper appointment. Mr. McCain said he does not have any notes on that, but he has notes on D. Mrs. Hurley said the recommendation from the Charter Review Committee was to remove "prior to assuming duties of the office" and replace it with "within six months of assuming the duties," so they did not touch on the 90 days. Mr. Cannon said they will leave it as it is.

Mrs. Hurley said the next Section is 502C. Mr. Cannon said this is in reference to state that no such suspension or removal may be including but not limited to those protected classes. He then asked if this is housekeeping, to which Mr. Wilber responded, this is updating to current law, so it is housekeeping. He said this is nice general language.

Mr. Cannon said 503 is putting the Airport as a Department, to which Mr. Wilber responded, they are making the Airport a Department level. Mrs. Hurley said it will be called the Department of Aviation.

Ms. Acle said she wanted to mention to everyone that the Local Management Board is also under here, and other Counties have it under their Health Department, and other Counties have it as an organization, so Wicomico is unique having this under their County Government. She said that might be something they should look at as it is not the same in other Counties.

Mr. Wilber said this is driven by State law. Ms. Acle asked if they want to keep this under their County Government? She said she thinks that is a question for the Acting County Executive.

Mr. McCain said he knows even Wicomico has nonprofits as part of the Local Management Board, but Ms. Acle is saying Wicomico County is the only County that has it under their government, to which Ms. Acle responded, they are the only one who has it under their Government.

Mr. Wilber said the Local Management Board in his mind is a creature of State law, to which Ms. Acle responded, they are for a County to have one, but not to fall under County Government. Mr. McCain said maybe this is that the local government is just passing responsibilities on to the Health Department.

Mr. Davis said this is a little bit different because the Executive appoints the Local Management Board Director, but he does not appoint the Director of the Health Department, so the County pretty much has control over the Local Management Board. He said they have to bring their grants to the Council to get them approved, so they are under the County Government, and they could not put them under the Health Department because the Council does not have any control over the Health Department.

Ms. Acle said, in other Counties they allocate those responsibilities to different entities within the County, or it goes to a nonprofit that oversees it. She said it is very rare that a Local Management Board would be an entity within the government. Mr. Davis responded, but that is where it is set up, so who would pick the Director of the Local Management Board? Ms. Acle said they would have to look at other Counties and see how they do it. Mr. Davis said that is creating a headache because everything they do has to come through the Council, to which Ms. Acle responded, because that is how they have it set up. Mr. Davis said that is the way it is set up, to which Ms. Acle responded, in Wicomico County. She then asked if they want to continue that, as other Counties do not have it structured that way.

Mr. Cannon said he agrees with her 100 percent and he would like to see it removed, but he thinks that is a really heavy lift. He said he thinks that is something they will have to look at possibly doing in concert with the Executive Branch because it is a budgeting issue, not a Charter amendment. Mr. McCain said he is not sure they are there yet.

Mrs. Hurley said it is listed in the Charter, so it would be a Charter amendment if Council were to want to remove that from the government. Mr. Cannon said he thinks they would have to plan it a year out with the Executive Branch as far as under whose authority it would be placed and how it would be funded, so it is more than a Charter amendment. Mr. Wilber said the Charter Review Committee did not look at this, to which Ms. Acle responded, she is just bringing it up now.

Mr. Cannon said the next item is 504 to remove the word substantial, but, personally, he does not think this warrants a Charter amendment. He clarified, he knows it passed unanimously, but they are going to have 20 amendments. Mr. Dunn responded, nobody on the Charter Review Committee is going to lose sleep over this. Mr. Cannon said they will leave this alone, to which there was a consensus.

Mr. Cannon said 505 was to remove the last section, to which Mr. Dunn responded, and that was because no other Department Head is listed this way. Mr. Wilber clarified, it is more of a housekeeping thing for this and 506. Mr. Dodd asked if they have to put these housekeeping things on the ballot, to which Mr. Wilber responded, yes. Mr. McCain said it is a change to the Charter.

Mr. Cannon said next is 507A. Mrs. Hurley said there was a consensus for that recommendation, so the next one is 508. Mr. Cannon said 507 was a recommendation for it to read "The County Attorney shall serve at the pleasure of the County Executive." Mr. Cannon said he does not like that. Mr. McCain said his notes say there was a consensus on that. Mrs. Hurley clarified, her notes say that Council agreed with the recommendation of the Charter Review Committee. Mr. Cannon said they are removing the County Attorney from the authority of the Council, to which Mr. Dunn responded, that is correct. Mr. Cannon said they are getting rid of that hybrid role. Mr. Dunn said they thought that the County Attorney should be appointed and serve at the pleasure of the County Executive, not at the pleasure of the Executive and the Council. Mr. Cannon said they are then assuring the County Council Attorney as their attorney. He then asked if everyone is okay with that, to which there was a consensus.

Mr. Mitchell clarified, the County Attorney's job would not change. Mrs. Hurley said he would still review their contracts and still do work as requested.

Mr. Cannon said next is 508 – Citizen Advisory Boards. He said the Council wanted to be able to have the option to appoint an advisory board themselves. He then asked if anyone can give him an example as to why they wanted to do that? He said they created the Animal Ordinance Committee. Mrs. Hurley said

Mr. McCain brought up that the provision she thought prohibited the Council from creating a Committee mentions longstanding committees. She said she thinks the Council has received requests, for example, to form a homeless committee, and they have always looked at the Executive's Office because she was under the impression that they could not form committees. She said this would make it crystal clear that the Council could.

Mr. Cannon asked if this is that important to the Council to be able to create a board as opposed to just doing committees like they have in the past, and what reason does the Council think they would need to have the authority to create a board? Mr. McCain said he is not sure how appropriate this is, but his take on that is that he is not sure that rises to the Charter amendment level with all the Charter amendments they are going to have. He said, if there was something they felt they needed to have a committee, it could be a workgroup, so they might not be calling it an advisory committee, but if they want a workgroup and want to appoint people, he is not sure if this says they can or cannot.

Mr. Holloway said, going back to the poultry legislation, they called on numerous people to come in front of them and have input, so they have already been doing it, they just did not put a committee together that they paid or put a chair in charge of. Mr. Dodd said they can put a workgroup together.

Mr. Dunn said this was really about good governance for the Committee, meaning, if there was a significant issue facing the County, their thought was that the County Council and Executive should understand that there is a significant issue facing the County and put together a Citizens Advisory Board. He said, for the Committee, it was really an example of communication and good governance where, if there is an identifiable problem, have the Council and Executive come together and appoint a board to address the problem, so that is why they did not really make any recommendations. Mr. McCain said that is how it is now, and they should be going to the Executive if they need an advisory committee.

Mr. Cannon said things as they are now are good enough, so they can strike this recommendation, to which there was a consensus.

Mrs. Hurley said 601A is next. Mr. Cannon asked if this is the one that sends the personnel system back to the Executive Branch, to which Mr. Wilber responded, it has the Executive making a recommendation to the Council, which the Council then would have to pass a Resolution to implement. Mr. Cannon said they changed that and he thinks it mucks up the whole system. He said he does not like it and he does not think the Council should be involved in the personnel system. Mr. Dunn clarified, Council would be involved, but it would be initiated by the Executive. He said the Committee's thought was that there are 450 people who work for the County and they report to the Executive Branch of Government. Mr. Cannon asked if that is okay with everyone, to which there was a consensus.

Mrs. Hurley said, in 601B there was a consensus for the Charter Review Committee's recommendation, and then 609A there was a consensus to leave as currently written, so now they are looking at 609B.

Mrs. Acle said this says that if the County Executive were to pick up a class at SU, they could not do that. Mr. Dunn clarified, he thinks what the Committee was attempting to do is, it says other than the County Executive, and they were trying to say the rule has to apply to the County Executive as well as the other members. He said this just makes it uniform.

Mr. McCain said he sees what they are saying, but if they strike "other than," now they are saying the Council would also have to devote their entire time. Mr. Dunn clarified, that is not what they are trying to say. Mr. McCain said, if they strike those two words, he thinks it says that.

Mr. Cannon said, as it is, it says that the County Executive requires full-time. Mr. Dunn said it says during the official working hours, so, as he views it, the Council's official working hours are when they are meeting or on a Commission, but those would be their official hours. Mr. Cannon said he thinks what they want to eliminate is the County Executive. He said it should read "All officers and employees in the Executive or Legislative Branches other than members of the County Council, the County Attorney, and Assistant County Attorney." He said all officers and employees in the Executive or Legislative Branch need to be fulltime except for the members of the Council, the Attorney, and Assistant County Attorney. Mr. Wilber said that moves the "other than" down to in front of "members of the County Council."

Mr. Dodd said, when he looks at it, like Mr. Dunn mentioned the working hours, somebody who does not know could read that and make it look like the Council and the Attorney have to be here full-time, to which Mr. Cannon responded, no, it is just the opposite. He said he thinks they should just remove the word "County Executive" and say "All officers and employees in the Executive or Legislative Branch, other than members of the Council, Attorney, and Assistant Attorney." He said right now it says other than the County Executive, but the County Executive cannot be part-time, they have to be full-time.

Mr. McCain said, not to convolute this, but, to Ms. Acle's point, could the County Executive teach a part-time class at SU, to which Mr. Dunn responded, they would want that to be allowed. Mr. McCain said someone could make a point that they could not do that. Mr. Dodd said there are other employees who travel and teach. Mr. Holloway asked what the difference would be with that and the County Executive running a popcorn stand at night, to which Mr. Wilber responded, it says "during official working hours." He said it could say the Executive was an 8:00 a.m. to 4:30 p.m. job, to which Mr. McCain responded, but he does not punch a clock, and there is nothing in the Charter defining the working hours.

Mr. Dodd said they all know that the Executive, and they do it themselves, are 24 hours a day doing something. He said tonight they are going to leave here and go to the County Firemen Association meeting. He then asked if they should put 40 hours a week because the County Executive is going to put a lot more than 40 hours in. Mr. McCain said it says full-time, and that is left to interpretation. Mr. Cannon said right now the way it is written the Executive could work 20 hours a week if they wanted to. He clarified, the Council do not have to, the Attorney and Assistant Attorney do not have to, but the Executive needs to. He said this is the contract the County has with the Executive, this one section that says they have to be full-time.

Mr. McCain said they could just take out the County Executive and it would say "other than Council, Attorney, and Assistant Attorney."

Mr. Holloway said, a little history, when it was being touted for a County Executive, it was being touted as if the County needed a full-time manager, and that is what helped sell the program, to which Mr. McCain responded, that is why the Charter says full-time requirement.

Mr. Cannon asked if everyone is okay with making the amendment that removes the Executive in this section, to which there was a consensus.

Mr. Mitchell said it will still say official working hours, which he thinks is fine. Mr. Dodd said they know what that is, but the public is going to interpret that different.

Mr. Holloway said full-time could be noon to 7:00 p.m. or 8:00 a.m. to 4:00 p.m. Ms. Acle said Mr. Culver used to come in really early around 6:00 a.m. Mr. Holloway said they either have to set an hourly time or they have to say they cannot receive compensation from some other source.

Mr. Wilber asked what the official working hours are for the County, to which Mrs. Hurley responded, it depends on the employee and what role they are serving. She said, for most employees in this building, it is 8:00 a.m. to 5:00 p.m.

Mr. McCain said he does not think they want to get into setting times. He said he thinks it is fine to keep it simple and he thinks just as they have it now works as it says it is a full-time position.

Mr. Dodd said he just does not want someone in the public to argue that they cannot teach at Wor-Wic or Salisbury University. Mr. McCain said they can do that. He clarified, they can work a full-time job and teach a night class, and that is not interfering with their full-time job, to which Mr. Dodd responded, but he has heard people argue that they should not be doing anything and they think it has to be 24/7. Mr. Cannon said this establishes a bare minimum and says the Executive has to be a full-time employee. He said right now it says he does not. Mr. Mitchell said this will put the burden on the Executive. He clarified, if he wants to teach a class and it is at 3:00 p.m., he is going to have to come back.

Mr. Cannon said they will strike the County Executive from this section.

Mrs. Hurley said 704, 705, 710 and 712 are recommendations from bond counsel, and everyone agreed to make those recommendations, so they are moving to 706B.

Mr. Cannon asked if they have to re-review all the changes they made and then make a final decision today, to which Mrs. Hurley responded, no, they do not have to make a final decision today. Mr. Cannon asked how many more they have right now, to which Mrs. Hurley responded, there are only a couple more on the list. She said they have 1101, which goes into definitions, and this was to add the definition of Local Governing Body. She said there was discussion, but there was not a consensus taken as to what to do. Ms. Acle said Local Governing Body is the Council and the Executive.

Mr. Cannon then asked Mr. Wilber if he thinks there is a need legally to make any changes on 1101, to which Mr. Wilber responded, he thinks that was a clarification issue to make it clear that they have a two-branch government with the Executive and the Council. He said, in their discussions, it is a defining statement. He said, when they see that in State or Federal Law, that is what it is going to mean, any act has to occur that way. Mr. Cannon clarified, the reason he asked is, no different than with what they deferred to Ms. Rader, he thinks they need to get a legal opinion on whether this is or is not compromising as the way it is currently phrased whether it needs to be changed. Mrs. Hurley clarified, it is not currently in their Charter at all, this language actually came from Anne Arundel County. Mr. Cannon clarified, he meant whether it needs to be added. Mr. Wilber said it is a clarifier. Mrs. Hurley said there were concerns in the past that Council was excluded from certain actions when it mentioned Local Governing Body, and this would clarify that the Council should be involved.

Mr. Cannon said, if it says to add number 15 to state the words County Commissioners shall refer to County Council, are they saying there are too many references to County Commissioners and they are

trying to correct it all, to which Mr. Wilber responded, he thinks that was in reference to the prior Charter before the Executive. Mr. Cannon said there are so many references to Commissioners that, instead of changing all of those, they could just more clearly define it. Mr. Wilber said he does not think this Charter they have now has the word Commissioner in it. He clarified, he has not word searched it, but he cannot say that he has seen Commissioner. Mr. Cannon said he is reading that it says to add to state the words County Commissioners shall refer to County Council. Mr. Dunn said he seems to recall seeing the word Commissioner, but, as he is looking in Section 11 now, every reference says County Council. He said they saw the word Commissioner somewhere, and this was just a housekeeping thing. Mr. Cannon said it does say it in Section 1101, and he just did a search. Mr. Wilber said 1201 talks about it too. Mrs. Hurley said it may be in the County Code as well, so adding it to the Charter as a definition just clarifies it. Mr. Cannon said it is all over the place. Mr. McCain said, if they stick it one place saying Commissioner means County Council, they do not have to make many changes.

Mr. Mitchell asked if Wicomico formerly had Commissioners before the Charter, to which Mr. Cannon responded, they were actually a Council before they became a Legislative Executive Government. Mr. Mitchell clarified, he meant before the original Charter. He said, if they were a Commissioner County then this is just saying all those things that were passed in years past by the Commissioners are still in place unless it has been changed. Mr. Cannon said he thinks when Tony Sarbanes was in Office they were a Council. Mr. Wilber said they were. Mr. Dodd said he thinks Mr. Mitchell is talking about way before that. Mr. Cannon said, when they changed the form of government in 2006, they kind of did a sloppy job. Mr. Mitchell clarified, he thinks what it is saying is, if the wigs passed something in 1700 and it has not been changed, it is still a law, and this is saying, if the Commissioners passed something before there was a Charter that made the Council, unless the Council changes it, but he does not know if they were ever a Commissioner form of Government. Mr. Dodd said he thinks they were.

Mr. McCain said they can still handle this through definitions by saying Commissioner refers to Council, to which Mr. Wilber responded, that is correct.

Mr. Cannon asked, what about the second item in 1101 to add a definition for Local Governing Body, to which Mr. Wilber responded, he is okay with what is written there. He said the idea is, when it states it in Federal or State Law, does it involve both Bodies or just one Body, so this clears up any confusion. Mr. Cannon said he thinks both of these changes could be put on the ballot as one question because they are in definitions. Mr. Wilber said he agrees with that. Mr. Cannon said they are housekeeping measures and he does not think anyone is going to have an objection to one and not the other, to which Mr. Wilber responded, that was his thought too. Mr. Cannon asked for a consensus, to which there was.

Mr. Cannon asked how many changes they have, to which Mrs. Hurley responded, she suggests Council let her update the list and then maybe they can look at it and prioritize which ones they actually want to see on the ballot.

Mr. Holloway said he has something to say. He then thanked Mr. Dunn and the Committee for all the hard work they did. He then asked, in Mr. Dunn's opinion, was most of that work centered around the fact that they had a County Executive form of Government and the problems they had between the two Bodies? Mr. Dunn said he will answer it this way – there is very little question that an underlying and recurring theme that they set out from meeting number one was to try and get to a better way for good governance because they all had seen and witnessed and were part of what they all thought was less than good governance. Mr. Holloway said they have had a County Executive form of Government since

2006, and to say that it has been successful he does not think would be correct. Mr. McCain said they got an Executive form of Government because people said their Council was not working, so it just depends on who they have in Office at the time, whether it is Council or Executive.

Mr. Holloway said, if they had been super successful the first eight years, that County Executive would have been elected to a third term, and the second County Executive had different issues. He said most of what has happened in this Charter Review Committee has taken place because of things that happened. He said Wicomico County is the smallest County to have an Executive form of Government in the State of Maryland. He said, from 1867 until 2006, Wicomico County made out pretty well. He said there were little snafus happening here and there. He said he hears from a lot of constituents on why they even have an Executive form of Government. He this is their chance today, or when they have a full Council sitting here, to let the citizens decide again if they want to change the form of Government back.

Mr. Dunn responded, he will simply say that this question by the Charter Review Committee was handled in the same way as the revenue cap question, and he will quote Doug Gosnell, the Mayor of Sharptown. He said Mr. Gosnell was vehement in that first meeting that he did not sign up to be part of this Charter Review Committee to consider the question of getting rid of the Office of County Executive. He said that sentiment then carried the day, so he is not here to represent whether the idea is a good idea or a bad idea, to which Mr. Holloway responded, he is not asking him to. Mr. Dunn clarified, he just wants it to be clear that the Committee did not address this question in the same way that they did not address the revenue cap, as they thought that going down that road was a political consideration.

Mr. Holloway said it has created a lot of animosity. He said his biggest problems with it are two things. He said it costs more, or it could cost more, but his biggest problem, and it has been this way the whole time, is not the way the County Executive treats people or the way the Council treats people but the way people do not understand when somebody calls a Councilmember and wants something done that they have no authority to get it done. He said that is one of the biggest problems, so that is his point on it. He said it has cost the County taxpayers money. He said it was run all those years just fine as it was before. He said it was not broken. He said, it may have needed to be repaired, but it was not broken.

Mr. McCain said that is not a topic that they are going to solve. He said they need to make a decision here by the next meeting, and that is a deep dive question. He said they talked about advisory committees, and that is something people would work on for a year. Mr. Holloway said it could be a one sentence question on the referendum, so it is not that deep, to which Mr. McCain responded, he has no appetite for that. He said he has heard it been said many times about the revenue cap that the voters put it on, and the voters should take it out, and Mr. Holloway will not touch that, but it is the same logic with the County Executive form of Government that the voters put it on, as they were the ones who wanted it. He said, at the end of the day, they put it on because of the people and the way they felt the County was being run by the Council. He said he just thinks it always goes back to they could put good people in Office whether they are whichever form of government, and it will run fine if everybody follows the Charter and they put good people in. He said he thinks it is way too big of a nut and he does not have an appetite to just drop everything they just did and say they are going to change the whole form of government.

Mr. Dodd said it is not dropping everything, it is just adding something, to which Mr. McCain responded, that would be the biggest decision in 20 years in Wicomico County and they would be throwing it on as a Charter amendment. He said they had a whole Charter Review Committee that felt this was too big of an

issue to tackle at this point in time. Mr. Holloway said they did not say it should not be tackled, they said they did not want to tackle it. Mr. Dunn clarified, they said they did not believe it was a question that was something the Committee should be providing the answer to.

Mr. Cannon asked if this could be put on the ballot in 2024, to which Mr. Wilber responded, yes. Mr. Holloway said it could be put on the ballot any time, to which Mr. Cannon responded, he just wanted to make sure it could be put on in 2024, as he did not know if there were restrictions as to when they could put it on based on the census. He said, to Mr. Holloway's point, he agrees with what he is saying, but his concern about that is he cannot tell them how many times he has thought he does not know how the Council before them managed all of the Departments and all the employees in addition to everything else the Council has to do, to which Mr. Holloway responded, they had a County Manager. Mr. Cannon clarified, he knows the process, but he still thought, how did they do that in addition to everything the Council does now. He said they would have to have a report from the County Administrator who would come in and go over all the Departments and every single employee issue that the Council would have to be responsible for. Mr. Holloway said he just brought it up, to which Mr. Cannon responded, and he is just responding, and he thinks it would be a little overwhelming. He clarified, he gets what Mr. Holloway is saying because he really questions too whether or not it has been an efficient form of government for Wicomico County and a successful form of government. He said he thinks there are more strikes against it than for it, but, on the flip side of that, he does not think he would want to wish upon this Council the responsibility to directly oversee the Departments and employees.

Ms. Acle asked, if they put it on the ballot, they would vote in 2022, and then it would not take place until 2026, to which Mr. Holloway responded, yes. Mr. Wilber said, just like when it went to the Executive form.

Mr. Dodd asked if it could be added in the form of a straw poll like the City did about dissolving their Charter 20-some years ago.

Mr. McCain said this is simply just not an eleventh-hour topic, to which Mr. Holloway responded, it has not been an eleventh-hour topic, they have discussed this before. Mr. Cannon said he agrees with Mr. McCain on that, so, in the worst case, there would be a vote with three in favor, which would not work. He said, if they are going to do this, he would do it in 2024 and not 2022. Mr. McCain said they need sufficient time because there is a lot to be discussed. Mr. Dodd said it can be done in 2024 and then get ready for 2026.

Mr. McCain then said he has an appointment and needs to leave. He then left the meeting.

Mr. Mitchell said, on a less significant issue, they changed to a Charter County in 1964, so the Commissioner reference is probably the things that happened prior to 1964.

Mr. Dodd asked if they need to define the three forms of government in their Charter, to which Mr. Wilber responded, they do not have to state that.

Mr. Cannon said they are done with this for now. Mr. Wilber said they will generate a clean copy with all the deletions and changes, and Council can do their final cut.

Mr. Dodd said, on the Council action, he does not have a problem if Mr. Wilber adds more of a description there.

Mr. Holloway said, as to Mr. McCain's comment about the eleventh hour, every time he has brought this up, that is what everybody says, that he cannot bring it up now. He said the taxpayers will just keep paying more money.

There was no further discussion.



John T. Cannon, President, At-Large



Ernest F. Davis, Vice President, District 1



William R. McCain, At-Large



Nicole Acle, District 2



Larry W. Dodd, District 3

absent



Josh Hastings, District 4



Joe Holloway, District 5



Laura Hurley, Council Administrator