

## Laura Hurley

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**Subject:** [EXTERNAL] Online Form Submittal: Charter Review Committee Submission Form

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### Charter Review Committee Submission Form

First Name	Robert
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Email	rbt.adkinspotts@gmail.com
Comments, Questions or Concerns	<p>COUNTY ATTORNEY AND THE COUNCIL – SECTION 507.A.</p> <p>As previously noted, because being “otherwise engaged,” I was unable to attend the Committee’s meeting on July 1, 2021, but I recently watched the video. My initial reaction is that it is very fortunate that I had only one beer in the house. It’s painful to watch without being able to yell “stop the slapdash and begin being professional!”</p> <p>A prime example of the Committee’s continuing malpractice: voting to recommend amendment of section 507.A. to delete the Council’s power to “remove” the County Attorney from office. The Committee is “dancing in the dark” (as mentioned by Mr. Benson) regarding the 2012 amendment of this section by the electorate (referendum), which the voters passed by 79% to 21% in favor of ballot “Question C,” which stated</p> <p>*****</p> <p>To amend the Charter to provide that the County Attorney must have at least 5 years experience in the general practice of law in the State of Maryland immediately prior to appointment; to delete the residency requirement; to provide that the County Attorney may be removed from office by either: the Executive</p>

with the consent of a majority of the Council, or a two-thirds vote of the entire Council; and to provide that the County Attorney shall immediately forfeit office under specified circumstances.?  
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That Mr. Dunn asked another member to investigate why that happened, reveals that neither he nor (apparently) those who voted to amend section 507.A. have bothered to review the minutes of the prior CRC's meeting on March 13, 2012, which state in pertinent part:

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SECTION 507. DEPARTMENT OF LAW. Mr. Caldwell noted that the County Attorney must be a member of the bar for at least 5 years prior to appointment. Mr. Cannon commented that the Talbot County Charter requires the County Attorney shall have at least 2 years experience. Messrs. Hall and Caldwell each opined that a minimum requirement of 5 years is much better. Mr. Caldwell, recalling the Howard County Charter's intentional protection of the County Attorney's independence and citing recent experience in the City of Salisbury with its City Attorney, suggested the Committee might want to consider language similar to Howard County's. He also opined that he doesn't think a residency requirement is reasonable. A question was raised whether the County Attorney can effectively advise the County Executive and the County Council, particularly when at times the Executive and the Council may have differing views. Mr. Baker responded that in larger counties there are several lawyers in the Law Department. In some cases one attorney will advise the Executive and another will advise the County Council in a situation where the views were divided.

In our county, the County Attorney is the county's attorney. The client is the county, including all departments, the Council and the Executive. He added, the County Attorney gives advice on matters of the law and is not a policymaker. Advice on policy matters comes more from department heads and the administrators. Mr. Creamer added that Section 403 C of the Charter gives the County Council the authority, subject to provisions in the budget, to engage the services of experts, consultants, or attorneys to aid in its inquiries, investigations, or the drafting of legislation. Mr. Caldwell commented that he has no problem whether the County Attorney is a county resident, or whether he is in private practice.

Mr. Baker commented that while he was part-time county

attorney, he also served as town attorney for a few municipalities, all of which were outside of Wicomico County. He noted in one instance the town had considered only attorneys whose law practices were outside of the municipality, to assure the attorney would not be a "local" attorney, who could possibly be influenced by anyone inside the town. Ms. Starkey said that with her residency is not an issue, but she thinks that only 5 years is minimal experience. Mr. Hall reiterated that he sees no problem whether the attorney is a county resident and agreed with 5 years being minimal experience for such a responsible position.

Mr. Kilmer moved to recommend amending Section 507.A. to remove the sentence "The County Attorney shall be a resident of the county at the time of appointment and shall continue to reside in the county for the duration of his term of office." The motion was seconded by Ms. Starkey. Dr. Belcher asked for a clarification of the change in the motion. Mr. Caldwell said the motion is to delete the next to the last sentence in Section 507 A in its entirety. There being no further questions Mr. Caldwell called for the question. The vote was 11 in favor and 2 opposed, Mr. Jones and Ms. Rodriguez. The motion passed.

Mr. Caldwell referred further to Section 507A regarding the appointment and removal of the County Attorney. He asked the committee whether anyone wants to consider Howard County type language, particularly since our County Attorney serves both branches of government. Following discussion there was consensus to ask Mr. Baker to present draft language for Section 507 A along the line of Howard County for the Committee to consider. Mr. Jones asked that a supermajority of the County Council be required for removal. Mr. Cannon asked whether in 507 B the members of the County Council can ask questions of the County Attorney, or does it have to be a written request from the entire Council. Mr. Baker replied the County Attorney can give advice to individual Council members, as well as to the entire body. There were no other recommendations for changes to Section 507.

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Simply put, that CRC body recommended the amendment of section 507.A. to read as it currently does, which the 2012 Council placed on the ballot, and the voters passed by nearly a 4 to 1 ratio.

Then, there's the notion that this CRC recently endorsed that it simply cannot reconsider matters that have been passed by the voters – for example, the County Executive System, which did

not come close to a 4 to 1 approval ratio (it was 58% in favor -- less than 1.5 to 1). And there's a substantial basis to conclude that, if the voters were asked to again decide whether the County should have the Executive system, that would be shot down by a much greater margin than that, because it has been a debacle from the very start.

The motion to amend section 507.A. should have been tabled, as was also moved, until the general ignorance of the Committee could be addressed and, hopefully, abated.

BTW, here's how the Howard County Charter reads, both then and now:

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#### HOWARD COUNTY CHARTER – SECTION 405

(f) TERM OF OFFICE FOR THE COUNTY SOLICITOR The County Solicitor shall serve at the pleasure of the Executive and the Council for a term concurrent with the term of the Executive. The County Solicitor may be removed from office during his or her term by either

(i) The Executive with the consent of a majority of the Council;  
or

(ii) A two-thirds vote of the entire Council.

If the County Solicitor ceases to meet the qualifications set forth in Section 405(a) of this Charter, or is convicted of any crime involving moral turpitude, he or she shall immediately forfeit his or her office.

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