

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	Mark
Last Name	Tyler
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Comments, Questions or Concerns	<p>Good afternoon.</p> <p>I have prepared a letter including my comments on Section 201 of the County Charter. I have emailed that letter to Ms. Hurley for sharing with the Committee.</p> <p>Thanks, Mark Tyler</p>

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April 5, 2021

Wicomico County Charter Review Committee
c/o Laura Hurley, Council Administrator
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Salisbury, MD 21803
via E-mail: lhurley@wicomicocounty.org

RE: Charter Section 201, Council Districts

Dear Committee Members:

I write as a citizen of Wicomico County, having lived in Council District 2 since 2009. In contemplating Section 201 of the Wicomico County Charter, I continually return to a series of questions which I hope you will consider in your review of this section. As you know, Section 201 provides that "[t]here shall be a County Council of Wicomico County, Maryland composed of seven (7) members, five (5) of whom shall be elected from a different Councilmanic District and two (2) of whom shall be elected from the county at large."

1. Would having a total of seven (7) single member districts be more beneficial for our county government than the current system (i.e. districts that were smaller, more manageable for the council member to represent, and be more geographically compact)?

According to one estimate by the U.S. Census Bureau, Wicomico County had an estimated population of 103,195 in 2018. If that total was divided by 5 districts, that would create districts containing 20,639 residents. However, if the total was divided by 7, that would create districts containing 14,742 residents, thereby significantly reducing the number of constituents each member has to represent.

Additionally, increasing the number of single-member districts has the potential of allowing for smaller, geographically compact districts, thereby potentially creating more manageable geographic coverage for the council members serving. Currently, Council District 2 in which I reside, runs all the way from Eden, cutting Fruitland in half, going through Tony Tank and then jumping across the Wicomico River to encompass Quantico, Mardela Springs and Sharptown. Objectively, most people could agree that is an enormous geographic area for a local government representative to serve. It also contains extremely diverse political and geographic interests. Council District 5 currently includes the Town of Delmar and then veers east to encompass much of eastern Wicomico County, including Pittsville and Willards - another enormous area for local government representation with potentially diverse political interests.

It seems possible that increasing the number of council districts may result in a greater likelihood of more geographically compact districts that better reflect the distinct

regional diversity of the county (i.e. West County, East County, Delmar and surrounding regions, City of Salisbury and immediate surrounding regions, Fruitland and Eden and areas south and east, etc.).

2. Should Wicomico County continue to be the only county on the Lower Eastern Shore of Maryland (including Dorchester, Somerset, Worcester) that still has at-large members on its local legislative body?

Both Dorchester and Somerset Counties have single-member district representation on their local legislative/executive governing bodies.

As you may know, in the mid-1990's, Worcester County converted away from using at-large voting in favor of single-member districts due to a federal Civil Rights Act lawsuit brought by local civil rights activists, the National Association for the Advancement of Colored People (NAACP), and the American Civil Liberties Union (ACLU). In that case, *Cane v. Worcester County*, 840 F.Supp.1081 (D.Md. 1994), 847 F.Supp.369 (D.Md 1994), 35 F.3d 921 (4th Cir., 1994), Worcester County's long-standing tradition of having a County Commission elected at-large by all of the voters in the county was deemed a violation of the federal Voting Rights Act. The U.S. District Court found that sufficient evidence had been presented of voting patterns, and past and present discrimination against racial minorities that warranted changing that system. Evidence was presented in that case that no African American had ever been elected to an at-large position in county government under the then-existing system which, the court found, effectively diluted the voting impact of African-Americans. Evidence was presented to establish the political cohesiveness of African-Americans in voting, and that without the creation of a single-member district containing a majority of African-Americans, it was unlikely for that history of disenfranchisement to change.

Worcester County opted to keep the concept of single-member districts although it stopped the use of at-large voting because, as was noted in the opinion of the U.S. Court of Appeals for the 4th Circuit, the county, "preferred residency requirements that would ensure that [Commissioners] were knowledgeable of and responsive to the diverse interests of the various regions of the County." See 35 F.3d 921 (4th Cir., 1994). There are now seven County Commissioners, each of whom represent a single-member district reflecting the diversity of Worcester County.

3. Does the existence of "at-large" representation on the County Council create mixed and potentially conflicting representational duties on the legislative body that could cause conflict within the legislative branch or between the legislative and the executive branches?

In bi-cameral legislatures, we frequently find one house chosen from smaller districts (typically a "house") and another chosen by a larger district like a state or region (typically a "senate"). Members within each chamber therefore share a common representational duty to the same constituencies (districts, regions or states). Those representatives do not serve in the same house and are therefore not presented with the

challenge of having to confront the potentially conflicting focus and scope of their representational duties. Unlike many legislative bodies, the County Council has some members selected from a local district and others from the entire county. Does this create the potential for a council member at some point in the future to view him/herself as a "super" legislator, charged with greater representational duty than his/her peers, and thereby compete with or have conflict with their peers on the Council, or compete with or have conflict with the executive (which is also selected by the entire county) in ways that are counter-productive?

Perhaps it is important to identify the goals behind having a representative local legislative body in the first place. Do we want our elected representatives to a local county council to be accessible and competent on very localized and particularized community needs and issues? Do we want them to accurately reflect the perspectives of the neighborhoods they represent? Do we believe it best serves the citizens to keep legislative (law-writing and law-making) power closest to the people by having the lawmakers be selected from smaller, more compact districts? Do we want to ensure that the diversity of the county is always represented on the local legislative body? If the answer to these questions is 'yes' then it would seem to weigh in favor of increasing the number of single-member districts and ending at-large representation.

4. What would be the harm in switching to seven single-member districts?

Having noted the potential benefits above, the final question I contemplate on this issue is noted here. If we agree that there is a possibility that a switch to single-member districting can create more benefit than harm, then why would we not make the switch? If we agree that more single-member districts can lead to:

- smaller, more manageable district populations;
- smaller and more geographically compact districts;
- conformity with our regional neighboring counties;
- potential avoidance of inter-government conflicting duties and perspectives;
- increased representational diversity of regional perspectives,

then perhaps the time is now for the Charter to be amended to require seven single-member districts.

I hope these questions are helpful as you consider this section further and, if you agree that it would serve the citizens of Wicomico County to make a change, I encourage you to support that change.

Respectfully submitted,

/s/

Mark A. Tyler