

The 2021 Wicomico County Charter Review Committee met on Thursday, April 22, 2021 at 6:00 p.m. in the Flanders Room of the Civic Center, Salisbury, Maryland.

Members Present: Mike Dunn, Chair; Robert Benson, Vice Chair; Dallas Baker, Julie Bellamy, Doug Gosnell, Katherine Jones, Sharon Morris, David Plotts, Michelle Chesnik, Anthony Sarbanes, Wayne Strausburg, Mat Tilghman, Philip Tilghman, Blair Todd, and Sonya Whited.

Staff Present: Laura Hurley, Recording Secretary, and Paul Wilber, County Attorney.

On motion by Mr. Phil Tilghman and seconded by Mr. Sarbanes, the Agenda was unanimously approved.

On motion by Ms. Whited and seconded by Ms. Chesnik, the Minutes from the meeting of April 8, 2021 were unanimously approved.

Ms. Chesnik mentioned that folks have told her they were not aware a Charter review was being done or that these meetings are happening. She then talked about the rural areas possibly not having access to PAC 14 or internet. She said she is concerned that they are making decisions, but there is a portion of the public who do not even know this is occurring. She suggested the Council find a way to advertise it better or maybe put something in the paper to get the word out to give people the opportunity to give input. She said the comments they receive are so few and far between that it really is a shame.

Mr. Dunn recognized Mrs. Nicole Acle in the audience, and suggested she share Ms. Chesnik's comments with her colleagues and maybe at their Council meetings they can announce the Charter Review Committee meetings.

Dr. Jones said there is also a concern about ADA accessibility to the meetings for individuals with disabilities who cannot be present but want to be a part of public comments. She said she thinks the Council has already addressed that to have their meetings open for those who need to call in. She then asked if that is something they can consider, to which Mr. Dunn responded, they can certainly try.

Mr. Baker talked about the amount of work they have and how they are not quite making it all the way through the agenda, and that public comments are really only lasting about 15 minutes. He then suggested they work for a two-hour period and then have public comments instead of stopping an hour and a half in, to which Mr. Dunn responded, they are trying to stop about an hour and 45 minutes in, but they will try to take that temperature each night. He said he thinks it is very important that the public gets the opportunity to weigh in, and perhaps that outweighs the need for ten more minutes of discussion. He clarified, he hears Mr. Baker, and they will do their best to try and gauge the public.

Discussion on Defining "Local Governing Body"

Mr. Dunn said an email was sent by Mrs. Hurley defining Local Governing Body that came from Anne Arundel, which he then read: *Whenever State or Federal law confers a power or duty on the County by language that refers to "the Local Governing Body" or similar language, any action required of the County shall be taken by the County Executive and then referred to the County Council for confirmation.*

Mr. Dunn said there was previous discussion on inserting a definition of Local Governing Body. He then asked for any discussion or motions to add that to Section 102.

Ms. Bellamy made a motion to insert the verbiage from Anne Arundel Section 1014. The motion was seconded by Ms. Chesnik.

Dr. Jones asked if that will alleviate any of the problems with signing contracts because that is what had them pause last time, to which Mr. Baker responded, it sounds like once the Executive signs the contract, it would then have to go to the Council for confirmation. Mr. Wilber clarified, not necessarily. He said an administrative function of the Executive is to sign contracts, and there is a Legislative Section in the code right now about contracts of a certain size going to the Council.

Mr. Dunn asked if this is really for contract language, to which Mr. Wilber responded, all Counties are referred to in State law for different reasons and often there is this language "Local Governing Body", so this clarifies what that means for Wicomico County.

Mr. Dunn said he gets a little concerned by the last part of this statement – any action taken by the Executive and then referred to the County Council for confirmation. He clarified, like Mr. Baker, he is concerned that this might add a layer of confusion, but those are his own personal thoughts.

Mr. Dunn clarified, again, in exercise of powers, this is not just about contracts, this is seeking to add a definition of Local Governing Body. He then asked Mr. Wilber if that means that would be across the board, to which Mr. Wilber responded, yes. He explained, anywhere in State or Federal law where it refers to a Local Governing Body it would be considered to be the County Executive and the County Council. He said they could rework this definition to just say that much if there is concern.

Mr. Phil Tilghman said Mrs. Hurley brought this up originally and said there were instances where this was a problem, to which Mrs. Hurley responded, actually they recently came across this. She then went on to explain a recent situation for a property conversion where State law requires the conversion be approved by the Local Governing Body, but former Executive Bob Culver submitted the application by himself without the Legislative Branch's approval last April and it is just now coming before the Council for approval. She said, basically, it seems as though the County Executive submitted the application and went through the process at the State level, and it came back to the Legislative Body after the fact. She clarified, it should have come before the Council before it was approved by the State.

Ms. Whited asked if that definition would help with that because she does not see how it helps, to which Mrs. Hurley responded, it would help in the fact that it is in black and white that it requires the Legislative Body's approval and not just the County Executive. Ms. Whited said her question was just whether that sentence clarifies that, to which Mr. Baker responded, it does not clarify it on one-year contracts. He explained, right now the Executive can sign one year contracts on his own without having to go to Council, but two-year contracts have to go to Council. Ms. Chesnik asked if this would send everything to Council, to which Mr. Baker responded, yes, and it just adds another layer of bureaucracy. He clarified, he certainly understands that Council needs to be involved on some of the bigger decisions, but with the day-to-day administrative tasks the Executive performs, do they really want to bog down a contract to get office supplies by having to go to Council? He said he feels that is too broad to address some of the issues, and he thinks there is a better way. He suggested the definition probably needs to be reworked. He clarified, the Charter already specifies the abilities of the Executive to sign and what has to go to Council, so maybe the definition should be revised taking into consideration the chapters in the Charter that already specify who has what authority to sign. Mrs. Hurley suggested to keep in mind that it is only when referring to the Local Governing Body, and not all contracts do that.

Ms. Whited asked if Mr. Wilber could reword this, to which Mr. Wilber responded, as a simplifier they could say whenever State or Federal laws confer a power or duty on the County by language that refers to the Local Governing Body, that shall mean the County Executive and the County Council. He clarified, that is a rough version, but they are trying to make it clear that Local Governing Body is both branches of government, and he can have something written for the next meeting.

There being no further discussion, Mr. Phil Tilghman made a motion to table this discussion and bring it back at a future meeting, which was seconded by Mr. Sarbanes and unanimously approved.

Review of Article II. County Council

Section 202-D: Mr. Dunn said there is currently an action happening with the Washington County Commissioners that is an ethical violation versus a Charter violation, and Mr. Wilber is looking at that and looking at some options for Wicomico County. He said they had robust conversation about this at the last meeting, but Mr. Wilber is still doing some work. He then asked if it is okay to come back to this section at a future meeting, to which there was overall general consensus.

Section 202-E: There was no discussion.

Section 203: Term of Office.

Mr. Baker suggested term limits for both the Council and the Executive as he thinks there is general public support for term limits and he thinks it is worth discussing.

Mr. Sarbanes said he does not favor term limits. He explained, they have enough trouble getting good people to run locally, and there is a term limit already in place. He clarified, if someone does not like who is serving, they can vote them out, which has happened in this County and will continue to happen.

Ms. Chesnik agreed with Mr. Sarbanes.

Mr. Baker said he has heard comments that certain candidates are unbeatable and have a tremendous amount of fundraising abilities, so there is never any opportunity for others. He said, in his opinion, power stays in power as opposed to getting fresh ideas and fresh people on the Council, and he feels like this would open up more people to possibly running.

Mr. Baker then made a motion to add term limits to Section 203, which was seconded by Dr. Jones.

Ms. Chesnik asked if this was asked for by the Council or is it something Mr. Baker has just decided he would like to ask for, to which Mr. Baker responded, no one approached him about it, it is just something he has looked at, and he just thinks that sometimes term limits are probably a good idea.

Mr. Benson said they have two different forms of County Council people because they have two at-large and five in districts. He then asked if someone who is term limited in a district can run Countywide, as he thinks that is a practical problem if they are going to term limits. He clarified, he is not saying this is a good or a bad idea, but because they have this dual system it becomes more complicated than just simply saying they are going to term limit County Council people. Mr. Baker said he thinks it would be a flat term limit because they could also have somebody run in District 1 for two terms and then move to District 2 and runs two terms, etc. He clarified, they could just jump around and extend it out however long, so he would say term limits as in two terms, but he is just using the number two as an example.

Mr. Phil Tilghman said, as a person who ran and was elected for four terms, it would be hard to vote for this. He then mentioned Mr. Gosnell who has been a Mayor for a very long time because he is very competent. He said, as much as he usually agrees with Mr. Baker, he does not agree with this.

Mr. Gosnell said the Council elections are not staggered, so they could possibly term limit the whole Council out, to which Mr. Dunn responded, to Mr. Sarbanes' point, they could term limit them out every four years anyway. Mr. Gosnell said, if they are limited to two terms and all run and win for two terms, after eight years they are done, so there would be seven brand new people who know nothing about the County. Mr. Baker suggested staggering them at some point. Mr. Dunn said the City of Salisbury had staggered elections for a long time and just got out of it about ten years ago because it was challenging.

There being no further discussion, the motion to add term limits to this Section failed.

Section 204: Compensation.

Section 204-A:

There was no discussion.

Section 204-B: Compensation and Allowance Commission:

Section 204-B.1

Mr. Dunn said he served on the Compensation Commission approximately four years ago and one of their recommendations was to move the time period to submit the report from the fourth year to the first year. He explained, they made this recommendation because, if a proposal comes forth to increase the compensation of the County Councilmembers during the fourth year of a term, that is a difficult conversation to have the year of an election. He clarified, he is just sharing that as a point of discussion since he happened to have served on that Commission.

Mr. Mat Tilghman said he looked at this quite a bit and feels the first year is too early, but agrees with the concept that starting in the beginning of the fourth year is really too late. He said he had the idea of going back about 18 months before an election, so maybe they would appoint the Commission on July 1, and the Commission would be given a timeline to complete their work and make their recommendation. He said he does not know if the Council has a timeline to make their decision, but that would take it far enough away from the election that it would be fair to the candidates and the public.

Mr. Phil Tilghman made a motion to change the word "fourth" to "first" as the former Commission suggested because he thinks that makes sense. He said the new Councilmembers are going to appoint qualified people to review this and make recommendations.

Mrs. Hurley clarified, this is dictated by State law, so they might want to have Mr. Wilber look at it.

Mr. Phil Tilghman changed his motion to state that they will make the recommendation to change the word "fourth" to "first" if it complies with State law, which was seconded by Mr. Sarbanes.

Mr. Benson said, for the people who may be watching on PAC 14, it was suggested by members of the County Council to talk about this Section and make some changes. He said maybe Mr. Phil Tilghman could amend his motion because Council has suggested changing the word Resolution to the word Report. He clarified, if they are going to make a change in this paragraph, then the word Resolution in paragraphs 1, 2, and 3 should be changed to Report.

Mr. Phil Tilghman then amended his motion to state that they will make the recommendation to change the word “fourth” to “first” if it complies with State law, and to change the word “Resolution” in paragraphs 1, 2, and 3 to “Report”. The motion was seconded by Mr. Sarbanes.

Mrs. Hurley clarified, when the Compensation and Allowance Commission comes before Council they present their report, but Council does not necessarily have to take any action, so a Resolution is not presented at that time, and the question is whether a Resolution should be presented with the Report so they are forced to take some type of action, or should the word Resolution be changed to Report.

Mr. Dunn said, when the former Commission brought their recommendations before the Council, they were summarily dismissed. He said they did about a five minute report, there was no discussion, and they wanted no part of the Commission’s recommendations. He clarified, again, he is offering that only by experience, so, to Mrs. Hurley’s point, he thinks she is suggesting that keeping Resolution in there gives it more teeth, to which Mrs. Hurley responded, that is up to this Committee. Mr. Dunn clarified, he does not want to put Mrs. Hurley in a difficult position, but he thinks that is what she is saying.

Mr. Mat Tilghman said he is still concerned about the Council getting the report and taking no action, to which Mr. Dunn responded, in the same way that the Council could take the report on the work they are doing right now and take no action. He clarified, in theory that could happen, and he is not saying that will happen, but these are just their recommendations. Mr. Mat Tilghman said that does not seem fair to all parties concerned, the people who spent months looking at it trying to be reasonable and fair to their fellow County residents, the County Government, and the Elected Officials. He said it should not be too politically motivated because they choose the group of people they want, who should come up with something reasonable. He said it seems to him that Council should have some obligation to take action, to which Mr. Dunn responded, they took action. He clarified, the action they took was to thank the Commission but say no thank you, to which Mr. Phil Tilghman responded, that has to remain an option. Mr. Mat Tilghman said he does not disagree with that, but he is saying they should be given a timeline to take action rather than just bury it. Mr. Dunn said, again, the action they took was to not act on the recommendations.

There being no further discussion, on motion by Mr. Phil Tilghman, seconded by Mr. Sarbanes, and unanimously approved, the recommendation was made to change the word “fourth” to “first” if it complies with State law, and to change the word “Resolution” in paragraphs 1, 2 and 3 to “Report”.

Section 204-B.2:

Ms. Whited said the Council raised the question as to whether the Compensation Commission should make a recommendation on the compensation of the Sheriff, to which Mr. Dunn responded, they did not consider that previously, as that was not part of their charge. He then asked if this group wants to discuss this because he does not know if they are allowed to change that. Mr. Wilber said he will check on that, but he is not sure that is something the Compensation Commission has any jurisdiction over. Mrs. Hurley said her recollection is that the Commission has done research on the Sheriff’s salary just as a courtesy. She clarified, it is not written in the Charter, but it was brought up by Council that perhaps that is something they should be required to do. Mr. Wilber said he will look into that.

Section 205: Vacancies

Mrs. Acle came to the microphone and explained that there was a Charter amendment made in 2016 so that anyone appointed to Office would then have to run for Office in the next presidential election, and this actually happened twice in one term, so she will give the Committee a scenario of what happened most recently with herself. She said she went through an interview process and was appointed to the Council in July 2019 and then had to file for candidacy in the fall of 2019 for her election in 2020. She said she won that election, so she is in Office, but has to file another candidacy in 2021 and then she will have her next election in 2022. She said, as they can imagine, that is a lot of campaigning and political planning where she did not really have an opportunity to show who she is as she was only on the Council for four months and filed for candidacy. She said there are several issues that come into play here, and first she thinks the largest issue in their County is finding good, qualified candidates who want to run, and then the expense of running. She explained, there is a price tag with running a campaign and doing that twice within a four-year period is something where they have to find a candidate who can sustain that, so that is one barrier she thinks this particular Charter amendment brings to the table as it is somewhat a deterrent. She clarified, it was not for herself, although she did not know she had to run within six months of being appointed, but she thinks, if that is presented to candidates, it would be a deterrent to even get someone who wanted to be appointed, and that goes back to Section 205 with vacancies and how they are selected. She said it sounds like the description of when she was selected, so she cannot really speak to it, but that is one barrier of getting candidates who want to be appointed. She clarified, she says this for herself, but this also happened to a School Board member.

Ms. Chesnik said she really thinks the Central Committee should be pulled out of the process, as she does not think they are the best option for finding a candidate who will do what the County needs.

Mr. Dunn responded, as it reads now, it suggests that the only way forward is through the State Central Committee of either party, but maybe that is an option and not the only way. He clarified, that is how he is reading this.

Mr. Sarbanes agreed and said it ought to be of the same party, but the Central Committee ought to be out of it. He said they ought to apply directly to Council, and let Council interview them and decide.

Mrs. Acle came back to the microphone and said this is definitely a process of recruiting people, and when they start deviating from State law and how the State Code is written, it adds more problems. She said she is not sure why this Charter amendment was made, and maybe Mr. Wilber can speak to that, but sometimes the State law reads a certain way for a reason and they start changing it they just discover new problems.

Mr. Mat Tilghman asked if an individual who is a registered independent can apply, to which Mr. Dunn responded, as currently written, the replacement has to be of the same party as the person being replaced. Mr. Mat Tilghman then asked what would happen if the individual who left was an independent, as there is no Central Committee for independents that he is aware of.

Ms. Chesnik asked Mr. Wilber to explain how the Central Committee comes up with the candidates, to which Mr. Wilber responded, he thinks people applied. He said they were interviewed and then a slate was presented to Council for selection.

Mr. Strausburg said, to Mrs. Acle's comments, it seems to him that it would greatly simplify things if an appointed replacement served out the balance of the term.

Mr. Phil Tilghman said, if he was a registered republican and elected to Council but then moved away, he would want members of his party making the choice, not the Council, which may be dominated by democrats. He said this happened in this County a long time ago when Mr. Emerson Holloway passed away and was replaced. He explained, Mr. Emerson Holloway was a republican, but it was a democratic-controlled Council who chose his replacement and chose someone they thought was unelectable in the next term. He said the Central Committee might be unwieldy, but they go through a process and he does not favor changing that.

Mr. Gosnell said they could have a Council with only two members of a particular party, and the Central Committee has 10-15 members who are elected by their party to serve this County, so he does not see any other way they could do that. He then raised the question of why the entire Council voted on who would replace Marc Kilmer and said he thinks it should only be the people representing the party.

Ms. Chesnik agreed with Mr. Gosnell. After further discussion, Mr. Gosnell suggested changing the verbiage so only the Councilmembers of the same party of the vacancy vote to fill the vacancy. Mr. Baker asked, what if there is only one member of that party on the Council, to which Mr. Gosnell responded, then he votes. Mr. Baker asked, what if there are six democrats and one republican and the one republican moves? He said the Central Committee would put names forward, but Mr. Gosnell is saying that only a Councilmember of the same party as the person who left can vote. He said, in that instance, there would not be any republicans on the Council, so there would be no possible way for anybody on the Council to vote for the replacement. Mr. Gosnell said that could be a scenario, but, out of a courtesy, those six democrats should place the nominee on the Council.

Ms. Bellamy said she believes utilizing the Central Committee gives the sitting Council a buffer, whereas they are not making the decision as Elected Officials to pick the person who is going to round out the vacancy. She said she likes it the way it is because it has checks and balances in there. Ms. Chesnik asked if what Ms. Bellamy is saying is that they would not need a Council vote to place that person, to which Ms. Bellamy said, the Central Committee names people and then everybody on the Council votes.

Mr. Phil Tilghman said it is not perfect, but it works, or it can work, so he moves that they leave this unchanged. Mr. Dunn clarified, they will not need a motion to keep it the way it is, only if someone wants to change it.

Mr. Mat Tilghman clarified, he is not an independent, but he is curious as to what percentage of their registered voters have declared themselves independent, to which Mr. Sarbanes responded, 20 percent are independent, 36 percent are republican and 42 percent are democrats in Wicomico County.

There was then discussion about what would happen if an independent on the Council passed away since there is not an independent Central Committee. Mr. Phil Tilghman said the Council would have to come up with a way of soliciting names for independents who would like to fill the Seat, to which Mr. Mat Tilghman responded, that makes it too political. He clarified, if they have two independents and one independent leaves, the democrats and republicans could ask the State Central Committee to do it and not invite any independents, so the independents would not have a chance. He said 20 percent is certainly not a majority, but it is not insignificant.

Mr. Baker asked how many independents have been on the Council, to which Mr. Sarbanes responded, none. Mr. Baker said, no offense, but he feels like they are worrying about something that has not been an issue when they have things in front of them that are issues.

Mr. Benson said Section 206 references Section 205, so if they are going to make any changes in 206, he thinks they need to change Section 205. He clarified, he is not suggesting they should change 206, but it seems that they may want to talk about 206 before making any decisions on 205.

Section 206:

Mr. Strausburg made a motion that, once a new person is appointed to a vacancy, they serve out the balance of the term of that Council. Mr. Dunn asked if this motion would eliminate Section 206, to which Mr. Wilber responded, he thinks it does. Mr. Benson said it would also take the sentences out of 205.

Mr. Baker said, for clarification, if this is dismissed, do they need to then replace it with something that says for the remainder of the term? He said this just says the person does not have to do the special election. Mr. Dunn suggested addressing that in Section 205 by adding a sentence.

There being no further discussion, on motion by Mr. Strausburg, seconded by Mr. Plotts, and unanimously approved, the recommendation was made to strike Section 206 from the Charter.

Mr. Mat Tilghman said Section 205.a says, unless there is a special election as described in 206 to fill the Seat, any member shall serve for the unexpired term. Mr. Dunn suggested just eliminating the first part of that sentence and say any member so elected shall serve for the unexpired term.

There being no further discussion, on motion by Mr. Mat Tilghman, seconded by Mr. Strausburg, and unanimously approved, the recommendation was made to eliminate the statement “unless there is a special election as described in Section 206 to fill the seat.”

Mr. Gosnell said he thinks the whole Section 205-A on how a vacancy is filled, what Body does that, and who votes on it once the candidate is presented needs to be changed. He said he would like it to be the Central Committee as they are the representatives for their party. He said the verbiage saying majority vote of the remaining members needs to be struck and it should say the remaining party members. He clarified, the opposing party should not be voting for a member of the Council. He said, without Mrs. Acle it was three and three, so right now District 2 could still be without a representative because they could still be held up. Mr. Dunn said there could be a scenario where there would be no one of a particular party left. He clarified, if there are six republicans and one democrat and the democrat moves away or passes away, there is no democrat on the Council to vote for the democrat. Mr. Gosnell asked how often that happens, to which Mr. Dunn responded, he is not sure how often it will happen, but they are setting up a scenario where it could happen.

Mr. Benson said the Council has the authority to appoint a person to fill the vacancy and he does not know how they can take any member of the Council out of that decision. He said, while what is being proposed may have merit, it is probably not legal because it is Council's prerogative to make the replacement. Mr. Wilber suggested voting on the motion and if it passes he will then check legalities.

Mr. Gosnell made a motion to strike “by majority vote of the remaining members thereof” and replace it with “by majority vote of the members of the party of the nominee” in Section 205-A, which was seconded by Ms. Chesnik. The motion failed.

Mr. Strausburg said unaffiliated voters are an increasing population, and he thinks if they do not address how they would replace an unaffiliated Councilmember they are going to have the possibility of a debacle sometime in the future.

There was then some discussion as to what an independent or nonaffiliated voter is. Mr. Dunn explained what it means to be unaffiliated or independent, and said there is not a provision in the Charter to address the case of an independent Councilmember leaving Office and needing to be replaced.

There being no further discussion, on motion by Mr. Sarbanes, seconded by Mr. Strausburg, and unanimously approved, the recommendation was made to add a line saying "To fill a vacant position of an unaffiliated member who has left Office, unaffiliated voters would submit their name to the County Council."

Article III. The Legislative Branch

Section 301: Composition

There was no discussion.

Section 302: Legislative Powers

There was no discussion.

Section 303: Officers

There was no discussion.

Section 304: County Administrator and Special Assistance

Section 304-C:

There was discussion about the Council's suggestion to remove the words "by Resolution" and the suggestion that this part of the Charter be consistent with Harford County, which has a provision specifically stating that the County Council can have an Office of Council Attorney.

Mr. Dunn said, for background, this provision says the Council may engage the services of experts, consultants, or attorneys to aid in its inquires, investigations or the drafting or codification of Legislation. He said they currently have a County Attorney and a County Council Attorney position that is currently vacant and he believes the County Council is working on filling that position, but, as he reads it, he does not see where they currently have a provision for a permanent County Council Attorney as this seems to suggest they can hire one as needed. He said, as someone who watches and pays attention, his opinion is that it has often been a little bit awkward to have the County Attorney opining on a topic and the County Council Attorney opining differently on the same topic. He clarified, he is not saying which is right, he is saying the optics of that from where he sits are bad optics. He said, if this Committee wants to go down this road, it would seem to him that this is where they might address that.

Mr. Sarbanes said, in 2004 the County Council went through the Charter and it called for a Department of Law. He said he remembers saying to the other Councilmembers that it sounded like there would be one attorney advising both Bodies and, as long as they get along, that will work, but the County Executive would appoint the County Attorney, so the minute they do not get along, they will have a problem, and, unfortunately, he thinks they saw that happen. He said he thinks they are going to end up

with the County Executive having an attorney advising him and a County Council Attorney advising them. He clarified, he is not saying that is ideal, but he remembers saying it and being laughed at, but one attorney cannot serve two masters.

Mrs. Hurley said, on the list of questions submitted by the County Council there is also a question as to whether or not there should be an in-house Legal Department. She explained, right now Mr. Wilber is outside Counsel, but he still has the Law Department's budget.

Mrs. Hurley said this Charter Section not only refers to appointing an attorney by Resolution, but there are also times where they appoint forensic auditors, and they may not want the public to know they have done that. She said they could also appoint a litigation attorney and not want the public to know, which is done by Resolution and comes to Council at a public meeting, so that is where the concern is.

Mr. Baker said he does not fault the Council for needing to have an attorney and having one on staff, and needing an Administrator, but he has a bit of an issue when the Executive wants to have a lawyer and it has to be approved by the Council, and the Executive's Administrator has to be approved by the Council. He said, meanwhile, the Council has no checks and balances on itself and can hire who it wants without the approval of the other side, whether it be the Administrator or lawyer. He said he firmly believes in checks and balances, and there are none here. He said he thinks the Council Administrator and Council Attorney should get the sign-off from the Executive the same way the Executive has to get the sign-off from the Legislative Branch, or it could be just the opposite where neither branch needs the other's approval. He said he thinks it should be fair for both the Executive and Legislative sides.

Mr. Dunn said, if anyone has been paying attention over the last five years or so, what they are talking about right now is really the crux of some of the challenges, and this is a tough rabbit hole to go down, but he thinks it needs to be addressed. He said Mr. Baker made a strong point that the County Executive must go to the County Council for approval of appointees, and the County Council does not have to do that in reverse. He clarified, he is not saying that is good or bad. He said this Section suggests that if the County Council at any point in time feels the need to hire outside counsel for a specific task, this gives them the right to do it, but as he reads it, he does not see anything in the Charter that allows the County Council to have its own attorney. He said Section 500 addresses the Department of Law, which has been established, but was not necessarily adhered to by the last County Executive.

Mr. Mat Tilghman asked Mr. Wilber to clarify the difference between having the word Resolution in this section versus striking it, to which Mr. Wilber responded, by Resolution means it is going to be at a public meeting, but there may be a reason to have some confidentiality about the selection. He said, for instance, for a forensic auditor, they might not want to telegraph what they are going to investigate.

Dr. Jones made a motion to strike "by Resolution" which was seconded by Ms. Whited

Ms. Bellamy said she is worried about transparency. She clarified, she knows there are Closed Sessions where they talk about things they cannot divulge, but she has a problem with transparency on that level and also on the staff attorney level.

Mr. Dunn asked if a Resolution could read the County Council is authorizing special counsel to discuss a private matter, or would it have to be more specific, to which Mr. Wilber responded, he thinks in terms of having it as part of a Resolution, it could be a Resolution that just says the name and that they will be hired as special attorney without going into the confidential nature of whatever the task is. Mr. Dunn

asked Mr. Wilber if it is better to have it be by Resolution or not by Resolution, and is transparency being put at risk if they get rid of the phrase “by Resolution”? He clarified, he is not taking a position, he is simply asking, to which Mr. Wilber responded, certainly a Resolution is the most transparent way to do it. He said he thinks it can be done by Resolution, but be very brief, succinct and not revealing. Mr. Dunn asked, if not by Resolution, how would they hire said individual, and would it be privately without it ever coming before the public, to which Mr. Wilber responded, that is how it would have to be.

Ms. Morris said, in definitions, the word Resolution means a measure adopted by the County Council having the force and effect of law but of a temporary or administrative character, so she thinks, to Mr. Wilber’s point, the word Resolution needs to stay in there.

Mrs. Hurley said a lot of contracts, including the Council Attorney’s contract, are approved by Resolution. She said the contracts can be less than a year, or they can be 20 years. She clarified, she gets what they are saying that it is temporary and not permanent, but it is a long temporary.

Mr. Sarbanes asked, if Council wants to hire an attorney without the Executive knowing, is there a line item in their budget, to which Mr. Wilber responded, the Council budget has a line item for consultants.

Mr. Baker then talked about the fact that Council can hire individuals and pay for them out of their own budget. He said the Executive puts forward a budget and the Council approves it, and the Council puts forward their own budget and he does not believe anybody approves it but themselves, so now they have been given the ability to hire anybody they want without telling anybody and can spend any amount. He said the money the Council spends comes out of the whole County budget, so there are no checks and balances, they can hire who they want, pay what they want, and there is no oversight. He said he will bring this topic up later when they get to the budget because he feels the Executive should have oversight over the Council’s budget the way the Council has oversight over the Executive’s budget.

Mr. Dunn then called for a vote for the motion on the floor.

There being no further discussion, the motion by Dr. Jones and seconded by Ms. Whited to remove the words “by Resolution” failed.

There was then some discussion on whether the Council should be able to hire their own attorney and if they want to address that in this Section. Mr. Benson clarified, under this Section, the Council can hire an attorney if they choose, just not permanent. He said there was a citizen suggestion that it should be considered a permanent position and put in the Charter, and there was also a suggestion to use the language in Harford County. He said the question is whether the Committee believes this should be a Charter position or it should be left up to the discretion of the Council as to whether they need it or not. He said, as he reads Section C, it is at the prerogative and discretion of the County Council, but, if they put it in the Charter, it is no longer a discretionary matter, it becomes a permanent position.

Mr. Baker said he is not in favor of putting a permanent Council Attorney in the Charter who would then hire staff as that would just add a lot more cost to government. He clarified, he does not fault the Council for needing to have access to a lawyer, but this sounds like it would be two Law Departments.

Mr. Dunn suggested discussing this topic further when they get to the Section of the Charter that discusses the Department of Law.

Mr. Baker made a motion that the Council Administrator and any positions described in Section C would have to be approved by the County Executive to have the oversight. There was no second to the motion.

Dr. Jones asked, what kind of situation would there be where that would occur, and has it happened where the Council has hired consultants without the Executive being aware, to which Mr. Wilber responded, yes, it has happened. There were then some examples given where the Council hired an attorney without the Executive's knowledge.

Section 305: County Internal Auditor

Mr. Baker said, again, he feels like the Internal Auditor should also be approved by the Executive, and he disagrees with Part F where it says the Auditor's actions are exempt from Executive veto. He said, again, it just seems like a weaponized position against the Executive.

Mr. Dunn then asked for some background on when the position of County Internal Auditor was created. Mr. Phil Tilghman said he does not remember the circumstances, but there was concern about the Detention Center and the funds there were not really subject to the PKS audit. Ms. Morris said the Internal Auditor position did not come until Mr. Pollitt took Office. Mr. Dunn asked who created the position, the Council or the Executive, to which Ms. Morris responded, it was done in the Charter. Mr. Benson clarified, there was a Charter amendment in 2010.

Mrs. Hurley said the Internal Auditor's position was also a result of the fuel theft that happened in 2008.

Mr. Baker clarified, he does not dispute the need for an Internal Auditor.

Mr. Baker made a motion that the Internal Auditor position should be approved by the Executive, which was seconded by Ms. Morris.

Mr. Phil Tilghman said the County Executive appoints all the Department Heads and they report to him only, but, by Charter, the County Council cannot even go to the Department Heads and say they want something done. He said, by definition, the Internal Auditor is independent and can audit any Department and probably should just report to the County Council if that is the case. He clarified, this is the first time he has thought about this, but those are his initial thoughts.

Mrs. Hurley clarified, the Internal Auditor reports to both branches.

Mr. Dunn said his question is why it falls under the Legislative Branch as opposed to the Executive Branch, to which Mr. Benson responded, his impression is because the County Executive controls the budget, the only way to have an Internal Auditor oversee what the County Executive is doing is to have an independent auditor.

Mr. Baker clarified, the Internal Auditor is different from when they hire the outside budget auditor, and the Internal Auditor looks more at processes. He said, when he worked for the Wicomico County Public Works Department, the Internal Auditor would ask if there was anything that needed to be looked into, and he gave input regularly. He said, getting back to the budget, it was not just the Internal Auditor, there was an Assistant Internal Auditor, so the Council was using the County's money to hire and expand staff with no oversight on the budget process.

Mr. Mat Tilghman asked what the procedure is for the Council to override the Executive's veto, to which Mr. Wilber responded, a supermajority vote, which would be five votes.

Mr. Baker said the way Section F reads now, all actions of the County Council pursuant to this Section are exempt from Executive veto, but if the Executive and Council are both part of the process in charge of the Internal Auditor, then he feels that taking away the Executive veto unfairly hinders that.

There being no further discussion, on motion by Mr. Baker and seconded by Ms. Morris, the recommendation to change the language in the first line of Section F to add "and County Executive" and eliminate the last line in Section F that says "All actions of the County Council pursuant to this Section shall be exempt from Executive veto" passed by a vote of 8 to 6 with one abstention.

Public Comments:

Mr. John Palmer came to the microphone and said the discussion on Sections 205 and 206 was kind of interesting because he was appointed to a position one time on the School Board and then he was elected, and then fully elected to the Central Committee, so their views on the avenues taken to get these positions were kind of interesting to him, and he found it very informative. He said he thought Sections 205 and 206 said people would either be appointed or by a special election. He then suggested that a special election would cover the independent voter and the registered independent voters would vote for who would replace the person no longer there. He clarified, that is just a personal observation.

Mr. Palmer said another observation is that he was at a County Council meeting on Tuesday and he believes the only people who were there were Mrs. Hurley, Mr. Wilber and Mrs. Acle and he was the only one in the audience at the time. He said he listened to their Internal Auditor, which is a high paid position in the government, give a report on a workplace cultural audit. He said he thinks in the organization he is with that would not fall under anyone in Finance, it would fall under their Human Resource Director, so he does not know if that was wise use of a very high-paid County Official.

Mr. Palmer said he will echo Mrs. Acle in that this Committee provides a very good service to the County about decisions they are going to be following for a long time, and he appreciates them taking their time to step forward and do it because he knows it takes a lot out of their personal life to come here and do this, and they are going to be doing it for months. He said he does not think he will be here for all of the meetings, but he will be here for a number of them.

Mr. Palmer said the time period between Charter Review Committees is ten years, and he believes someone mentioned ten years is a long time. He said, in today's age, things move very quickly, changes happen very rapidly, and he just thinks ten years is too long before they hold a session such as this. He said he thinks it ought to be maybe half that time. He said he also noticed at the beginning there were some problems with getting the format together because they did not have much to follow from the last Charter Review Committee, but he has noticed they got it together. He said, as they go along, he would like to see Mrs. Hurley develop a suggested format for the next Charter Review Committee, and that would give them a starting point and maybe they could jump in a lot quicker and get things moving.

Mr. Palmer said he has one final thought, which is not positive, and is his reasoning for having a Charter Review every five years. He said Legislation has passed about an enabling Legislation for the County Council to give tax credits to developers and investors in Wicomico County. He said this could be a good thing, or it could be a bad thing, they do not know because he has seen both sides of it, but if it is a bad

thing, he would hate to see ten years go by before anything is done about it because by that time the resources to the people in the County could be devastated. He said he thinks when that is signed into law it is going to come under the Committee's jurisdiction for review because it will be in the Charter. Mr. Wilber clarified, it will be a State law where Council would be enabled to take action if they wanted, not a Charter amendment. Mr. Palmer said the action Council could take could be maybe doing it every five years and somebody mentioned a supermajority on something. He said this Legislation was passed on a simple majority, just four people, and it is going to affect everybody in the entire County. He said it is not just like buying new school buses for the school system, this decision is going to affect everybody in the County, so instead of a simple majority, they might suggest it be changed to a supermajority.

Mr. John Rankin came to the microphone and said he was glad to hear Mr. Dunn say that any motion passed in this process can be revisited later because, during the discussion about Central Committees and having an independent compete for a County Council Seat, someone asked if an independent has ever served on the Council, and the response was clearly no. He said some took that to mean that the panel was debating a situation that does not need to be debated because it never arises, but the conversation should not end there. He said the fact that an independent candidate has never served on the County Council does not necessarily say that independents do not run for Council, instead it could mean that independents are unfairly kept out of the process, and this applies to libertarians, socialists, etc. He said this is a problem that needs to be fixed, and this panel should consider finding a remedy to the fact that 20 percent of registered voters are being shut out of the election process.

Mr. Taylor said he looks like he does tonight because he did not know until very shortly before 6:00 p.m. that they were meeting tonight. He said he looked on the website for the agenda two or three days ago and did not see anything so figured there was no meeting, so his first suggestion is to put more on the website and put it on the homepage. He said the homepage of the County website right now still has a notice for the County Executive's meeting right here in this room a month ago on the budget. He said it is still noticed on the homepage of the website, so take that off and put stuff up about this Committee, which is much more important at this point than a meeting that was held a month ago. He said he thinks there are some other things that should be publicized. He clarified, Mr. Wilber, as he understands, is now being tasked with various research and recommendations, and he thinks those should be made public on the website so people can see them and comment on them as they may desire.

Mr. Taylor said he wants to address a personal matter. He said there were some suggestions tonight that there was a lot of tension between the Council Attorney, which for the last three and a half years was him, and the County Attorney. He said he thinks there were a couple minor points where they probably disagreed, but he thinks on almost all the big things they probably agreed, and that is particularly true of the big issue with Mr. Culver and some of the things he did, so he thinks that any suggestion tonight to that nature was totally overblown. He said he is not going to ask for an apology, he is just making a statement.

Mr. Taylor said he agrees with the Committee's decision on term limits. He clarified, he does not disagree with everything but he wants to point out the comment was made by someone that a lot of Legislative Bodies essentially do not like Legislative term limits, but that is just not the case. He said the only federal term limit is the President, and there are no term limits for Congress. He said, in the State of Maryland General Assembly there are no term limits, but there are for the Governor. He said some Counties have term limits, not all of them, but, as a general rule, the Executive Counties are more

limited than they are for the Councilmembers and in some Counties it only applies to the Executive. He said some Counties, like Wicomico, do not have term limits, and he thinks it should remain that way.

Mr. Taylor said, just to give the Committee a heads up on the Compensation Commission, Section 406 refers back to the Section they discussed tonight and essentially says that procedure also applies to the County Executive. He said Mrs. Hurley mentioned there is State law on this, and he has a memorandum he did for the Council a couple years ago that he thinks she is going to circulate on this particular point. He said the State law does not apply to the County Executive, it is just in the Charter they decided to make it that way some time ago, but he just does not know when.

Mr. Taylor said he really thinks they need to look more thoroughly at other Counties and discuss things in more substantive detail before making decisions. He said, for example, filling vacancies – every County has something on this, including the non-Charter Counties because they have the same issues with Commissioners. He suggested they look at what other Counties have, and he has seen some that have provisions for independents. He suggested they take a look at some of the other language and not just Frederick County. He clarified, Frederick is fine, he is not trying to shortchange Frederick County, but there are 23 other Counties and some of the others are a bit more sophisticated than Frederick County.

Mr. Taylor said he talked about the County Attorney the last time and it was briefly mentioned tonight. He said he thinks it makes a lot of sense and he agrees with Mr. Sarbanes when he was eluding to the fact that maybe there ought to be a separate Legislative Body Attorney. He said most Legislative Bodies have their own attorneys. He said Harford County has the system discussed, and just about every other Charter County has something like Wicomico currently has about the Council being able to appoint experts, consultants and attorneys, so that is not an unusual provision. He said he thinks as sophistication and things change, the Harford County method makes an awful lot of sense and he would suggest they think about that very, very seriously.

Next Meeting Date and Time:

Mrs. Hurley said the next meeting is the first Thursday in May, which is May 6 at 6:00 p.m. in this room.

There being no further business, the meeting was adjourned at approximately 8:00 p.m.



Mike Dunn, Chairman



Laura Hurley, Recording Secretary