

The 2021 Wicomico County Charter Review Committee met on Thursday, June 3, 2021 at 5:00 p.m. in Council Chambers, Government Office Building, Salisbury, Maryland.

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

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

Guest Speaker: Walter Olson, Chair of Frederick County Charter Review Committee:

Mr. Dunn introduced their guest speaker, Walter Olson, and said he was a member of the Frederick County Charter Review Committee. He then gave a brief history of Mr. Olson's background.

Mr. Olson came to the podium and thanked the Committee for their hospitality and said it warms his heart to hear Frederick County singled out for having done a good job on Charter review because he thought their process went very well. He said he thinks they were collegial, got things done, became friends with each other personally, and made the most of their time. He said they wound up making eight proposals to the County Council, and they were pretty well received.

He said, as background, this was kind of the shakedown cruise for Charter government in Frederick, as it had only been adopted within the previous ten years, so this was the first Charter review effort, which in some ways simplified their task because the voters had supported the introduction of the Charter, so they did not see their mission as being to rethink anything major because that vote was too recent. He said they were instead going to finetune things that had not worked out quite as hoped, or in some cases things that they had not gotten around to resolving when they actually wrote the original Charter the voters proposed. He said he does not know how many proposals this Committee has gotten from citizens of Wicomico County, but they were inundated with dozens and dozens, many from players like members of the Council, the County Executive, and the agencies and administration of Frederick County. He said they more or less took everything seriously that came from many of the sources like that. He said they got lots of ideas from the public, some of which were extremely good, others which were impractical in ways that he will talk about in a minute, but they settled down to a two-stage method of dealing with them. He explained, rather than have a full debate about all of them, they would announce on the agenda which ones they were taking up, and he believes they followed exactly the same process as this Committee, which is to start at the beginning of the document and where a change occurred, and that way they were able to group together all the stuff related to budgets and all the stuff related to elections and not have to reeducate themselves seven weeks later but did all of the relevant homework at the same time, so that made total sense.

Mr. Olson said they had a preliminary discussion of the proposals that came in and then voted on whether to workshop them, and it took three of seven members to promote it to workshop. He said their County Council, and as a result their Charter Review Committee because it was one appointee per member of the Council, were split four to three in a partisan way, so that provision meant that if three felt strongly about something they could get it promoted to a so-called workshop, which simply meant a more elaborate prepared debate announced to the public a little more carefully. He said they found that two-step system worked very well and there were a lot of things they could screen out by not sending them to workshop, so they could delay some things until they knew more about them before deciding.

He said they were able to give at least some discussion to all proposals, but not try to allocate an hour to each. He said then when it went to the full Committee at a later meeting, someone would be asked or pressured to volunteer for what they called floor leader. He clarified, the floor leader was not someone necessarily in favor of the proposal. He said, indeed, he remembers with one of the proposals from their County Executive, he could not decide whether he supported it or not, but he was happy to be the floor leader because no one had decided what they thought of it. He said the role of the floor leader was to do all of the homework that seemed relevant, be prepared to answer any questions, and be prepared to give a presentation that did justice to the best case for and the best case against with the most relevant points in both directions. He said he thought everyone acquitted themselves very well both as far as the impartial way in which they did not try to sabotage proposals and in doing their homework. He said, without that, he thinks they would have been in a lot of trouble because it would have been too easy for everyone to assume someone else would do their homework, especially on the complicated or boring things. He said this way there was responsibility and someone was well prepared.

Mr. Olson said he will talk about timing issues because these were things that surprised him a little bit as a first timer. He said, indeed, they were all first timers, although one of them had audited the meetings that led to the adoption of the County government. He said there were, for example, good ideas they recognized as ideas that probably would have come out of the majority but simply could not be stepped out in the time needed to make their recommendations. He said, even though the Administrative staff was extremely helpful, there were some things, but he cannot possibly fault them. He said, for example, someone proposed having a County ombudsman until someone warned that the school system had just gotten an ombudsman and it had taken two solid years to work out all the legalities and they realized there is no way. He clarified, they may like this idea in principle, but whoever likes one of these ideas needs to start a year or two before, maybe two years before the Charter review process begins or else it is just too late for some of the more complicated ideas, even if they are good. He said it is too late for this Committee, but when they are giving people advice in the future, unless the idea is simple or someone who has been able to do a lot of research and legalities, urge them to start early because a bunch of ideas fell by the wayside for that reason.

Mr. Olson said there is a second thing he realized about timing. He explained, their County Executive pulled him aside to give him advice and said please do not send 12 proposals as it ruins the ballot and it means that people can get mad at one thing and drag it all down if there are lots of things on the ballot. He said they took that to heart and realized as they went along that there is an attention budget, just as there are financial budgets, that they could not impose on the voters or themselves for too much attention. He said things were really at the margin that seemed they were probably just barely better than ideas, and it was a reason to cut them because they wanted to keep that attention budget tight. He said he realized afterward with what the County Council did that there was a little bit of slippage or leeway, which they did not tell his Committee about. He clarified, they sent eight proposals to the County Council, and there was one they voted down, but the Council took it up and adopted as their own. He said the head of the County Council knew something he had not seen coming, which is they do not have to put them all on the ballot in the same year. He said they spotted one that did not have to be done for several years so they did not put it on that year because it could wait. He said, of the eight proposals they were left with, a much smaller number went to the ballot that year, and particularly they held back a couple of the hot button things that could send the public absolutely bananas in divisive debate. He said he believes there was a pretty substantial consensus across all the points of view. He said, again, that is a shrewd way of doing it, but different Councils may behave differently. He said he

thinks it was smart, particularly because if they get one unpopular proposal they can have people turn out to the polls saying vote no on everything.

Mr. Olson said he was part of what he calls test tube constitutionalism. He said he has been reading civics books about balance of power between Executive and Legislative branches of government and the role of a constitution in restraining people who can be pretty willful. He said he heard stories about Wicomico County that not everyone necessarily does the things the Charter instructs them to do, and they have that in Frederick County too because they have human nature in Frederick County, and this is constitutionalism hitting the road. He said he is very proud of the whole American system and hopes their work will lead them to be just as proud that they are able to make rules that live up to the spirit of constitutions.

Mr. Dunn asked, in reference to the attention budget and the County Council President asking to hold off on some of the Committee's recommendations, was it implied that those not put on the ballot in the year they were presented would then be put on the ballot in subsequent years, to which Mr. Olson responded, no. He said there was no action taken, but it is very much in the spirit of the Charter review process to give the Council that flexibility and not expect them to forward them all, even if they like the ideas. He said, if they needed a reason, they could say four is the right number for voter retention and is about as much as people can assimilate and feel that they are understanding each of the initiatives.

Mr. Dunn said Mr. Olson eluded to hearing a little bit about Wicomico County. He said the Committee has approximately 30 recommendations in front of them. He then explained how that list was compiled over the last several years and that one of the challenges is the number of proposals. He said Frederick County made a total of eight proposals to send forward, but they are only on meeting number six and have 13 proposals so far. He said they will try to get through the entire list, but they have to understand that with putting too many things forward the attention budget is a real factor. He then asked Mr. Olson to talk about Frederick County realizing they could not have voters look at 21 Charter amendments because there is only so much time someone can spend in a voting booth.

Mr. Olson responded, by the time they shot down his proposal he was more accepting of it because he realized that it was not considered in isolation, but was in competition with ideas that were fully fleshed out and more obviously practical. He said they spent a lot of time on demands from the public for things the Charter review process was not the appropriate place for addressing them, but they eventually worked through them. He explained, in particular, Frederick has tensions between its independently elected Sheriff and a large political community that is highly critical of the Sheriff, and they showed up meeting after meeting with three minute speeches in groups, and whatever the Committee had talked about that evening, they only wanted to talk about the Sheriff's Office. He said it took the Committee a while to get a full consensus because some were more sympathetic than others to the idea that simply allowing civic discussion, even if they were not the right actors to deal with it, allowed people to have their say and blow off steam. He said he wanted to get onto things they had to do, but there is a legitimacy to allowing proposals destined to fail have their say and having their advocates talk them out. He said, in their eventual final reporting recommendations, he was officially on the minority side as a republican, but volunteered for the task of writing the section of the report on the things they did not adopt, for which there were a lot of reasons, but there were also some things that left him part of the process. He clarified, sometimes people from the County Council or Administration came to them with things that were making their work life very frustrating for years since the Charter and said they think the Charter needs to be changed. He said they had discussions such as redefining what a term meant in

the County's reporting, or getting people to meet and work on something, but in at least three instances it all resolved in consensus when they realized they did not need Charter reform to do that, there were ways within the existing Charter, even if a roundabout way, to get what they wanted done and end their frustration. He said, again, he felt part of the process because Charter review should be used sparingly. He said they do not want the Charter to change in incomprehensible ways, they want that continuity if at all possible, so he loved the work-arounds in which the practical problems of the people who had to administer the government could find a fix that did not involve the language of the Charter.

Mr. Benson said this Committee is fortunate that they have a retired political science professor, Harry Basehart, from Salisbury University who has volunteered to make suggestions for redistricting. He then asked, if Mr. Basehart has questions, is that something Mr. Olson would be willing to talk to him about, to which Mr. Olson suggested having Mr. Basehart call him. He said, if there is a conflict, and there probably would not be a conflict, but he will not be able to talk about the State because the State Commission requires him not to think about things like partisan registration or voting history because that is what is in Governor Hogan's orders, so he has to insulate himself from politics, but most redistricting issues are not that, so, of course, he would be happy to talk to him. Mr. Benson said it might be helpful for Mr. Basehart if he has questions.

Mr. Benson said his next item is perhaps a little more controversial and relates to what Mr. Olson kind of insinuated. He explained, one of the problems that continually comes up relates to the thought that a former County Executive may have violated the Charter and that there is no provision to deal with a situation when someone violates a Charter provision. He said there have been suggestions that perhaps they could adopt language to deal with that, so he did not know if there was any discussion about these sorts of things in Frederick County and whether Mr. Olson might have thoughts or suggestions.

Mr. Olson responded, they indeed had discussion about a couple of proposals on that, and he wishes he could be more encouraging and say there is an easy solution because they looked for what might be a solution. He said he was the floor leader, and their County Executive pointed out that, with the language in the Charter on working fulltime, it was possible there were people who were not going to respect the spirit of that language and it was not that clear what the letter of the language was. He said they suggested tightening that up a little more specifically and, in particular, since the Charter had breezed along by not saying what sort of sanctions there might be for violating it, could they come up with what would be the appropriate sanction, such as something as extreme as removing the Executive from Office or something as mild as paying a \$50 fine. He said, once the Charter Review Committee is dissolved, it is not as if they can be the judge in the case, so he was the floor leader on that one, and it started out reasonably sympathetic and got more and more frustrating as he looked at what other Counties had done, the difficulties that other Counties faced, and the limited range of sanctions. He said, at one level they can build in something saying that the County Council can declare the County Executive to be in violation and if they want to be wholehearted about it, they could then declare the County Executive Seat vacant. He said that is something that can be done under some County Charters under types of misconduct, but of course it is also an enormous hammer to bring down when they may want a fly swatter instead. He said he suggested using legal jargon if, for example, they noticed the County Executive spending 25 hours a week on their personal business, ask him to finish it up within 90 days and if it is not then the hammer comes down. He said, even beyond that, defining the misconduct was surprisingly hard because it was hard to know when it was deliberately being violated.

Mr. Olson said, looking at constitutionalist answers in general, because courts are probably not going to give them what they want on a lot of this, he suggests empowering the County Council with a couple possible sanctions very carefully. He said the downside is a County Executive whose sins are very minor or nonexistent could happen to have antagonized someone, so they always want a supermajority for this sort of thing. He clarified, sometimes there can be a supermajority who will take a minor grievance and try to throw out or bloody the nose of a County Executive, and that is a real danger. He said he did not see any perfect solution, so they wound up not making a recommendation in that area, although acknowledged that the County Executive had a point that it could be a problem.

Mr. Benson asked, if they had a supermajority declare there to be a violation, did there have to be a hearing process, to which Mr. Olson responded, he does not think they got into that. He said the Council almost inevitably is going to be master of its own procedures, and he would not want to do something very drastic without the show of fairness of being heard. He said he would also hope that in practice it would not act unless a situation had dragged on. He said there is almost nothing that a County Executive could do that is bad enough to want to get rid of them within a week; however, they may do quite a few things where they want to fix things because the County would face problems. He said he does not have that killer language or suggestion, but he thinks, to the extent there has been a record of misconduct by a County Executive, County Councils are reasonable to want to expand their own power in some way, but he is not sure what that way is.

Mr. Benson asked if Mr. Olson has any recollection of finding a County with a provision that even looked remotely acceptable, to which Mr. Olson responded, part of their briefing book had the Charters of all the different Counties with Charter government. He said he remembers as the floor leader looking through how each County handled it, and there was a wide range, but none seemed to have spent a lot of time thinking through procedures. He said he suspects the origin of each clause was sometimes historically contingent on memory of someone locally trying to try something, but that is actually how a lot of constitutionalism develops - when someone tries to pull something outrageous and then constitutional language results, but he did not know the back story of any of those things or why the Counties were different in the ways they were different.

Mr. Benson said personally he was hoping not to have to recreate the wheel, to which Mr. Olson responded, looking at other Charters, he thinks they will find there is an array of different things. He said a lot of what is in Charters and not in Charters winds up almost by luck. He said Frederick based their Charter on Cecil County, so if a good idea was not in the Cecil County Charter, it probably did not make it in their Charter. He said, likewise, there were things not in the Frederick County Charter because they ran out of time, so it can be as simple as that. He said one County can have a more elaborate way of dealing with something and another is so rudimentary that they wonder how they can even use it.

Ms. Bellamy said they have about seven months left on the timeline for redistricting and they were talking about the timeline of the Governor's Commission versus theirs. She said they do not want to wait if there is no way there is going to be any kind of direction coming out of the Governor in seven months. She then asked if Mr. Olson has any insight on that, to which Mr. Olson responded, he will start by advertising their own process because the Maryland Citizens Redistricting Commission (MCRC) just finished up their five preliminary meetings and are about to begin the first series of public events which they call a listening tour. He said each are geared to a region around Maryland and the first one in the series is going to focus on the Eastern Shore. He clarified, just by chance, the Eastern Shore was the first area, so he suggests they consider tuning into that. He said that will be followed by two further groups

of hearings, one when the census data is finally available, and then after they propose maps they will have a series of hearings for the public to comment on the maps.

Mr. Olson said the County needs to draw on census data in exactly the same way as the MCRC, but cannot really do anything final until that final data arrives. He said it is complicated, but the County redistricting person is probably talking to Secretary McCord at the Maryland Department of Planning the same as they are, and is probably being told exactly the same thing, which is the corrected and final data will probably not be in until September, which is going to squeeze a task that would normally be eight months into a much shorter time both for people doing County Districts and for the State.

Mr. Olson said the question is whether they can use approximations of data to sketch out what they intend to do and tinker once the final numbers come, and there is a bit of a difference of opinion on this and he will tell his point of view. He said, to avoid a crazy amount of work, they need to do these things as approximate to the extent they can, even though they know the numbers are not perfect. He said they need to use the best estimates available and get some of the arguments and concepts out of the way about where the Districts should be. He said then, once they have the final census data, tinker with the Districts to make sure to have the equal populations they need. He said Secretary McCord argues persuasively for a more cautious approach of not trying to do too much with inaccurate preliminary estimate data because, for one thing, the State's software cannot handle it effectively.

Mr. Olson said what he calls a concept map or a map for discussion purposes, knowing it is not going to be 100 percent, should be highly doable for a County with five Districts with the data available from the American Community Survey, which is a federal data series. He said the problem is that data allows for quite good forecasting down to the county level, which is why they know to a pretty certain level which Counties have grown or shrunk. He said the jump from the assumed estimated number to the actual number is going to be a bigger jump if they are using the American Community Survey numbers.

Mr. Olson said they used a spreadsheet that had red lines to indicate things they killed and green lines to indicate things that were still alive. He said this was helpful because they never knew if someone late in the process would bring a proposal on one of the items they had already addressed, and this provided the single easiest way to keep track of their work and explain their work to those who may ask.

Mr. Dunn thanked Mr. Olson for being a resource to the Committee and for the work he is doing on behalf of the citizens of the State of Maryland. He said he really appreciates Mr. Olson's time and expertise. He then thanked Mr. David Hanlin for arranging this.

Approval of Agenda:

On motion by Mr. Mat Tilghman and seconded by Mr. Phil Tilghman, the agenda was unanimously approved.

Approval of Minutes from May 20, 2021:

On motion by Mr. Phil Tilghman and seconded by Mr. Strausburg, the Minutes from the meeting of May 20, 2021 were unanimously approved.

Review of Charter Section 406

Mr. Dunn said, at the last meeting, they were mid vote on recommending the salary of the County Executive be a minimum of \$120,000. He said, during that discussion, there was a request for a review

of other County Executive's salaries across the State, and they now have that information, so they will resume that discussion. He said the Compensation Review Committee recommended compensation of \$130,000 for the Executive.

Mr. Strausburg said he has been thinking this over, and given that they utilize the CPIU index as the basis for property tax revenue, he looked at the migration of the CPIU from January 1, 2006 to April 30, 2021 and the CPIU grew 68.754, which is a 34.67 percent increase. He said that is an average of 2.3 percent a year, and in the past month the CPIU increased 3.6 percent, and he thinks they can anticipate, given the level of federal stimulus spending, that the migration northward will continue. He said, if they were to apply that 34.67 percent increase to the baseline of \$85,000, they arrive at a figure of \$114,470. He said, to look at it a bit differently, if they take the \$85,000 salary in 2006, it equates to buying power today of \$55,530, so there has been significant erosion in the buying power that is afforded the County Executive over this 15 year period they have been in this form of government. He said he thought this might be helpful to the group in terms of their thought process on what, if anything, this group will recommend.

Ms. Chesnik said, when the Compensation Committee did their salary review they included the four big Counties to come out with the average salary. She said, if they look at like Counties, Cecil is \$98,000 and Frederick is \$95,000 with a very large salary for the Administrator because, essentially, that is who handles the budget, the finances, and staffing. She said, if they are going to keep a County Executive and that kind of pay, do they really want an Executive or do they want an Administrator and Assistant that would come with credentials. She said maybe they can even attract from somewhere else and pay a premium salary and have them do things that are going to help uplift this County. She said a good Administrator and Assistant Administrator could do that and she just cannot see the salary increase.

Mr. Gosnell asked who the Administrator would work for in that case, to which Ms. Chesnik responded, they would be the Executive Branch, just like when they had Matt Creamer. She said they would have an Assistant and would handle that side, and the other side would be the Council. Mr. Gosnell asked if the Council would have to hire the Administrator, or would they not work for the Council, to which Ms. Chesnik responded, that is a good question.

Mr. Dunn said Ms. Chesnik is correct that when Mr. Creamer was the County Administrator he reported to the Council because they did not have a County Executive. He said the current County Administrator reports and works for the County Executive and is at-will. He said the County Executive hires the Administrator and Assistant Administrator with the approval of the County Council, so that is the current form of government they have.

Ms. Chesnik clarified, she is saying they would be better off with the situation where they had Mr. Creamer and an Assistant and that would be that branch of the government and then they would have the Council and not an Executive. She said, if they have an Executive, it is very hard to put parameters on educational levels. She said there is no requirement right now other than the person runs and the people elect them, and they do not get the best for this County under that system.

Mr. Dunn said, respectfully, the question for tonight is the salary because the group has already recommended keeping the Executive form of government. He said, as with all items, they will come back to this, but the question on the table tonight is if this Committee wishes to recommend that the salary of the County Executive be at a different level. He clarified, he understands Ms. Chesnik's comments.

Mr. Dunn said, because they are trying to follow Robert's Rules, they suspended their vote to do this research, so they need a new motion on the table for consideration.

Dr. Jones suggested going back to the original motion. Mr. Dunn said the original motion when they were mid vote was to have the County Executive salary reset in Section 406 to no less than \$120,000.

Mr. Phil Tilghman made a motion to set the County Executive salary at \$120,000, which was seconded by Dr. Jones.

Mr. Phil Tilghman said, regarding Ms. Chesnik's statement, he has been thinking about this a lot, and once they get through tweaking the Charter to try to make it work better, he thinks the discussion of whether or not they go forward with the County Executive form or Councilmanic form of government probably deserves some more discussion. He clarified, he has not changed his position on it, but thinks they were pretty quick to vote 15 to nothing that they were not going to ask the Council to put that on the ballot. He said that still might be what they decide, but he thinks they owe it to the public and to the Committee to spend more time on that discussion, and what Ms. Chesnik just brought up is the basis for the discussion.

Mr. Dunn said, to recap, that was brought up at the second meeting because there was a feeling that it was the central question that needed to be answered before they went down the road of looking at the Charter since so many of the questions presented had to do with whether they had an Executive form of government. He said he has consistently been saying that as a group they will revisit and have discussion on that question in the same way they will have discussion on all things they are having discussions on.

Dr. Jones said it is concerning and troubling to her that they voted to not have additional credentials added for anyone running for the Office of County Executive. She said it is also concerning to her that they cannot have another form of employment to offset the \$85,000 salary. She said, if they do not have additional credentials and cannot be employed elsewhere or have other means of monetary gain in some capacity, that is why she fully supports \$120,000 to find a qualified candidate. She said they are asking them to give up any other employment, and she thinks that is only a minimum of \$120,000.

Ms. Bellamy said she likes the motion but wants to add that it is a big jump, so she would hope that Mr. Strausburg's math gets thrown in there specifically to maybe get to \$114,000.

Mr. Dunn reminded them that everything they do is just a recommendation and will be part of their final work product presented to the Council, who can say yes or no to every single thing put in front of them.

Mr. Mat Tilghman said his concern is, if they are going to get qualified people willing to step up to the plate and take on a position like this, they need to have a fair and reasonable compensation because in most cases these individuals are stepping away from their other source of income. He said most people probably cannot afford to step backwards just to be in a political position, but it happens, as his wife was the Mayor and worked for \$5,000 a year, so as far as they were concerned, it was a volunteer job.

Mr. Dunn said clearly they are going to need to workshop this and they are going to need some volunteers to be a floor leader who does the homework and then reports back objectively.

Ms. Chesnik said, to Mr. Mat Tilghman's comment, that is why she said maybe they need to have a hired position, not an elected position. She said then they can go through a person's credentials and find the best for this County, and she has no problem with a great salary for that because she thinks they are

going to be a benefit to the County rather than an elected position who does not have qualifications or credentials behind them and are relying on the Director of Administration anyway to get things done.

There being no further discussion, on motion by Mr. Philip Tilghman and seconded by Dr. Jones, the recommendation was made to set the County Executive salary at a minimum of \$120,000. There were 12 votes in favor. Ms. Chesnik opposed. Mr. Sarbanes did not vote.

Section 407:

Section 407a:

There was no discussion.

Section 407b:

There was no discussion.

Section 407c:

Mr. Dunn said about a year ago the attempt to have a County Executive appointed by Resolution by a majority vote of the members of the County Council within 45 days after the vacancy occurred landed them in the position where today they have an Acting County Executive. He said the County Council as a Body did not fill the position within 45 days and as a compromise recommended an Acting County Executive, so by the time the next election rolls around, the Acting County Executive will have been the Acting County Executive for the better part of two and a half years of a four-year term.

Mr. Dunn said, if the County Executive vacates the Office and the vacancy occurs during the first 12 months he recommends a special election. He said, if this occurs within the first three years of the term, he suggests a special election be held. He said he also suggests that if it happens in the last year of the term, the existing County Administrator would be the Acting County Executive for the remainder of the term. He said the Charter, while well intentioned, simply did not work when it was put to the test less than a year ago and the County Council did not follow the Charter, so instead of leaving it up to the County Council, just do a special election.

Mr. Strausburg asked, if they went with that concept, what period of time would Mr. Dunn suggest be allotted to hold the special election, to which Mr. Dunn responded, 90 days. Mr. Strausburg asked if 90 days is long enough, to which Mr. Dunn responded, the way he worked it out, it is. Mr. Strausburg said his suggestion is that they speak with Mr. Anthony Gutierrez, who is the head of the Board of Elections, to ask what length of time would be reasonable to hold a special election. He said his second question is whether that special election would allow for republicans, democrats and independents to run, to which Mr. Dunn responded, yes. Mr. Strausburg asked, would the then Director of Administration be appointed during that interim period, which he thinks should be six months to have a good special election, to which Mr. Dunn responded, yes, they would assume the duties.

Mr. Mat Tilghman said three years makes good sense on one hand, but then there would be somebody sworn in before the next election. He then asked if there should be a provision that if it is within a certain timeframe they would finish the term and then continue for the next four years, to which Mr. Dunn responded, he assumes that the special election would simply fill the vacated term, but if that person chose to run again at the end of that term, that would be up to that individual.

Ms. Chesnik said she thinks this is a really good idea, but she thinks going three years is too far. She said, if the Executive dies in two years and six months, they are asking people to run a campaign, get elected, and maybe only be in term for eight or nine months and then go through the whole process again.

Mr. Strausburg said he agrees with what Ms. Chesnik said and he suggests they may want to modify that to the first two years as opposed to the first three years. He said he likes the idea, and he personally does not like the idea of a County Council appointing an Executive because he thinks there is a real imbalance in the balance of powers. He said, in that case, he thinks the citizens deserve the opportunity to elect who they want as Executive, assuming they agree that they want to continue with an Executive form of government. Mr. Dunn said, for the purposes of how they move forward, they have to agree that they have chosen to continue with the Executive form of government.

Mr. Dunn said that was just a thought, but the reason he offers this as a solution is that Section 407b did not work less than one year ago, it literally did not work, to which Mr. Phil Tilghman responded, actually it did work. He clarified, it did not work well, but it worked. He said they have somebody in the County Executive's Office right now, and he thinks what Mr. Dunn is suggesting, although in theory is a good idea, overcomplicates things. He said a lot of what they are doing is trying to change the Charter in view of the fact that something did not work well. He said the three candidates were put forward who hopefully were good leading citizens, but the Council could not agree. He said he does not really have a problem with the current situation, so he is leaning towards leaving it the way it is.

Mr. Dunn said, to that point, just as this unique situation occurred last year for which his interpretation is that it did not work well or failed, what are the chance that the very system would fail again, meaning maybe another County Council years down the road might in fact replace somebody within 45 days.

Mr. Hastings came to the podium and said he voted against Mr. Psota being in the current role. He clarified, he has known Mr. Psota for 20 years and loves him, but he did not want this situation to happen where they have an Acting County Executive. He said the Council was supposed to appoint a County Executive, not an Acting County Executive, so in his view, they failed as a Council to do that. He said, as much as possible, he thinks it would be great to have a fair process where this could happen, and personally he would be in favor of a special election. He said he does not know how that would come about, and that is where they need guidance from the Director of Elections, but otherwise he does not feel like they as a Council did their job and actually put in a County Executive.

Mr. Benson asked for clarification on the process of an item going to workshop. He said Mr. Strausburg suggested that they may want to have Mr. Gutierrez give them some information, and it might be helpful to have the information before they decide whether they are going to do this.

Mr. Dunn said he believes this should go to workshop if the Committee wants to go down that road.

Mr. Strausburg made a motion to workshop Section 407b and c, which was seconded by Mr. Benson.

Mr. Dunn clarified, somebody is going to have to volunteer to workshop this.

Mr. Baker suggested, if someone is going to bring up a topic to go to workshop, that person should be ready to workshop it. He said Mr. Dunn has asked for volunteers on several items, and they have not gotten any, so they need to put a little skin in the game. Mr. Dunn said, if this motion passes, he will workshop this. Mr. Mat Tilghman offered to help with the workshop.

There being no further discussion, on motion by Mr. Strausburg, seconded by Mr. Benson, and unanimously approved, it was decided to workshop Section 407b and c.

Section 408:

Mr. Baker said the Council asked who would make the decision that the County Executive is unable to perform the duties of Office due to a physical or mental disability.

Mr. Strausburg said that opinion has to come from a medical professional.

Dr. Jones suggested they just strike the statement "by reason of physical or mental disability" because to define that is a huge umbrella of definitions. She said it could be used to target a County Executive, which could be in violation of the ADA.

Mr. Baker said the Council cannot just vote to remove somebody without any reason, so he thinks they need the qualifier of physical or mental disability.

Mr. Dunn said a Council could say they do not like the Executive's decisions.

Mr. Strausburg said they had a Governor who had a very serious bout with cancer, and he was not removed from Office. He said they had a County Executive who had an unfortunately fatal bout with cancer, but he will tell the Committee from having been in the office, Mr. Culver was in communication with him every single day until perhaps the last four or five days of his life, so he thinks if they are going to mess with this, it is a very slippery slope. He said he would like to know who would make the determination that a County Executive was physically or mentally unable to carry out his or her duties.

Mr. Dunn said, if there was a time and a place for this clause to have gone into effect, it probably would have been last year, but it did not go into effect.

Ms. Whited said Mr. Strausburg just said that Mr. Culver contacted him every day. She said just because someone is ill, whether mentally or physically, and not able to be in the office, if they are still doing their job, they are still doing their job.

Mr. Dunn suggested they could strike the entire thing and just get rid of it.

Ms. Bellamy asked if that could happen with a Councilmember, to which Mr. Dunn responded, he also wondered where it is in the Charter about the removal of a County Councilmember. He said, if they have a Section in the Charter that talks about removal of the Executive from Office, they should have a Section that talks about removal of a Councilmember from Office.

Mr. Baker said it also says the Executive can appeal to the court and the court shall make an independent determination on fact. He said, at that point they are going to get the expert opinions, so he thinks they are kind of covered as it is.

Mr. Mat Tilghman said his reaction was that it was pretty clear, so why change it.

There was no further discussion.

Section 409:

Mr. Dunn said the question was asked by the Council whether this provision should be expanded. Mr. Strausburg said he may be off base, but he will infer that this relates to violation of the Charter.

There was no further discussion.

Section 410:

There was no discussion.

Section 411:

There was no discussion.

Section 412:

Mr. Dunn said one question the Council asked of the group was whether there should be a residency requirement for the Director of Administration, to which Mr. Strausburg responded, there is. Mrs. Hurley clarified, the question is whether that residency requirement should be removed.

Mr. Strausburg said, having been in that position, when they are responsible for the budget and they are spending taxpayers' dollars, he thinks they should reside in the County where they are exercising that authority.

Mr. Phil Tilghman said they could potentially be the person who takes the Executive's place, so they do not want somebody who is not residing in the County as the permanent Acting County Executive.

There was no further discussion.

Section 413:

Mr. Baker said there is the requirement that within six months after each election of the County Executive, Department Heads and Deputy Department Heads all have to be reappointed. He said he looked through other Charters and none of them have the requirement that after each election they have to be reappointed. He said the Charters he read all said that once the person was appointed that was it and they did not have to be reappointed every four years. He said he thinks most people are aware that there has been a lot of turnover with their Department Heads over the years and they are having trouble recruiting people to take their place, and, from personal experience, this is one of the reasons. He said, when they have to be reappointed every four years and are never sure if they are going to be caught between the Council and the Executive, who wants to take on that instability when they have to feed their family, so he recommends they remove that to say within six months after the initial appointment.

Mr. Strausburg said he will point out that their Department Heads are unlike the Presidential cabinet members or Governor's cabinet members. He said these are working, boots-on-the-ground, hands-on-the-wheel supervisors, and experiencing the kind of turnover the County has experienced in the past six years has led to incredible dysfunction. He said it is not uncommon in the State of Maryland that appointed officials like this are provided with employment contracts so if they get caught up in political crossfires or whimsy they have a severance package. He said this is a real problem for the County now given their history over the past six years.

Mr. Baker said, just to be clear, Department Heads are at-will, and everybody understands that they can be let go at any time, to which Mr. Strausburg added, for no reason whatsoever, other than if it violates their civil rights.

Mr. Baker made a motion to change the second sentence to say within six months after the initial appointment.

Mr. Dunn said Section 315 talks about the initial appointment of the positions Mr. Baker is talking about, to which Mr. Baker responded, he believes they would also have to revise that as it will affect both.

Mr. Mat Tilghman said, whether it be a County Executive who is new or reelected, the Department Heads serve at will, but he does not think they should have to go before Council every time. He clarified, once they are hired through the process of being appointed by the County Executive, vetted by the Council, and the Council has approved them, they are then the Director of a Department. He said they got that job subject to their performance and, if they do not perform, the Council could basically go to the Executive and say the person is not performing so they either need to address it or terminate the person. He said, to him, once they have the job, they should keep the job as long as they are performing.

Mr. Baker said he agrees with that and thinks that is even better for stability, but he is not sure how they would word that. Mr. Strausburg said the concept would be the Department Heads would not be at-will employees, they would be merited employees, and once confirmed could only be removed for cause.

Mr. Benson said a newly elected County Executive could come in and say they basically want all their Department Heads to submit resignations and they would decide whether they are keeping them or not. He clarified, he does not think it has to be that way, but that is what happens in the federal government.

Ms. Chesnik said it also happens in the State as she has friends who worked at DNR, but once the Governor's term is up, they are out looking for jobs. She said, with appointed positions, that is the way it is, but she sees what turmoil it causes in running a County, so it is a real quagmire what they do with it.

Mr. Mat Tilghman asked why they would not still be at-will, to which Mr. Strausburg responded, because he has seen people dismissed for reasons that were absolutely absurd that had nothing to do with their performance.

Mr. Mat Tilghman asked, if the Executive does not particularly like somebody or work well with them, does the Executive have the right to say they want their own person for the position, to which Mr. Strausburg responded, yes, they do now. He clarified, he is saying it should be based on performance, not on the fact that the Executive does not like the person.

Ms. Chesnik asked if these really need to be appointed positions. She said she knows it is a perk for the incoming Executive to be able to give out positions to people, but is it in the best interest of the County to have them be appointed positions? She said, if they have a Department Head who is doing an excellent job, why would a new Executive come in and sweep them out, to which Mr. Dunn responded, they do not necessarily get swept out, just potentially could.

Mr. Baker said there could be someone who does not support something the Executive wants to do, and he thinks an Executive wants their staff's support moving forward. He clarified, as a former Director, he is okay with being at-will, but he just thinks constantly going up for reappointment is an issue.

Mr. Benson asked why the Deputy Directors are in the same position of having to be appointed, to which Mr. Strausburg responded, that was a change the Council made, and he did not agree with it and still does not agree with because it breaks the continuity. He explained, the Deputy Director is supposed to be there for continuity of operations, and that got broken with one of the Charter amendments that

unfortunately got passed. Mr. Benson asked if Mr. Strausburg has any insight as to why the Council did that, to which Mr. Strausburg responded, no, he cannot get inside their thinking, but maybe Mrs. Hurley can. Mrs. Hurley responded, the Department Heads have to be confirmed by Council, so if a Department Head were to leave, the Deputy Director would fill those responsibilities, so the thought process was to have the initial appointment of the Deputy Director confirmed by Council. She clarified, they would not have to come back every four years to be reconfirmed, just the initial appointment of a Deputy Director would be confirmed by Council. Mr. Benson said, but the Deputy would only fill that position until the Director position was filled, to which Mrs. Hurley responded, that could take a while. Mr. Baker said they had a Deputy Director filling the Public Works position for six years after Mr. Sharma left.

Mr. Strausburg said they have set themselves up to literally vacate every senior position in the County every four years, and that has happened. Mr. Dunn asked how many Administrative positions in the County have left within the last five years, to which Mr. Strausburg responded, 31 people.

Mr. Benson asked how other Counties handle this, to which Mr. Strausburg responded, what Wicomico has is not uncommon. He said he will go back to something he said a few meetings ago; they can try to come up with a perfect construct and the perfect Charter, but any organization rises or falls based on the quality of people in the organization, and they cannot wordsmith that. Mr. Benson asked if this is how things historically happened in this County, to which Mr. Strausburg responded, no. Mr. Benson said the problem, with all due respect, was with one County Executive. He said he liked the gentleman, and they are saying there was a problem, but he does not know that they have a problem that is a continuing problem or if it was a unique circumstance much the same way his untimely death was a unique circumstance.

Mr. Baker said their Charter is unique when compared to Frederick, Howard, Montgomery, Prince George, and Anne Arundel, which is that their Charter says within six months after each election all these people have to be reappointed. He said that is where it is inconsistent with other Counties, and he completely supports saying they need to be appointed once, but other Counties say the initial appointment, not every election, and that is what he is advocating changing.

Mr. Dunn said the most recent brouhaha involving the former Executive and most of the current County Council had to do with the Executive ignoring this provision where he did not send all of his Directors for reappointment, so he thinks that is what they are attempting to address. Mr. Baker said this would bring stability to people who are trying to manage the County and they would not have vacancies.

Mr. Baker made a motion to remove the second sentence in its entirety of Section 413, which starts with "Within six months". Dr. Jones seconded the motion.

Ms. Whited asked for clarification of what this means, to which Mr. Dunn responded, it is saying that the Department Heads would not have to be reappointed by the County Council to be confirmed for the job they already have. Mr. Baker clarified, if a new Executive came in and wanted to get rid of a Department Head, they could do that, and a new person would have to go before the Council for appointment.

Mr. Strausburg suggested having one of the attorneys draft some language for the next meeting, to which Mr. Dunn responded, all they are doing is removing the middle sentence.

Mr. Josh Hastings came back to the podium and asked, if the Executive has a person in a Department and they have been approved by Council, but then the Executive decides they want to move them to a

different Department, would that then come back before Council, to which Mr. Strausburg responded, he thinks it should because they have to demonstrate they have the qualifications for the new job.

Mr. Baker suggested they vote on the motion but have language ready to revisit at the next meeting.

Mrs. Hurley said Mr. Strausburg mentioned the possibility of contracts for the Department Heads. She then asked if that is something other Counties have done, to which Mr. Strausburg responded, yes, it is not uncommon. Mrs. Hurley suggested that it would give the Department Head more stability if they had a contract, so if a new Executive came in they would at least have some sort of severance. Mr. Baker asked if that would be something for the personnel manual, to which Mrs. Hurley responded, they would have to add it to the Charter or perhaps to the personnel manual, but she is not sure. Mr. Strausburg said it would have to be in the personnel manual.

Ms. Bellamy said she supports this motion and voting on it now without hesitation; however, she thinks this came about because after an election they want to make sure everybody has buy-in on everybody who is working there, and this reappointment exercise seems to do that for the Elected Officials. She said she has seen in another State where a community feels that career people are abusing their power because they feel like they cannot be removed because they have been in the position forever, to which Mr. Baker responded, that is why it should still be maintained as an at-will employee. He said, again, there may be that public perception, but the reality is they are at-will and can be let go at any time.

Mr. Dunn said he is going to call for a vote with the caveat that Mr. Wilber will present the new language of Section 413 at the next meeting.

There being no further discussion, on motion by Mr. Baker and seconded by Dr. Jones, the recommendation was made to remove the second sentence in its entirety of Section 413, which starts with "Within six months." The motion carried with one abstention by Ms. Chesnik. Mr. Sarbanes did not vote.

Section 414:

Mr. Dunn said there are two items Council wants them to look at in this Section, and the first one reads "How much time should the Executive have to appoint an Acting Director? Should Deputy Directors be added to this Section? The 90 day time period to serve as Acting Director should apply to the position and the person. The County Executive must state the start date so the Council and public know when acting appointments begin."

Mr. Dunn said the second item the Council asked them to look at asks "Should Deputy Directors be added to letter A, and should there be a time period in which the County Executive must appoint a Director or Deputy Director when a position is vacant?" Mr. Strausburg asked what would happen when they have been advertising for the better part of a year and no one will take the position because of the churn they have seen over the past six years?

Mr. Dunn asked if the County had a revolving cycle at times where an Acting Director of a Department was appointed Acting Director for 90 days, and then after 90 days was made the Acting Director again for another 90 days, to which Mr. Strausburg responded, the way it is set up now, if the Executive wants to extend the Acting status, they have to come back to the County Council and give their reasons for it and the Council votes on it, so he does not think this Section is broken.

Mr. Dunn asked, after two 90-day periods of Acting, is the person no longer considered Acting, to which Mr. Strausburg responded, they had an Acting Public Works Director for six years because they could not convince anyone to take the job.

Mrs. Hurley asked when the actual 90 days begins because, if the County Executive does not officially notify anyone that the 90-day period has started, no one knows. Mr. Strausburg said he agrees that there has to be notification to the Council.

Mr. Benson said the Section states "When a vacancy occurs," but would the Council not know when a vacancy occurs, to which Mr. Dunn responded, the Council might not know. Mr. Strausburg said it has to do with the working relationships that were frayed. Mr. Benson said, if a Director resigns, does that not get sent to the County Council, to which Mrs. Hurley responded, it does not, and currently they do not even have an Acting Public Works Director, they just have a Deputy. Mr. Strausburg clarified, part of the reason they do not have an Acting Public Works Director is that the Charter requires that the Public Works Director is a registered professional engineer in the State of Maryland, to which Mr. Baker responded, which he wholeheartedly supports, and he has a good explanation for that.

Mr. Mat Tilghman suggested adding, when a vacancy occurs, the Council shall be advised within 15 days.

Mr. Baker suggested language stating, when a vacancy occurs, the County Executive shall immediately notify the County Council and appoint an Acting Director.

Mr. Strausburg suggested, instead of immediately, the County Executive must notify the County Council in writing within ten days.

Mr. Benson said the Charter already deals with this in letter C, but they are just saying it is not being followed, to which Mr. Strausburg responded, it has not been followed consistently. Mr. Benson clarified, he is not opposed to adding language, he just does not understand the necessity.

Mr. Dunn said they will come back to this Section at the next meeting.

Public Comments:

Mr. Robert Taylor came to the podium and said, going back to Mr. Olson's presentation, he was astounded that no one asked him why when they had their Charter review last year they did not increase the salary for the County Executive, which in Frederick County he thinks is \$95,000. He said that is a segway into his position on increasing the minimum salary in the Charter for the County Executive. He said anything more than \$100,000 is really ridiculous. He said he sent the Committee a memo, and when they look at the economic data from the other Counties and what they pay and eliminate the big four, as was suggested tonight, they do not find anything like \$120,000. He said, yes, Mr. Strausburg, he understands the CPI went up, but it went up for all of them, it did not go up just for the County Executive. He said the average person in Wicomico County, inflation adjusted, has no more buying power than they did in 2006, so to say they are just going to increase the salary is absurd, in his opinion, to be perfectly frank. He clarified, possibly some increase, but when they look at what happens in Counties like theirs they do not see anything like that. He said he just mentioned Frederick, and Cecil only pays \$98,000. He said both of those Counties have a lot more wealth no matter how they measure it in terms of assessed value, income per capita, property tax per capita, etc. He said they are much higher, and Frederick in particular is one that gets into the bottom of the wealthiest Counties in the

State, and Wicomico is way down. He clarified, they may not be next to the bottom, but they are not far from it, to which Mr. Strausburg responded, they are 23rd.

Mr. Dunn then asked Mr. Taylor to direct his comments to the Committee, to which Mr. Taylor responded, he is, and that was a great point about the CPI, but it affects them all.

Mr. Taylor said, going into the other matters discussed tonight, he believes the idea of workshopping is a good idea probably for all of those Sections. He said, on filling vacancies, he has some notes from last summer when he was the Council Attorney about what other Counties do, and if he can find them, he will be glad to send them to the Committee. He said, as far as the physical and mental disability, to remove that standard would leave it totally open-ended, but he thinks, however, there are some things that need to be addressed in that. He said, for example, does the six month provision mean that the person has to actually be physically or mentally disabled for six months before they can be removed, or perhaps if they are in a coma and to a medical certainty it is going to last for six months, can they be removed before then? He said that is a practical question that could come up, and he thinks it should be addressed, and agrees with the suggestion that they need a medical opinion because it makes sense.

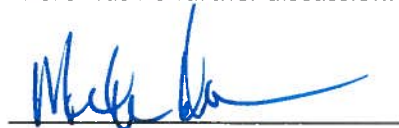
Mr. Taylor said, as far as temporary absence or disability, he thinks there needs to be a notification provision, just like if a Department Head leaves as was discussed. He said the Council, and, in fact, the public, should be advised about that. He said that is the way it is when the president is disabled or when the Governor is disabled, and it is a very standard methodology.

Mr. Taylor said, regarding the Director of Administration residency requirement, he does not disagree with the requirement generally, but he would suggest, and some Counties do this, that the Director of Administration has to become a County resident within six months if he or she is not.

Mr. Taylor said that is it for tonight, but he suggests they look at all of those provisions in more detail because he thinks more consideration is needed of the points he has mentioned.

Mr. Dunn said their next meeting is June 17 at 5:00 p.m., and this is their new permanent home.

There was no further discussion.

A handwritten signature in blue ink, appearing to read "Mike Dunn", written over a horizontal line.

Mike Dunn, Chairman

A handwritten signature in blue ink, appearing to read "Laura Hurley", written over a horizontal line.

Laura Hurley, Recording Secretary