

The 2021 Wicomico County Charter Review Committee met on Thursday, August 19, 2021 at 5:00 p.m. in Council Chambers, Government Office Building, Salisbury, Maryland.

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

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

Approval of Agenda:

On motion by Mr. Benson, seconded by Mr. Phil Tilghman, and unanimously approved, the Agenda was amended to exclude Section 706 from discussion.

On motion by Mr. Sarbanes and seconded by Ms. Whited, the agenda was unanimously approved as amended.

Approval of Minutes from July 15, 2021:

On motion by Ms. Sarbanes and seconded by Mr. Phil Tilghman, the Minutes from the meeting of July 15, 2021 were unanimously approved.

Section VI – Personnel Provisions:

Section 601:

Mr. Dunn said Mr. Wilber prepared a revised Section 601-A, which he would like Mr. Wilber to read into the record.

Mr. Wilber read:

Upon recommendation of the County Executive, the County Council shall establish a personnel system which will have the force of law by Resolution after a Public Hearing. Upon recommendation of the County Executive, the County Council may modify or revise the personnel system by Resolution after a Public Hearing.

Mr. Benson said he thought part of the problem was that the prior Executive never presented a recommendation or proposal, and the way this is written does not say that the County Executive shall, it says upon recommendation. He then asked if that requires the Executive to make a recommendation, to which Mr. Wilber responded, right now there is a complete rewrite of the personnel manual underway, but at the last Council meeting there was discussion of a particular amendment to the personnel manual to deal with a situation. He said the comprehensive rewrite is unusual as piecemeal is the usual route. He said the Executive is who oversees most of the employees of the County, and if Human Resources brings up an issue that needs to be addressed, he thinks the Executive is who would present it to the Council. Mr. Dunn asked if that is how it happened this past week, to which Mr. Wilber responded, yes.

Mr. Benson said he was under the impression that no recommendations came forward under the prior Executive, and, consequently, nothing occurred, and that is what precipitated the change in the Charter to say the Council would do it. He clarified, he is asking if the language that has been presented is viewed as making it mandatory that the Executive will from time to time make recommendations, to which Mr. Wilber responded, he looks at it that the Executive should be the one aware of a need to

make a change, so the Executive would bring it forward. He said that is what would be expected in the normal course of business, even though that may not have happened in the prior four years.

Mr. Mat Tilghman asked if the Council should have the ability to say they think an issue needs to be addressed, which the Executive would have the right to veto. He said this would be assuming there would be some interaction between the two entities. He said, if the Council is not satisfied because the Executive never presents, the Council would present a proposed change. Mr. Wilber said that is not the way this is written, to which Mr. Mat Tilghman responded, he realizes that, but if he is reading this correctly, it is that the Council may modify or revise.

Mrs. Hurley said they were under the impression from the last meeting that the Committee wanted to go back to the old language, so they came up with something that would balance both branches of government. She said this is upon the recommendation of the Executive, but Council would still have to approve. Mr. Dunn responded, that is correct, they are reversing an action by the County Council.

On motion by Mr. Sarbanes, seconded by Mr. Mat Tilghman, and unanimously approved, Section 601-A was revised to read, upon recommendation of the County Executive, the County Council shall establish a personnel system which will have the force of law by Resolution after a Public Hearing. Upon recommendation of the County Executive, the County Council may modify or revise the personnel system by Resolution after a Public Hearing.

Article VII – Budgetary and Fiscal Procedures:

Section 701:

There was no discussion.

Section 702:

Mr. Sarbanes said Section 702-C talks about the succeeding year's taxes shall not include the resurfacing of any road. He said, when he was in Office, they always used State money for road upgrades and renovations, but there were financial constraints nationally, so the Governor at the time withheld State money for Roads. He said he reads this that, even if they had a really great year, they cannot use County money to include the resurfacing of any road.

Mr. Benson said he thinks it says they cannot use any capital funds, to which Mr. Wilber agreed, that is the way he reads it. He said they could use operating budget money.

Mr. Benson suggested that maybe this is in here because roads are not considered to be a capital project, so in order to address Mr. Sarbanes comments, they would have to say that roads can be considered a capital project.

Mr. Phil Tilghman said resurfacing would be a maintenance issue, so he thinks Mr. Benson is correct. Mr. Benson said the question is whether resurfacing a road can be considered a capital project, and he assumes that clause is in there just to make sure under the Charter that it is not.

There was no further discussion.

Section 703:

There was no discussion.

Section 704:

Mr. Benson said the Council asked whether they can extend the date for the adoption of the capital improvement program (CIP), but he does not understand why this was asked because Section 707 addresses that.

Mr. Dunn said there was a question from the Council regarding whether the Charter allows for the Executive to make changes to the CIP after it has been submitted to the Council, but before it is formally adopted by the Council. He said he discussed this with Mr. Wilber and it has been their recollection that the CIP is a plan. He said, in the course of the last couple of years, especially this past year with COVID and interruptions at the State level, the Council and Executive by consensus agreed to delay some of the dates, which is allowed and called for in Section 700, because they were uncertain what the budget from the State was going to do. Mrs. Hurley said they extended the date by Resolution, so there was a formal vote on that.

Mrs. Hurley said there has been question as to whether or not the CIP is a plan and should remain a plan, but there is a provision that states that the first year of the CIP is the capital budget, and that is the problem. She clarified, the first year of the plan document says one thing, but when they get to the capital budget that is adopted in June and there is a gap in between, a lot can happen and the numbers may change. She said the question is should they be adopted simultaneously, or should the CIP be a true planning document and they would expect changes to happen to the capital budget in June.

Mr. Dunn said he looks at this as a plan and does not know if they need to do a deep dive and change this and codify year one of the plan.

Mr. Dunn asked Mrs. Hurley if there is an egregious problem that needs to be fixed, to which Mrs. Hurley responded, on her end, the only thing that has come up is whether or not the Executive can amend it once it is submitted, and the Charter does not seem to answer that question.

Mr. Benson said the real question is whether or not the dates that are in Section 704 should be advanced beyond February to make it March or April, to which Mrs. Hurley responded, she thinks the question should be for it to be adopted simultaneously with the budget.

Mr. Dunn said the CIP and budget being adopted at the same time would simply eliminate the need to bring in a CIP in February and adopt the budget in June, and they would just adopt them both in June.

Mr. Mat Tilghman asked if the Council could pass it and then later amend it, to which Mr. Sarbanes responded, there is a hearing that is usually held in February or March on the CIP, and those things are usually well attended because that is people's chance to say what they have to say. He said then might need to amend it, so that gives them time to change it and then adopt it in June. He said that is why he thinks there is that gap in there, and he thinks it is healthy to leave it there.

Mr. Dunn said he does not see that there are major problems out there, and he is of the inclination to leave things alone.

Ms. Whited said, if they have had to change this in the last several years, she thinks it needs to be changed, so she wants to know what the recommendation is, to which Mrs. Hurley responded, her thought on that is how they view the capital program. She clarified, if they are looking at it as truly a planning document, then the capital budget is always going to be different than the CIP. She said the CIP

process actually begins in October, and it is a long, drawn-out process, and it is time consuming and they are juggling other tasks at the same time. She said she understands why it was put into the Charter the way it is written, but an exception has been made for the last several years. She said she just really thinks it is on how they view the CIP with the clause that the first year has to be their budget.

Mr. Mat Tilghman said he can see why that first year of the CIP should be considered as part of the regular budget only because, in reality, that is what it is going to be.

Ms. Bellamy said the CIP timeframe is when they are negotiating in the beginning, and she thinks the timing is needed, and she thinks the perceived finite timeframe where they have to do a Resolution to extend it keeps it from ending up being a nightmare when it is finally approved in June. She said she thinks this gives them that little bit of leeway each time with the perception that there is a deadline that can be moved if needed, and that way it does not keep moving out.

Mr. Dunn said his concern is that he does not want the extension of the CIP deadline to be weaponized to be used as a political gotcha that someone is not doing their job and keeps extending it. He said either 707 needs to change because, no matter what they do, if they were to move the date, they are still allowed to extend the deadlines. He said he watches these extensions every year, and the budget process is confusing enough, but as a lay person out there it looks like they are extending the CIP deadline because they do not know what is going to happen in Annapolis. He said it seems a little odd to have a CIP date right in the middle of the General Assembly Session where the State budget is set.

Mr. Dunn said the CIP became problematic when Mr. Culver pulled the funding for the Mandela renovation out of the CIP, which created a firestorm and the public absolutely responded to that. He said he believes Mr. Culver responded in kind and returned the CIP funding for Mandela. He said all of that firestorm occurred between the February hearing and the adoption of the CIP. He said, while this does not fit the process, when things go askew, the public has responded appropriately when a major shift has occurred in the CIP prior to the adoption of the budget.

Ms. Whited said, leaving it as it is gives them time to respond, so it makes sense to have the chance to respond.

Mr. Dunn said, if this is confusing to this Committee, imagine it appearing on a ballot in the next election. He said it would be hard for this Committee to even explain why they are doing it, so he is not even sure they could defend why it would be on the ballot.

Mr. Mat Tilghman said he is inclined to leave it alone. He said there is the flexibility if needed, and, to him, when looking at a capital budget for five years, they are going to make certain assumptions as they put the puzzle together.

There was then discussion about the fact that the Executive has made changes to the CIP after the Public Hearing was held, but prior to the adoption of the CIP. It was suggested that, if that were to happen, there should be a second Public Hearing.

Mr. Wilber clarified, Section 707 says they can move any of the dates, including the date for the Public Hearing. Mrs. Hurley said that is probably what they should do.

Mr. Benson said it seems to him that there is supposed to be a Public Hearing based on the presentation to the Council, and once they have the Public Hearing the Executive cannot make changes without going through another Public Hearing. He then suggested they could add a sentence to say that in Section G.

Mr. Benson said, if Mrs. Hurley thinks this is a problem, he suggests she and Mr. Wilber draft a sentence or two to have added to Section 704-G for the Committee to consider so the Committee better understands it. Mr. Dunn suggested also wordsmithing Section 707 with changing dates.

Mr. Benson said hopefully Mr. Strausburg and Mr. Baker will be at the next meeting because they might be able to present a perspective from the Executive's point of view as to why the change should or should not be made because they were the ones who dealt with it.

Mr. Dunn said they will start the next meeting by revisiting Section 704 to get thoughts from some of the missing members.

There was no further discussion.

Section 705:

There was no discussion.

Section 706:

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

Section 707:

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

Section 708:

There was no discussion.

Section 709:

There was no discussion.

Section 710:

Mr. Benson said Sections 710 and 712 are Sections that bond counsel suggested might need changes.

Mr. Wilber said he would like to talk with Ms. Rader first before discussing the suggested changes.

Mr. Dunn said they will skip Sections 710, 711, and 712 awaiting Mr. Wilber's conversation with Ms. Rader, who wrote the recommendations.

A motion was made by Mr. Phil Tilghman and seconded by Ms. Whited to extend discussion beyond the approved Agenda to continue past Section 712.

Mr. Mat Tilghman said he has not read beyond Section 712. Mr. Sarbanes said he also has not reviewed beyond Section 712. It was then discussed that a motion to adjourn the meeting would supersede the motion to extend the meeting beyond the approved agenda.

Public Comments:

There were no public comments.

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

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