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The Wicomico County Council met in a Special Legislative Session on Friday, September 18, 2020 at 12:30 p.m. in Council Chambers, Government Office Building, Salisbury, Maryland.

In attendance: Larry W. Dodd, Council President; John T. Cannon, Council Vice President; Joe Holloway, Ernie Davis, William R. McCain, Josh Hastings, and Nicole Acle.

Present: Laura Hurley, Council Administrator; Robert Taylor, Council Attorney; and Lynn Sande, Executive Office Associate.

Mr. Dodd said, at the Council Meeting on Tuesday, September 15, 2020, he announced that the Council received two applications for round two of the process to fill the vacancy in the Office of the County Executive due to the death of then County Executive Bob Culver on July 26, 2020. He said there was not a formal decision at the meeting on Tuesday because of the possibility that applications postmarked by September 14 may come in the mail, but there has now been ample time for the applications to have been received, and there are no additional applications. He said he is going to summarize how they got to where they are today, but, before he does that, it is noted that under the Wicomico County Charter and State law that the Council is not required to take any specific action, such as asking for applicants or interviewing anyone in order to fill the vacancy. He said also, after discussion with the Maryland Attorney General's Office regarding the Open Meetings Act, the Council understands that they are not required to conduct the selection process in Open Session Meetings that the public may attend, or watch on PAC14 or YouTube. He clarified, in other words, the Council could select someone to fill the vacancy in a Closed Session and without requesting applications or interviewing anyone. He said, with that said, here is how the process has actually occurred.

Mr. Dodd reported, on July 28, two days after Mr. Culver died, the County Council sent out a press release and advertised the position in two local newspapers, and the job posting was placed on the County's website as well. He said the deadline to submit applications was August 11, and there were four applicants, one who withdrew. He said on August 12 a press release was sent out identifying those applicants, and on August 20 the Council held interviews with the remaining three applicants in one Open Session. He said, following interviews, by a majority vote held in Open Session, the Council selected someone to fill the vacancy. He said on August 24 the person selected to fill the vacancy declined the appointment, and notice of this decision was sent to the news media on that date. He said on August 28 Council met in Open Session with legal counsel, Mr. Paul Wilber and Mr. Taylor, to discuss how to proceed. He said Mr. Wilber and Mr. Taylor advised that the 45-day period specified in the Wicomico County Charter to fill the vacancy is a directory provision, not a mandatory requirement, and Council decided to extend the application period to September 14. He said on August 28 a press release was sent to the news media announcing the application period was extended to September 14, and the press release was later posted on the County's website. He said on September 15 he announced at a public meeting that the Council had received two applications in round two, and announced the applicants' names. He said on September 15 the Council decided to have a meeting today to consider Resolution No. 103-2020. He clarified, as mentioned, the Wicomico County Charter does not specify a required process to fill the vacancy. He said the initial thought was that Council must do so by 45 days after Mr. Culver's death, but they have been informed by legal counsel that this is not a mandatory deadline, and the legal memoranda on that point may be obtained from the Council Administrator.

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Mr. Dodd said before Council is Resolution No. 103-2020 approving the continuation of John D. Psota as Acting County Executive. He said, for the benefit of the public, he asked that the Resolution be read by Mrs. Hurley.

Resolution No. 103-2020 – Approving the Continuation of John D. Psota as Acting County Executive.

Mrs. Hurley read:

Whereas, Section 407 of the Wicomico County Charter, Subpart A, provides that in the event of a vacancy in the Office of the County Executive, the Director of Administration shall serve as the Acting County Executive until a new County Executive is appointed, and shall have the same rights, duties, powers, and obligations as an elected incumbent in said office; and

Whereas, having requested and received applications to fill the vacancy and conducted interviews of certain applicants, the Council is unable to reach a consensus on filling the vacancy pursuant to Subpart C of Charter Section 407.

Now, therefore, be it resolved that the Director of Administration, John D. Psota, shall continue to serve as the Acting County Executive until such time as the vacancy in the Office of the County Executive shall be filled pursuant to an election in accordance with the County Charter and State Law or, if earlier, the vacancy is filled in accordance with Charter Section 407.

Done at Salisbury, Maryland this 18th day of September, 2020.

Mr. Hastings said he is going to vote no against this appointment, and his no vote has nothing to do with Mr. Psota's capabilities or leadership, and has everything to do with this Body's process and inability to do what the Charter said they were to do within 45 days, which was appoint a new County Executive. He said today, 54 days after the vacancy, they are appointing an individual who did not even apply for this position. He said they had two separate deadlines for applications, which yielded five candidates, one candidate with very clear support from hundreds of residents, and dozens of important community leaders and organizations. He said, as they heard at Tuesday's Council Meeting, the public is still left with serious questions as to why the Council did not actually consider the qualified candidates who took the time to apply. He said the question the public has repeatedly posed to each of Council is that of what is really happening here, is this just politics as usual, and to this day he cannot answer that question. He said, as a backup option, the County Administrator, John Psota, is about as good of an appointment as Council could ever hope for. He said he has known Mr. Psota for more than 20 years, and he has the right demeanor, work ethic, leadership, and knowledge to serve the County well, in fact, actually, very well; but, to be clear, Mr. Psota will now be working three jobs - the Deputy Administrator position, he will be serving as Administrator, and then also the County Executive. He said, as he has said before, and he thinks Council all agree, they need to immediately hire a Deputy Administrator to make sure that Mr. Psota gets all of the support he needs.

Mr. Hastings said, in summation, his no vote is about this Body's failure to do what it was charged to do, and in the way that the public was broadly left out of the process. He said they live in anxious times, and he thinks folks just want to see that their local government is functioning well and looking out for their best interests. He clarified, he fully understands that this was the very first time that this Council has ever had to go through this process, and hopefully the last time, and that a Charter Review Committee could suggest a better process in the future, but that does not excuse the results. He said, undoubtedly, they can improve upon the process that got them to this point. He clarified, he will, of course, happily do everything he can to support Mr. Psota in his continued role for the next two years and three months. He said, with that, he looks forward to supporting Acting County Executive Psota.

Mr. Dodd said, for the record, Mr. Psota had already stated that he was going to fill the Deputy Administrator's position and start filling the other vacant positions.

Mr. Cannon said first he would like to thank Delegate Anderton for putting his name forward again, and he would like to thank Mr. Matthews for also putting his name forward. He said he thinks it is unfortunate that the Council could not come to a consensus in the first 45 days, or in the second process that came about, but he will vote yes for Mr. Psota because he thinks he is very qualified. He said he thinks what is more important than anything at this point in time is that they put this behind them. He clarified, they make the appointment, put it behind them, and move forward. He said one thing that will come from this is that they do recognize, as they have over the last few years, there are many Charter amendments that need to be addressed. He clarified, the entire Charter itself really has to be addressed, and he thinks that is what they are going to see developing once the Charter Review Committee is appointed. He said he thinks Council will agree with him that this certainly is going to have to be an issue where they finetune this process and get something that is more acceptable, not only for the Council to have a better way forward, but also for public input and their participation in this process as well.

Mr. McCain said he wants to echo a lot of the comments made by Mr. Hastings and Mr. Cannon, and he wants to thank both of the candidates who currently have their applications in. He said the Council was, unfortunately, unable to come to a majority consensus as, frankly, the public is well aware of, despite efforts that were made. He said, with that said, Mr. Psota has performed his duties very well over the last several weeks, and has given a lot of confidence to the Council, and he is certainly a very competent and very capable individual, and that kind of brings them to where they are today. He said he will be supporting this because they do need to move forward, but they could absolutely do better with the process. He said, actually, he will use a comment that was made a few weeks ago by their Rising Star Award winner. He clarified, she is one of the new teachers here in the County who received the Rising Star Award, and her motto was "failing forward". He explained, she talks about having to learn from what she has done that sometimes does not work, but when it does not work, she has to identify why, and how she can do it better. He said he thinks that is something they need to take from this and try to move forward. He said, at this point in time, he thinks this will be the best situation for the County because it will put an end to this situation as they see it now, and they can start moving forward.

Mr. Dodd said the Charter Review Committee will be forming sometime soon. He said they have a lot of amendments and issues in the County that need to be gone over, and the Charter needs to be changed.

Mr. Dodd reported, Mr. Psota has graciously stated that he will accept this appointment.

There being no further discussion, on motion by Mr. McCain and seconded by Mr. Davis, and by roll call vote, Mr. Cannon, aye; Mr. Hastings, nay; Mrs. Acle, nay; Mr. McCain, aye; Mr. Davis, aye; Mr. Holloway, aye; and Mr. Dodd, aye, Resolution No. 103-2020 was approved.

There being no further business, on motion by Mr. Davis, seconded by Mr. Holloway, and unanimously approved, the Special Legislative Session was adjourned at approximately 12:45 p.m.


Larry W. Dodd, President, District 3

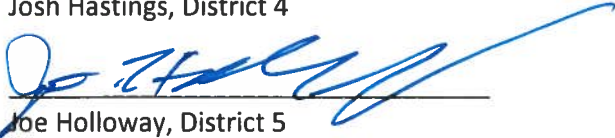
John T. Cannon, Vice President, At-Large


Ernest F. Davis, District 1

Nicole Acle, District 2


Josh Hastings, District 4

Joe Holloway, District 5


William R. McCain, At-Large

William R. McCain, At-Large


Laura Hurley, Council Administrator