

## **Open Work Session – Discussion on Comments from Public Hearings on Method to Select School Board**

Mr. John Cannon stated that the Council has held four public hearings to get public input on the method to select a school board.

Mr. Kilmer mentioned that based on the information from Delegate Anderton's Office, we need to get something to Annapolis before November 16<sup>th</sup>, so we can get this process started early. He said that he feels strongly that the people either want a fully elected school board or the hybrid school board. He mentioned that Dr. Basehart is in the audience and he has done a lot of work on what a hybrid school board might look like. There is also some interest in the community for an appointed school board. The referendum is usually a yes or no vote on one proposal and, if you vote no, you keep the status quo, which would be the appointed board, as it exists now. We need to figure out what to do. There are three options. Can the referendum have three options? We have received some conflicting advice regarding the legality of that. Does anyone have any ideas on the best way to go?

Mr. Joe Holloway said that he spoke to Delegate Anderton on Saturday night at an event held in Delmar, and he said that he didn't think there had ever been a three option vote. He had some concerns over a possible lawsuit since it had never been done that way before. He thinks the Council should have an up or down vote either for an elected school board or against an elected school board and to keep it simple. Mr. Holloway added that he is in favor of it fully, but he does not think that will satisfy everyone in Annapolis. A hybrid school board with two appointed and five elected will satisfy a lot more people and he is okay with that. He said that he is really concerned about someone that is deriving their income either from working or retirement from the school board. It is his understanding that a few years ago a school board member actually voted for an increase in his pension while serving on the school board. Mr. Joe Holloway said somewhere along the lines, it needs to be in there that nobody can serve on the school board that is deriving their income from the school board either through working or through retirement.

Mr. Dodd asked Mr. Joe Holloway if he had received any information concerning who can or cannot serve on the board, like a previous employee, can that be an option? Mr. Joe Holloway asked if he was referring to his comment regarding the member who voted to increase the pension. Mr. Dodd responded, yes, did you find out if that is legal or not. Mr. Joe Holloway said that is the way it is on the County Council; you can't work for the County and be a member of the County Council. Mr. Dodd said that he thinks that part of the Charter is currently working for the County. Mr. Dodd stated that Mr. Holloway made a good point, but he thinks the Council needs to find out if it is legal or

not. Mr. Dodd also said that there is not a lot of time for discussion because we need to get this to Annapolis by November 16<sup>th</sup>, but said that he likes the up or down vote because it's simple. Mr. Dodd said to keep in mind that whatever we do someone is going to be offended.

Mr. Cannon said that the Council is still waiting on clarification. Initially the Board of Elections had said that they could handle having three options on the ballot. She said it could be done mechanically and then when he asked what about legally, her comment was whatever you put in the bill, if passed, would be law. He said that he is not sure what party would want to challenge it. She said that if you put that in the bill and the legislators pass it, then it is law, and that could be acceptable. Mr. Cannon stated we are waiting on confirmation on whether that can definitely be achieved. He said that we all know what the options are, but he would like to go over how we can narrow those options down. We know there is an appointed school board that is in effect, and in some counties there is also a hybrid school board and in others, an elected school board. Under the elected school board, the two options are five, or seven members, all elected. Mr. Cannon asked if there are any opinions on which way the Council should go. Mr. Cannon expressed his opinion in that seven is probably more acceptable than five in the elected process; he asked if anyone else has an opinion?

Mr. Hall asked, if the Council has a general feeling that they only want to go up or down with either the option of an elected school board or an appointed school board, is it necessary to go through this exercise now? Mr. Cannon responded, if the Council were to decide that we want to have an elected school board on the ballot, we would still have to know whether it is five or seven. Mr. Hall said that we can go through that exercise now or we can wait until the State passes it. Mr. Cannon said we are not limiting ourselves. Mr. Hall said that if we go with either an up or down on the request from the State to have either an elected or an appointed school board after the decision is made by the State, then it is on us to decide whether if it is hybrid or fully elected. Is that correct?

Mr. Kilmer indicated that Caroline County, in 2010, the way they did it was the State passed legislation saying that Caroline County will have a hybrid school board with various aspects. The State passed legislation to change the school board and then said that if the voters of Caroline County approve it then it would be a referendum that would go into effect; if they reject it, then it would stay a fully elected school board.

Mr. Hall said what he is trying to say is that if it goes to the State as an appointed school board, or an elected school board and that goes on the ballot, and it comes back that the elected gets the majority of the vote, when it is on the

ballot, then we still have the option of doing a hybrid or fully elected school board. Mr. Kilmer asked if he was referring to the straw poll, to which Mr. Hall responded, yes. Mr. Kilmer said, there is a straw poll, or a binding referendum, to which Mr. Hall said, correct, and that he is talking about a straw poll. Mr. Hall said that if we have a straw poll, then it comes back to Council to decide if we want a fully elected school board or a hybrid school board, correct? Mr. Cannon responded, yes, but he did not think Council ever intended for it to be a straw poll as we are trying to get this to referendum.

Mr. Hall said that if the State says that we can't have three then we take the right of the voter away on who wants the appointed. Mr. Cannon stated an appointed school board will always be an option, even if on the ballot it simply says hybrid, then you are for or against hybrid. If you are for a hybrid school board, then you are against an appointed school board. Mr. Hall said then you have eliminated a fully elected school board. Mr. Cannon responded that is what we are trying to decide, whether we are going to put elected and hybrid on there with appointed or if we are simply going with the choice of the voter to decide on a hybrid, for or against, meaning we either stay with an appointed or hybrid or go with an elected and appointed. Mr. Cannon said that he would like to narrow down the options. If we were to decide and send to the general assembly the option of just elected, what are we going to do, are we going to do five members or are we going to do seven members. We need to make that decision now. We are going to have to narrow down the options on elected as well as hybrid. All council members indicated that they would like seven members. Mr. Cannon stated, so if it is going to be an all elected school board going to Annapolis, then it will be seven members elected. Mr. Cannon continued, now, on the hybrid, we all know the hybrid is five elected and two appointed. The decision we need to consider is if the two appointed would be appointed by the Governor, by the County Executive, with the concurrence by the County Council, or appointed through a commission.

Mr. Joe Holloway stated why don't we appoint one by the County Executive and one by the Governor, to which Mr. Cannon responded, now we have four options. Mr. Kilmer asked if anyone was opposed to a nomination commission, to which a couple of members stated they like the idea of a commission. Mr. Joe Holloway said that he thinks it makes things complicated. Mr. Dodd stated that he would like to keep it simple and that he didn't think the majority of the people who spoke about a hybrid school board that is what they were asking for.

Mr. Holloway stated that if the County Executive does the appointments for the hybrid, then let him organize a committee to help with the selection or let him decide on his own. Mr. Holloway said that he didn't feel Council needed to be involved with that part of it.

County Executive Bob Culver approached the Council. He stated that he would rather see the Council put forth the nominees as he works closely with the Board of Education in the decision making process.

Mr. Cannon stated that the last proposal the Council received, which they may not have had time to review yet, is that the commission would send recommendations to the County Executive's Office for recommendation for two positions and then, he thinks, two recommendations for the student representative. The names would be recommended to the Executive, who then could go back to the commission and say I don't like this nominee, please find someone else, and then the commission would give the Executive four names that he is satisfied with. Those four names would then come before Council, and it could be done through the public hearing process, to make a final decision. Mr. Culver stated that he likes the seven member elected. Mr. Cannon stated in this process the Council would have a greater role, which is similar to what the County Executive has suggested. Executive Culver stated the County Council has seven members, which is a more diverse selection of the nominees, so instead of it coming from the County Executive it should come through a commission.

Mr. Joe Holloway asked if the Council would appoint a commission to which Mr. Cannon responded that it is done through a committee. It would be from a large diverse group of individuals in the community who are assigned the task. Mr. Holloway asked who would appoint the commission, the County Council or the County Executive; He said this gets complicated.

Mr. Kilmer indicated that Anne Arundel and Baltimore County do it this way so there is some precedent; it is complicated, but we don't have to reinvent the wheel here. Mr. Kilmer said he thinks what happens is, say the NAACP has a seat and the Chamber of Commerce has a seat on the commission so they forward a name to the County Executive and then the County Executive makes the appointment. It is stakeholder organizations; the Council can decide the stakeholder organizations. He said that Dr. Harry Basehart had some ideas and other people chimed in; Bunky Luffman from Delmar said that Delmar should be represented because of their unique situation with the Bistate Agreement.

Mr. Joe Holloway stated that he has wanted to see an elected school board for a long time, so he is going to be really flexible. He said anything the Council wants to do is fine, just so we can get it through. Mr. Dodd said that if Joe is flexible, then he will be flexible; he wants the public to be happy, so whatever the public wants is what he wants. If the commission is the simplest way then he will go with that. Mr. Cannon stated that if we choose a hybrid, then the hybrid would be through a commission. Mr. Dodd asked if that would be option two out of the three choices. Mr. Cannon said that the three choices are

appointed, elected, and now hybrid with a commission. He said that he thinks the majority of the people that spoke said that they want a hybrid with a commission. Mr. Cannon said that we are at a stopping point until we get confirmation on legally where we might stand. There is no need to decide on three options on the ballot if that is not going to fly. We may need to establish a yes or no vote and decide if that yes or no vote is that we want an elected school board, or if that yes or no vote is that we want a hybrid school board; I can't see it getting anymore complicated. Mr. Matt Holloway asked if that question had gone to the Attorney General to which Mr. Cannon said that it was sent to Jim Mathias' Office because he has asked to be part of the process and we have been working with him since the last time this went to Annapolis. Mr. Cannon said that he is the one that had the State Board of Elections contact him regarding the initial opinion, but Mr. Cannon said that he has asked him to be more specific about it because we want to make sure we are going in the right direction no matter what we choose. Mr. Dodd said that the Council had four hearings and that the Council has done everything they were asked. They have listened to the people, so he does not think there is any reason a legislator would say no.

Mary Arshanti, President of NAACP, came before Council. She said that she has communicated with the other organizations and two choices instead of three on the referendum is acceptable. The hybrid with two appointed through the commission and then all elected. Ms. Arshanti said that if you have on the ballot all elected or hybrid, with five elected and two appointed, with a commission, it should not be a problem. Mr. Cannon spoke to Mr. Kilmer about his previous comment that it would be a yes or no vote on hybrid or yes or no vote on elected. If we initiate a hybrid and elected on the ballot is that the three process since the appointed is in the background somewhere? Mr. Kilmer responded that is not how a referendum is usually done, but if Senator Mathias can get us some legal advice and says that is okay then he is fine with it. Ms. Arshanti stated that if she votes for one that automatically means she does not vote for the other; it has the same premise as a yes or no vote. Mr. Cannon asked Ms. Arshanti if that was okay with the stakeholders that she had previously discussed, to which Ms. Arshanti said yes. Mr. Cannon stated that the Council should seek legal advice and try to fashion the referendum as suggested by President Arshanti, which is elected and hybrid on the ballot. Mr. Joe Holloway said that the Council needs to put the question on there about employment, to which Mr. Cannon thanked him for the reminder and said that another issue is the student representative as well as the pay structure. He said that he was not sure if it was up to the County Council to establish any type of pay structure in the legislative bill or if that is something that needs to come later. He believes it is the Council's responsibility to simply try to establish the process for the referendum and any pay structure after that would follow. He said that we may have to get the Board of Education to decide as they are currently responsible


for that now. Mr. Kilmer indicated that we would have to change State law in order to change their pay, but if we get a school board where people have to run then it might be a good idea to then support a change in State law because that may help attract more people. Mr. Dodd stated that this is not the end of it as there is a lot more work that needs to be done, such as the Council needs to talk about the current Board of Education members, staggering terms, etc. Mr. Cannon said that the next meeting would be the first Tuesday in November, November 3<sup>rd</sup>. He said that if we don't have enough time to wrap this up at that meeting then perhaps we could hold a special work session. Joe Holloway asked if the Council members could have a rough draft of the legislative bill ready and emailed to them before November 3<sup>rd</sup>. Mr. Cannon said that Ms. Howarth had put together a draft legislative bill; she included all three options. Mr. Joe Holloway said that we are now getting rid of the options and asked Mr. Creamer if he could work on getting a new legislative bill drafted. Mr. Creamer said that he would work with the Assistant County Attorney, Rachel Harris. Mr. Kilmer asked Bunky Luffman to come before Council. He asked Mr. Luffman, since he has worked with Delegate Anderton and is familiar with drafting legislation, if the Council needs to have actual language for the legislative bill or if an outline is acceptable. Mr. Luffman said that he thought an outline would be sufficient because there is actually a bill-drafting department. A bill drafter will then put it in the proper form. Mr. Luffman said what the Council submitted last year still went to a bill drafter because they also do research. Mr. Kilmer stated that instead of having legislative language drafted, the Council should have a comprehensive outline that will be easier for legal counsel and the County Council. Mr. Dodd asked who is going to sponsor the legislative bill? Mr. Bunky Luffman said that his boss, Delegate Anderton, is the chairman of the Wicomico County Delegation and what they did last year, and he assumes they will do it again this year, is that he will take it to the four other members, who are Adams, Carozza, Sample-Hughes and Moltz, and they will vote. If three of them like it, it will be a delegation bill, and if less than three like it then someone from that group would probably sponsor it. Mr. Luffman said Delegate Anderton has said on the record that he does not want to interject, but he will take whatever bill is given to him. There being no further discussion, Mr. Cannon made a motion to close the open work session to go into a closed session to discuss land acquisition, seconded by Mr. Dodd.

**Open Work Session - Selection of School Board**

**October 20, 2015**

  
\_\_\_\_\_  
John T. Cannon, President

  
\_\_\_\_\_  
Matt Holloway, Vice President



---

Ernest F. Davis, District 1



---

Marc Kilmer, District 2



---

Larry W. Dodd, District 3



---

John B. Hall, District 4



---

Joe Holloway, District 5



---

Matthew E. Creamer, Council Administrator