

Open Work Session Minutes – Method For Selecting School Board

Mr. Cannon opened the work session and asked Mr. Kilmer to discuss the draft material he had prepared. Mr. Kilmer said that he appreciates what Mr. Dunn said earlier this evening regarding the options on the method to select a school board. Mr. Kilmer said that he sent his work by email to all Council Members prior to the meeting. He continued, saying it may be an easier path to send to Annapolis, aside from the fairness issue, to place the three options on the ballot. He thinks the Attorney General's opinion said that is something we can do, as long as the Legislature allows it. He wonders if we go down the path of the two options, if that will put us before the General Assembly and then they will say well you didn't allow for the hybrid option, which many people said they favored during the public hearings the Council held. For the sake of fairness and not to have to reconsider this again next year, Mr. Kilmer asked the Council, if it should put three options on the ballot. Mr. Hall asked Mr. Kilmer to share the Attorney General's opinion. Mr. Kilmer said his interpretation of the letter is that although there is no precedent for it, there is nothing in State law that prohibits the General Assembly from passing a law which would allow people from Wicomico County to vote on any of the three options on selecting a school board. He said that is his understanding of the letter, but it is quite confusing. Ms. Harris, Assistant County Attorney, said that she read the letter several times in an attempt to make sense of it; she thinks she understands what they are saying to a certain extent. Some key points that she pulled out of the letter are the General Assembly could enact a law changing the manner of the selection of a County board of education and make the effectiveness of that law contingent upon a referendum submitted to the voters. The Council may not, however, enact legislation providing for a binding resolution in a particular County, as this would limit the legislative powers in succeeding sessions. Ms. Harris said to try to summarize what the Attorney General is saying, Council can pass legislation to provide for a different method in selecting a school board, but it cannot be binding, except that method is the alternative receiving the most votes in a referendum, that is to say, the choice voted for by the greater number of the voters. In her preliminary reading of letter, she said if the referendum favors the new method, which is either the hybrid or appointed board, it cannot be binding. The only way it can be binding is to have a completely unbiased three way vote; hybrid, appointed, or elected. Ms. Harris thinks that The Council needs to include all three options on the ballot, in a neutral manner, in order for it to be binding. Mr. Hall said that he spoke to Senator Mathias about it and the Senator concurs with Rachel's interpretation. Mr. Kilmer said that he prepared an outline and for the sake of not having to revisit this again next year, the Council should, perhaps, send it to the General Assembly and have them

draft the legislation. The Council could also send a letter of support. The outline needs to be to the General Assembly by November 16th. Mr. Holloway asked if he would add an appointed school board to the outline, to which Mr. Kilmer said yes. Mr. Cannon said the Council could come to some consensus and send a letter with the outline as an attachment and ask the Legislature, through its bill drafting department, to put it in the form of a Bill for passage by the Legislature. Mr. Kilmer said that we could have them draft bill language and then that would come back to us with modifications, which would give us some more time to consider it. They need it before November 16th, but we don't need to have the support letter ready yet. We can have them draft bill language that will come back to us for review and then everyone can make sure it covers everything we want. He thinks that we should send the support letter with the actual legislation rather than the three-page outline he prepared. Mr. Cannon suggested that the Council members review what Mr. Kilmer has prepared to see if anyone wants to make any changes. Mr. Cannon said on the first page of the outline, under Item 2, A, 4, it says if multiple candidates run, asking if there should be a clarification that it should be in any district or at large. Mr. Cannon then asked if there is verbiage in the outline that says a board of education employee cannot run for the board. Mr. Kilmer said that State law says anyone under the control or authority of the board of education cannot serve on the board of education. Mr. Kilmer said that someone brought up last time that if the County Council appoints the members, which he thinks the Executive suggested that last time, then the nomination commission for the County Council does not have a seat, which he thinks makes sense. Mr. Kilmer said there are also school professional member associations; we could get the title for that and add it to the list of commissioners. Mr. Davis asked for confirmation on the name of the association, to which Mr. Kilmer said it is like the support staff. Dr. Frederickson, in the audience, indicated that the WCEA has two branches, one is for teachers and one is for support staff. Mr. Cannon asked about the appointments for vacancies, should there be some notation that maybe there should be two recommendations per position, or should we just go with if there is one vacancy, then they just recommend one person or should they recommend two. Mr. Kilmer said that he thought it was two. Mr. Cannon said that it is under section 2, A, 7, number 1, on the first page. He said it talks about it, but it does not mention anything about recommending two appointments per vacancy. Mr. Cannon then said that both the elected and hybrid involve a commission to a certain degree. Mr. Kilmer responded, with the elected it would be for any vacancies, but then there would be a special election. Mr. Cannon continued, on the second page, number 5, it says the County Executive will appoint the members of the commission using the names


submitted by the various organizations, asking if that needs Council concurrence. Mr. Kilmer responded, that just means the names for the nominating commission. For example, the NAACP puts a name in, it would go the Executive and then he would make the appointment to the commission, asking does that make sense. Mr. Cannon said that he is just bringing up questions to consider in-house. Mr. Joe Holloway said that you named the Salisbury Area Chamber of Commerce and Delmar Chamber of Commerce, but you left out Fruitland. Mr. Davis said that he also left out Hebron Chamber of Commerce. Mr. Joe Holloway continued, he said that with the Delmar Chamber of Commerce, we should specify that they have to be a Maryland resident because they would also have Delaware residents in the Delmar Chamber of Commerce. Mr. Cannon asked Mr. Kilmer if there is any other way to do that as we are singling out Salisbury and Delmar, and, as Mr. Holloway mentioned, we are alienating Fruitland. Can we ask the Chambers themselves to come up with two names. Mr. Matt Holloway asked if they have an over-arching organization for all of the chambers. A couple of Council members chimed in stating not to their knowledge. Mr. Kilmer said the issue with Delmar is that Bunky Luffman recommended Delmar because they have the Bi-State Agreement. They are in a unique geographical situation. Mr. Davis stated that Delmar only has one school in Wicomico. Mr. Joe Holloway said that he did not have a problem with having Delmar on there, but we are alienating Fruitland and maybe they don't care, but they might. Mr. Kilmer said that we could add them. Mr. Kilmer then asked about the professional members association, asking if that should be added; he said we can have as many as we want. Mr. Cannon asked Dr. Frederickson, in the audience, if the Council was leaving anyone out. Mr. Cannon said the committee members would be the NAACP, the Salisbury Area Chamber of Commerce, Delmar Chamber of Commerce, Fruitland Chamber of Commerce, Wicomico County Council of PTAs, Wicomico County Education Association, and the Wicomico Farm Bureau. Mr. Kilmer added and a parent of a child with special needs. Dr. Frederickson said that the waterfront is pretty much covered, but you almost have to set up standards as they have booster clubs for athletics and the like, that are involved in our schools, do you want to hear from them for budgetary or operational type of things. He said the first goal should be is to set up some standards for what you want to achieve, then find out how many slots you need after that. If you start mentioning this group or that group that can be challenging as someone is always going to be left out. Mr. Cannon said that there was some thought behind it as we are looking for a variety, and we tried to establish that through the business community and farming community. He said to keep in mind that if we find that we left someone out, we can always amend it in the future. Mr. Matt Holloway asked if we can do at large nominees or a parent's advocate

nominee, in case they don't happen to fall into one of the groups. Mr. Cannon said that the Wicomico County Council of PTAs would involve parents. Mr. Kilmer said the Anne Arundel Commission or the Baltimore County Commission has around 19 members, so there is no set number; it is basically whatever works for your specific County. Mr. Joe Holloway asked if this is set in stone, to which Mr. Kilmer responded that the other ones are set in State law. He said the Board of Education is an organization of the State. Mr. Cannon stated, similar to what Joe Holloway is saying, perhaps this bill could be written whereas the bill allows the County itself the flexibility to appoint a commission of no less than 7 people or no more than 15 people and simply have that in the State law, so when we want to make these changes we can simple do that locally and we don't have to send an amendment to the State. Ms. Harris, Assistant County Attorney, said the more open-ended you leave it, the better. Mr. Joe Holloway said that hopefully none of these groups will be gone anytime soon, but one of the Chamber of Commerce could quit and another thing is that we could have the groups, but no one from that group wants to be a member. Mr. Hall asked if we should add other organizations. Mr. Joe Holloway responded, he thinks that we should leave it open-ended so that the Council can appoint members from different organizations at its discretion. He continued, we are going to have many different Council members over the years; things are going to change. Mr. Cannon said that we can fine turn it, but we can make sure we get a full spectrum of individuals here locally. Mr. Hall said that he does not quite agree with this. The problem that we get into with the Council making the decision is the same problem we had with the appointed school board. The Council is now making the decision on who is going to be making the decision. Mr. Hall said if the Council is going to make that decision then we are circumventing the purpose of the commission. Mr. Cannon said that he didn't think it was a State decision to decide whether or not it is the Salisbury Area Chamber of Commerce or the Wicomico Farm Bureau that is on this commission; it is more of a local prospective to make that decision. Mr. Kilmer said that it is in State law for the other commissions, as this is a State body; State law governs it, not County law. Mr. Matt Holloway said that he recommends that we come up with 12 to 14 different organizations and if some do not participate then we may have only two to three people on the commission, but we would have named them in State law to avoid it getting kicked out. Kilmer said, so you are saying these 12 commissions shall submit names and then the commission, to the extent practicable, shall reflect the gender, ethnic and racial makeup of the County. Mr. Joe Holloway said that we could have a Council member from each one of the municipalities. Mr. Matt Holloway said that we could find enough organizations to fill 12 to 14. Mr. Joe Holloway said that we would be


covering Pittsville, Willards, Hebron, Mardela and Sharptown. Mr. Creamer pointed out that typically the municipalities do not pay any of the costs of the public school system. Mr. Joe Holloway said that they do as taxpayers. Mr. Creamer clarified his statement, he said that the residents of the municipalities do pay taxes but the governing bodies of the municipalities do not have any connection to the public school system. Mr. Kilmer stated that this is for the members of the nomination commission to choose, so the NAACP may have members that have an interest in the school system, or the people in Sharptown and Mardela Springs have a definite interest in certain schools so that may be the way to go. Mr. Joe Holloway stated that we could add more members to it that way. Mr. Cannon stated that he would still like to see where the State law gives the County the flexibility. Mr. Matt Holloway said that he would like to use an example of another county that currently has it in practice right now. Mr. Joe Holloway asked the Council members what everyone thought about the municipalities' participation. Mr. Kilmer responded that he thinks we could send around a list. Mr. Joe Holloway said that would give them a voice because the way it stands right now we have no representation from Pittsville, Willards, Hebron, or Sharptown. Mr. Cannon stated that they represent taxpaying citizens, so he understands. Mr. Cannon then asked Mr. Kilmer how is the Council going to go from 7 to 14, to which Mr. Kilmer responded each of the organizations, if they so desire, nominate a member, then you have a 9 person commission that are chosen and, to the extent practical, the commission shall reflect the diversity of the County. Mr. Cannon clarified his question, he said he meant how are we going to get these additional 7 organizations. Mr. Kilmer said that we could do a list and mail it around and, before we approve it, this would all be made public. Mr. Joe Holloway said there is a good chance that we may never have to use this. Mr. Cannon said that the commission would be the same for the hybrid as well. Mr. Kilmer said that it was also brought up that if the Council rejects nominees, then the Council needs to tell the commission why, such as we need someone with a business background. Mr. Matt Holloway asked what section does that fall under, to which Mr. Cannon responded that it was a recommendation from WCEA. Mr. Kilmer asked if there were any objections to adding that language. No Council members objected. Mr. Cannon said on page 2, number 7, it says the commission shall select its chair from among its members, asking should the commission also select its vice-chair, to which Mr. Kilmer responded yes. Mr. Cannon said that he was surprised to see on page 3, number 8, it states if a vacancy shall occur before 30 days prior to the primary filing deadline during the presidential election year, then a special election to fill the vacancy shall be held during that presidential election. Mr. Kilmer responded that we discussed something like this during the Charter Review Committee, with the County Council, you had the death of Bob

Caldwell, that vacancy could be filled with a special election that occurs at the same time of the presidential election. Mr. Matt Holloway asked if it is still called a special election at that point, to which Mr. Kilmer responded, yes, he thinks it is State law. Mr. Cannon also pointed out that it indicates the student member shall serve a one-year term, and shall be a high-school senior, asking if it could be a high-school junior or senior. He said that it is a small detail, but he is providing his comments. Mr. Dodd said that on the school board it is usually a senior. Mr. Cannon said that there may be some great juniors out there too. Mr. Cannon continued, he said that the last thing he wanted to point out is on next to the last page, under removal, it indicates before removing a member, the State board shall send the member a copy of the charges pending, asking if it should also be sent to the governing body, to which Mr. Kilmer responded that he took the language straight from State law. Mr. Kilmer said that this is what every other school board has. Mr. Cannon said he is assuming that the pay rate does not have to be mentioned in the bill, to which Mr. Kilmer said we can add it, if we want to. Mr. Cannon then said we are going to send a letter of recommendation for three options; appointed, hybrid, and fully elected. Mr. Joe Holloway stated, so going to what was said about the commission, we may not have to use a commission if it goes fully elected, to which Mr. Cannon said on the elected we would use the commission for vacancies. Mr. Kilmer then stated, we will make changes to the outline, send it around for everyone's approval, then send it to bill drafting, which will take a little bit of time, and then we will get the letter of support together, asking the Council members if that seems like a good timetable; the Council members concurred. Mr. Cannon addressed Mr. Kilmer and said on behalf of the County Council, he would like to thank him for all his hard work. There being no further discussion, on motion by Mr. Dodd and seconded by Mr. Matt Holloway, the meeting was adjourned to go into closed work sessions to discuss land acquisition and personnel.

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November 3, 2015**



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Matt Holloway, Vice President



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Marc Kilmer, District 2

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