

## **Open Work Session Minutes – Letter to Eastern Shore Delegation Regarding the Manner in which School Board Members are Selected.**

Mr. Cannon opened the work session and turned the meeting over to Mr. Kilmer. Mr. Kilmer stated that Councilman Hall has a very marked up version of the outline, so he thinks he has some ideas to discuss. Mr. Hall said his comments are based on the last version of the outline that Council members received on Friday. He has quite a number of things he thinks are very important to this issue and may simplify things. To start, item 1, a, ii, the last line states "if the person ceases to reside in the district or is no longer an eligible voter, then the member has forfeited his or her seat." Mr. Hall said it probably should be "must forfeit" his or her seat." Mr. Cannon suggested that the word "must" be replaced with "shall". Mr. Hall continued, the next one is, item 1, a, iv, it states "if more than two candidates run in any district or for each at-large position, all shall be placed on the primary election ballot." Mr. Hall said the cost of the primary election, which he may be wrong, is around \$12,000 to \$18,000 dollars to run a primary election, and he is not sure the intent on this should be borne by the voters. The primary only eliminates one or two other people, whereas, plurality should elect the people and not necessarily the primary with a run off. Mr. Kilmer explained this is a primary, like a primary for council members; it is not the addition of just an extra line on there. Mr. Hall said since this is the Board of Education and not a council member, the expense would outweigh any benefit where plurality should make the decision. Mr. Matt Holloway asked if there would be an expense if there is already a primary running, to which Mr. Hall responded, no, in that case, there would not be. Mr. Matt Holloway said there will already be a primary, to which Mr. Hall responded, not necessarily. Mr. Cannon stated that there is no special election, this is in concert with the presidential election. Mr. Hall stated there does not necessarily have to be a primary even in the council, if a candidate does not have any competition. Mr. Cannon said that it is still on the ballot. Mr. Matt Holloway said there is a primary, even if you do not have any competition; there is a contested race somewhere in the State. Mr. Dodd stated that it is the gubernatorial primary election. Mr. Kilmer explained that much like Mr. Hall was on the primary election ballot unopposed, the name is still there. Mr. Hall agreed. Mr. Matt Holloway asked Mr. Hall if he was asking if everyone's names should be on the ballot at the general election and skip the primary, to which Mr. Hall responded, absolutely, the plurality should make the decision. Mr. Matt Holloway asked the Council what does everyone think about that. Mr. Cannon said he likes to see the top two. He said that is how the City of Salisbury did it in their nonpartisan election. If you have candidates, they would want to know in the primary so they do not have to campaign all the way to November. Mr. Kilmer said he thinks that is what other counties do, too. Mr. Hall continued with his review of the outline. He said I, a, v, states "The terms of office for school board members should begin on the first Monday in December after the election." Mr. Hall pointed out that it does not state when the term ends. Mr. Kilmer stated when the new term begins, the old term ends. Mr. Hall said then it should be put

in the outline. Mr. Kilmer asked if we should say they will serve until the end of the earlier term. Mr. Dodd asked if we are dictating when they hold their meetings, to which Mr. Hall said, no, he does not think the Council should be involved in this as much as it is. Mr. Hall continued with his discussion of the outline. He said item 1, a, vi, states "the student member shall serve a one-year term and shall be a high school senior or junior." Mr. Hall explained that the student representatives do not take office until the first of December, which means they only serve until June, if it is a senior, so the student is only serving for six months. Mr. Kilmer said it could be tweaked to have the student member start serving in September. Mr. Cannon asked Mr. Hall if he is suggesting that it not be a senior at all, to which Mr. Hall responded he does not want any involvement on how we pick who serves but he does not think it should be senior, it would be more realistic to have a junior. Mr. Cannon said that was a good point because when September comes, who is going to be there, to which Mr. Hall responded, not the senior. Mr. Joe Holloway stated the junior would serve the same time. Mr. Cannon explained that the senior will graduate in the spring, so he will not be there next September. Mr. Joe Holloway then expressed that he understood what he is saying, the junior would come back next year as a senior. Mr. Hall said if it is a senior, he would only serve half of the term. Mr. Creamer said that most of the other counties stipulate senior and asked Mr. Dodd if it has typically been a senior in our county. Mr. Dodd responded, yes, at every meeting it is the senior SGA that attends from the high schools. Mr. Cannon asked if they change in September; is there another senior that shows up. Mr. Dodd said all the schools show up to give their report but there is always one seated at the table. Mr. Cannon asked if he is talking about the SGA president, to which Mr. Dodd said yes. Mr. Cannon asked if the standing SGA president would be the appointee. Mr. Dodd said that would not affect the date. Mr. Kilmer suggested that we put in the outline that the student member would start in September; he said that would simplify it. Mr. Cannon asked does it matter if it is a junior or senior. Mr. Dodd said that he thinks it is easier for a senior to leave class. Mr. Matt Holloway suggested that it state the student representative shall serve for one year and let them figure it out. All council members agreed. Mr. Hall continued reviewing the outline, 1, a, vii, states "If there are vacancies on the Board of Education, the County Council shall fill vacancies from names provided by a nominating commission," asking why should the County Council be involved. Mr. Hall asked why not let the County Executive make that decision instead of the Council. Mr. Matt Holloway said the County Executive did not want to make that decision. Mr. Cannon said that he thinks the stakeholders that are involved were quite clear that they are more comfortable with a seven-member body representing the County making these appointments as opposed to one individual person, the County Executive. Mr. Hall said that he hates the idea of the County Council being involved with the Board of Education. Mr. Cannon said that they were especially concerned that the County Executive is the first stage in any type of negotiations on funding, so they felt more comfortable with the Council as opposed to the Executive. Mr. Creamer

asked Mr. Hall if he is suggesting that in the event of a vacancy of a student representative, then the vacancy be filled through the school process system, to which Mr. Hall responded, no, he thinks the County Executive should have the option of filling the vacancies and not the County Council. He said since they have such an impact on the Board of Education's budget, it would be less effort for us to show favoritism and will have more of an impact if it is up to the entire Council. Mr. Matt Holloway said it has already been pared down by the nomination commission, so we are not doing the search part. It kind of removes us from the process somewhat, we are just there for confirmation. Mr. Cannon said that we are just approving the commission's recommendation. Mr. Kilmer explained that the commission will take out some of the undue influence that Mr. Hall is concerned about. The Council decided to leave the language as shown in the outline under 1, a, vii. Mr. Hall continued, he said item 1, a, vii, 2, states "if both the names submitted are unacceptable to the council, the council shall return the names to the commission with reasons why the names are unacceptable". Mr. Matt Holloway said that language was requested by Gary Hammer. Mr. Creamer stated that is very uncharacteristic as the Council is a legislative body and the legislative body does not need to give a reason for its decision Mr. Hall said that he is very much against providing a reason; he thinks it is inappropriate to give that information. Mr. Kilmer said he thinks the process is that if the Council were to reject the two individuals the nomination commission forwarded to us, it would be helpful to know why we rejected them. He explained perhaps we thought there should be more female members on the school board or that we needed someone with a business background. We would tell them this is what we would prefer to see so they can be guided. Mr. Matt Holloway said then we are directing the outcome from the nomination committee. Mr. Kilmer stated we are directing them by rejecting people too. Mr. Cannon said that he is not in favor of giving a specific reason why the Council would reject any names. He said informally we could probably tell them the reason, but he does not think it should be mandated for the Council to give a specific reason. Mr. Hall continued with his review of the outline. He said under the same section it states, "the commission will then submit names of additional qualified individuals. The council can only refuse candidate(s) selected by the nominating committee twice. A name from the third set of candidate(s) shall be approved by the County Council." Mr. Creamer asked Mr. Hall if he is suggesting to remove all of number 2, to which Mr. Hall responded, yes, he would take all of number 2 out of the outline. Mr. Kilmer said the language was put in the outline otherwise you could have an endless game of names up and names back, it could take years to fill it. There needs to be some way to resolve a stalemate for when the commission suggests names the Council does not like. Mrs. Harris said the Council should also think about the political considerations if the Council keeps rejecting names. Mr. Hall concurred with Mrs. Harris. He said that shows that we have no confidence in the committee that is recommending the names. Mr. Cannon said he did not think that we can strike number 2 entirely as there has to be a process if

we do not agree with the initial two appointments. There has to be something that says where do you go from here. Mr. Kilmer said we need to have something in there if we do not agree on the two names. Mr. Joe Holloway said we need something to replace number 2, but not to have it so in depth as currently written. Mr. Cannon suggested that item 2 be written as "if both the names submitted are unacceptable to the council, the commission will then submit names of additional qualified individuals" and leave it as that, it can then go on in perpetuity, if it needs to. Mr. Joe Holloway said he doubts that will happen. Mr. Creamer said at some point, one body or the other will realize that they are singing the wrong tune. Mr. Joe Holloway made a comment that we are spending more time getting this drafted than what it will be used, which is fine, because we want it right. Mr. Cannon then suggested that it be written as "if the name(s) submitted are unacceptable to the council, the council shall return the name(s) to the commission. The Commission will then submit names of additional qualified individuals. Mr. Dodd said to strike the rest of number 2. Council members concurred with the suggested change. Mr. Hall continued, item 3, states "the commission will be composed of 8 members". Mr. Hall explained the way it is currently written, we have an a, b, and c and then 5 or 6 other organizations. He said if you take away a, b, and c, you are discriminating against the other 5 or 8 more organizations. He suggested instead of having "one member appointed by each of the following organizations" to have just one committee; lump them all together as one. Mr. Kilmer said he understood. The idea was to have 15 groups that have a pool so we can have eight names. The concern was that there would be a lack of diversity on the Council, so we would need to have the NAACP's input. Mr. Kilmer said if we did not have that in there, he can foresee having problems in Annapolis that this would be the way we could evade that responsibility. Mr. Hall continued, on the next line it says "to the extent practicable, the commission shall reflect the gender, ethnic, and racial makeup of the County." He thinks that explains the commission members that are privy to that. Mr. Hall stated that he agreed with Mr. Kilmer that it would be nice to highlight one group over another but he does not think it is fair to say that these entities are better than the other entities. Mr. Cannon stated, so you want to see 8 organizations in bullet point, to which Mr. Hall said yes. Mr. Kilmer said that is fine, as he had shown it that way in a prior outline. Mr. Matt Holloway said that Mr. Joe Holloway's concern last time was that we were leaving out people if we only had 8 listed. If, however, we say each appointment by each corporation/municipality, one appointment by consensus, even though it is narrowed down, it broadens the pool. Mr. Joe Holloway said that addresses that specific concern, but he thinks each municipality should have a seat at the table because it spreads it out over the County. Mr. Hall said, in the bullet points, we have the chamber of commerce for each of the areas that have a chamber of commerce, but we also have each municipality; each municipality has a chamber of commerce in it. Mr. Kilmer responded that not all municipalities have a chamber of commerce, such as Sharptown and Pittsville. Mr. Joe Holloway said Pittsville has a chamber of

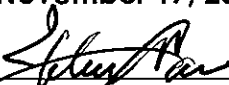
commerce. Mr. Hall said the ones that do not have a chamber of commerce are fine, but shouldn't the municipalities draw from the chamber of commerce. It seems like there are duplicates. Mr. Cannon said we are just trying to get a variety; we are trying to get businesses involved and governments involved. Mr. Hall said this is very important and, if we are going to move forward, we need to move forward in a process that is logical. Mrs. Harris stated, going to back to using the word "shall" vs. "must", there is a move in the legal community to do away with the word "shall" in legal documents and to limit its use to its original intent. She said it is up to Council if they wish to follow that or not, but she wants to bring it to the Council's attention. She said if we are going to use the word "shall" it should at least be done consistently because if you use must or will or something else, if this was ever securitized legally, it could be an issue, and the reason it is being moved away is because it has been used ambiguously over the years. They are saying it is better to use must or will instead, depending on what you actually want to convey. Mrs. Harris said that she would go through the outline and make sure it is used consistently throughout. Mr. Hall asked who nominates a special needs person, to which Mr. Matt Holloway responded the County Executive does. Mr. Creamer clarified that the County Executives appoints everybody, to which Mr. Kilmer confirmed the County Executive does the appointment with Council concurrence. Mr. Hall continued, he said item 3, number 6, states, the "term of office for commission members will be no more than four years. Mr. Hall said this may be a challenge. He asked why should we dictate the term of office for the commission since they are poled by the County Executive. Mr. Creamer said one reason would be to afford a new County Executive an opportunity to have his/her views reflected by the appointment of the commission. Mr. Hall stated when it says no more than four years, then that indicates that County Executive cannot reappoint them. Mr. Kilmer said then it should just say four years, to which Mr. Hall agreed. Mr. Hall continued with his analysis of the outline, he said item 3, number 8, indicates, "the list of names being considered by the commission will be made public. The commission will hold at least one public hearing on the selection of nominees before making its recommendations. The recommendations made to the county council will be made public." Mr. Hall said that he does think a public hearing is appropriate. We do not want to vilify the commission. Mr. Kilmer said that is the risk you take when you do things in the public. People get to say what they want to say. Mr. Kilmer said the thought process on this item is that with the current process everything is done in secrecy and this keeps things open as possible. The public has a chance to weigh in. Everything is open and transparent and there are no backroom deals, as it appears the way things are done now. Mr. Hall said he thinks we will be sorry if this has to happen. Mr. Cannon said the Council will hold a public hearing so it is being vetted to some extent. Mr. Cannon said the Commission would probably thank us if we remove the requirement for them to have a public hearing because they would have to pay for the public hearing notice. Mr. Kilmer said he thinks we should keep it public but to cross out the requirement for the public hearing. Mr. Hall continued, looking at I, a, viii, of the


outline, it states "If a vacancy shall occur before 30 days prior to the primary campaign filing deadline during the presidential election year, then a special election to fill the vacancy shall be held that presidential election." Mr. Hall said that he is concerned about the expense again. Mr. Kilmer stated that the costs would be minimal because there is already a presidential election happening, so you just add a name to the ballot. Mr. Hall asked if that is the intent, to which Mr. Kilmer said yes, it is concurrent with the presidential election. Mr. Creamer asked if we should take out "special election," to which Mr. Kilmer said it is called a special election with the State. It is special because of that seat. Mr. Dodd asked if the presidential election is the special election, to which Mr. Kilmer responded, yes, concurrent with. Mr. Davis asked why isn't the process for the appointed the same as the elected and hybrid; why isn't it on the ballot like the others. Mr. Matt Holloway said that it will be on the ballot on the very first line. Mr. Davis reworded his question, why isn't the appointed being explained how the process works like the elected and hybrid are explained. Mr. Kilmer said that this outline is for the legislation, it is not for the ballot. Mr. Davis asked how is it going to be on the ballot. Mr. Kilmer explained that the last paragraph of the outline says "There shall be printed on the ballot to be used at this election the title of this Act and underneath the title, on separate lines, a square or box opposite the words "For an Elected Board of Education with 1 Non-Voting Board of Education Student Member" and a corresponding square box opposite the words "For a Hybrid Board of Education Consisting of 2 At Large Members Appointed through the School Board Nominating Commission, 5 Elected Member from the 5 County Voting Districts and 1 Non-Voting Board of Education Student Representative" and a corresponding square box opposite the words "For a Board of Education Appointed by the Governor." Mr. Kilmer said that is how Caroline County worded it. Mr. Davis said there is no mention of appointed. Mr. Matt Holloway explained that the last sentence pertains to the appointed school board, which is the current system. Mr. Kilmer said we will have elected, hybrid and appointed on the ballot. Mr. Creamer asked who gets to make the decision as to which order the choices will appear on the ballot. Mr. Cannon suggested alphabetical order. Mr. Kilmer said that it depends on how it is in the legislation. Mr. Creamer said that some people think there is a science as to the order in which questions appear on a ballot. Some people think the order in which questions appear on the ballot affect the outcome of the vote. Mr. Kilmer said the legislation will say what is on the ballot, if you want us to get into the order in which it appears on the ballot, we can. Mr. Creamer agreed that it will appear in the legislation, but does the Council want the State, or the bill drafter decide in which order the choices appear on the ballot? Mr. Hall said he agrees with Mr. Cannon that it should be appointed, elected, hybrid. Mr. Kilmer asked if he has Council consensus with the changes as discussed. The majority of the Council concurred. Mr. Kilmer said that he would rewrite the outline. Mr. Cannon said the Council needs to start thinking about how this is going to get in the newspaper because educating the public is very critical. Mr. Cannon suggested that Mr. Kilmer discuss with


Greg Bassett how to put the educational format together. Mr. Kilmer then asked if the Council should get a letter written and signed to send up, is that something the council should do now or even have a discussion letter written. Mr. Cannon asked Mr. Creamer to put the letter together. Mr. Creamer said that it would be a simple cover letter. Mr. Kilmer asked if we could have the letter at the delegation meeting, to which Mr. Creamer stated, yes, adding that the most important part of the letter will be the seven signatures on it. Mr. Cannon said the General Assembly is going to want to see a letter from the County Executive too. Mr. Creamer asked Mr. Cannon if the Council wants to invite the County Executive to sign the letter, to which Mr. Cannon said either that, or we can have one letter from the Council and the Executive could have a separate letter. Mr. Kilmer said that he could sign the Council's letter. Mr. Cannon said that he could, but he thinks it should be two separate letters. Mr. Creamer asked if the County Executive has seen what has been discussed. Mr. Kilmer responded that he has been included in the emails and he can touch base with him. Mr. Creamer asked, when we ask the County Executive to sign the letter, would it be appropriate to provide him with a copy of what we are asking him to support. Mr. Cannon responded, yes, and he can have it to attach to his letter as well. There being no further discussion, on motion by Mr. Dodd, seconded Matt Holloway, the meeting was adjourned to a close work session to discuss personnel.

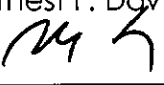
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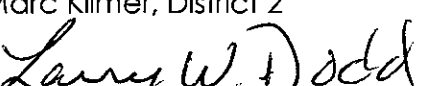
Open Work Session-Letter to Eastern Shore Delegation-School Board Members  
November 17, 2015

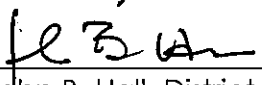
  
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John T. Cannon, President

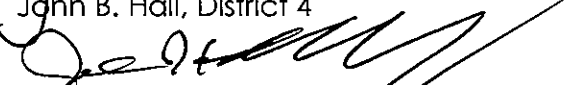
  
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Matt Holloway, Vice President

  
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Ernest F. Davis, District 1

  
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Marc Kilmer, District 2

  
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Larry W. Dodd, District 3

  
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John B. Hall, District 4

  
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Joe Holloway, District 5

  
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Matthew E. Creamer, Council Administrator