

**Open Work Session
June 20, 2017
Personnel Manual (Chapters 1- 4)**

Mr. Ed Baker, Former County Attorney, and Mr. Matt Creamer, Former Council Administrator, came before Council. Mr. Creamer thanked the Council for the opportunity to work with them on this current draft of the revised personnel regulations. He said they will answer any questions Council has and suggest some things that are different, or that Council may want to give additional consideration to. He said the first chapter begins with Authority. He said the first two sections are identical to the current manual, there are no changes, as it is essentially boiler plate language. He said, Section 102.1 Invalidity is an addition only because it is in this place rather than somewhere else in the document. He said there is nothing to look at until the bottom of page 10, Section 0104, Exclusions. The Lower Shore Enterprises was removed from the list. He said he is not sure why it was on the list, because Lower Shore Enterprises is not a party of the County government, nor has it ever been anything other than a recipient of grant funds from the County government. He said he did not think that has been the case for a number of years, so it was not necessary. Mr. Cannon asked for clarification on where it says elected officials are excluded from the provisions of this Manual unless otherwise provided. Mr. Creamer said they will see later where elected officials are specifically included. Mr. Cannon then said he was not sure what the non-attorneys in the State's Attorney's Office meant, to which Mr. Creamer said they would call them administrative personnel in County departments.

Mr. Creamer continued with Section 0108, Departmental Manual and Policies. He said many departments have departmental policies in addition to the policies in the Personnel Manual. This allows them to have separate policies, provided they are not in conflict with any state or federal regulations. Mr. Baker said the biggest ones are the Sheriff and Elections.

Mr. Hall asked in Section 0109, if it would be more appropriate to use the word "persons" rather than identifying neuter pronouns, to which Mr. Creamer responded, you are correct, there are a number of ways that this issue is being addressed and, frankly, this is one of the little things that we would suggest that when this has a legal review, this be part of that. Mr. Creamer said the other case is they all relate to federal regulations and that sort. Make sure that the document is not out of compliance with the Fair Labor Standards Act.

Mr. Creamer said Section 0110, Distribution. He said the official copy of the Manual is amended from time to time by legislative act. He said Council will at some point adopt the manual by legislation and any amendments to the document would be by legislative act as well. He said as the manual is amended from time to time, an electronic copy will be posted on the County website, and the Department of Human Resources will have the responsibility of keeping it up to date, as it may be amended from time to time.

Mr. Creamer said Chapter 2 provides for the Organization and Delegation of Authority beginning with the County Executive down to the Director of Administration, the department heads, including the Director of Human Resources, who has special authority and responsibilities in the manual, down to the supervisory personnel to the individual employee or employees themselves. Mr. Kilmer said there are two branches of government, and obviously, the Executive controls its Executive Branch, there is no question about that. He then asked when it comes to the Council employees, does there need to be a separation between the Executive Branch and the Legislative Branch. He said in the federal government, there is a very clear delineation. Mr. Creamer said you are correct, at least they think Mr. Kilmer is correct. He said you will see in a few places where there are exceptions made for Legislative Branch personnel. Mr. Kilmer asked if that should be spelled out, as he did not see it in Chapter 2. Mr. Creamer said they could look into adding it to Chapter 2 if Council thinks it would be appropriate. He asked Mrs. Hurley to take note of Councilmembers suggestions, to which Mrs. Hurley responded, yes, she will. Mr. Creamer said Council will see as they go along, it specifically refers to exempting employees of the Legislative Branch.

Mr. Creamer said, Section 0207, is on Human Resources Information System. This is something new, it simply codifies that all personnel transactions shall be electronically processed in the MUNIS Human Resources module. He said even though that module is extant within the counties of technology, there are certain bits of work and records kept that are not in that module at this time, and this assures that will be the case in the future. He said, from time to time, it may be called something else as technology advances, and changes should be made to acknowledge whatever the system is the County using.

Mr. Joe Holloway asked if they should acknowledge it is processed in the approved Human Resources module instead of just saying in MUNIS. Mr. Creamer clarified, language should be added to say "and such other electronic facilities as may from time to time be invoked." Mr. Joe Holloway said that way they will not have to go back and change the Personnel Manual. Mr. Creamer said, great idea, certainly.

Mr. Creamer said Section 0208 is new. He said some might think it is minor but it provides for sanctions which would be applicable if the provisions of the manual are not adhered to.

Mr. Creamer said Chapter 3 is on Position Classification. This begins the nuts and bolts part of the manual, establishing as provided by the Charter there is a Personnel Manual and included in there is a classification plan, which consist of all position descriptions and job titles, etc. He said this is essentially the same as it was in the workgroup's draft. It has just been slightly reworded to condense it. Mr. Cannon asked if the position itself indirectly established the fact that no position may be established without having that corresponding classification and description, to which Mr. Creamer responded, if Council feels that further clarification is needed, a few additional words could be added for its consideration, to which Mr. Cannon responded, yes, he thinks it should be clarified. Mr. Cannon then asked, as far as any other types of new positions, etc., would there be any time restraints on that, to which Mr. Baker responded down a little further

in Section 0306, it is normally at budget time. Mr. Creamer said later you will see that this is to take place as part of the budget process.

Mr. Creamer said, Section 0303, establishes the Relationship that the Director of Human Resources under the Director of Administration shall have responsibility for the overall administration of the Classification Plan. He said the next section provides for amendments to the plan, the Director of Human Resources shall periodically review classifications and ensure job descriptions, which reflect the current expectations of any position. He said this is needed, particularly as they have experienced in the last few years, when there was a downturn, there was a significant reduction in the County workforce and that meant that those remaining had additional responsibilities imposed upon them and, in some instances, that required a reexamination of those positions. He said this language assures that will take place. Mr. Creamer said they will see at the very bottom of Section 0304, whenever classifications are to be established or abolished, or revisions are to be made in the minimum qualifications requirements, the Director of Human Resources shall recommend such amendments to the Director of Administration for consideration, and forward to the County Council for action. Mr. Creamer said in Section 0306, the same process occurs if it is appropriate, then something would come from the Administration to the Council to amend the document by legislation.

Mr. Creamer said Section 0308 is an opportunity for reclassification to occur by employee request. It points out an additional avenue that if an employee feels their duties have increased, that a request can be made for reclassification, and the same process occurs.

Mr. Creamer said Chapter 4 speaks of Recruitment and Selection. He said the very beginning portion of that Chapter is the County's policy to recruit, hire, train and promote individuals, as well as administer all regulations in accordance with applicable laws. He said the County will not tolerate any unlawful discrimination and any such conduct is prohibited. He said it points out in Section 0402 that the Sheriff's Office and Department of Corrections, because they are law enforcement type personnel, and they go through additional steps in their recruitment process above and beyond what is the normal case for County employees.

Mr. Creamer said, noteworthy is slight rewording of Section 0404, Position Description Review. Prior to advertising, the Department Head should review and verify that the position description for a position that is about to be advertised for filling includes the language which properly describes what is currently being expected of a person who will be hired to fulfill a certain job. He said, in addition, under recruitment, the last line of Section 0405 says, at a minimum, the position will be posted on the County's website for a period of two weeks in addition to whatever advertising for recruitments are employed. Positions will be posted on the County's website, and he thinks that is the correct practice.

Mr. Cannon said, in Section 0404, it says prior to advertising, verify the position description is current. He then asked if there should be a continuation there that if the position is not current, it should be updated, to which Mr. Creamer responded that it

says that earlier. He said part of the Department Heads responsibility before advertising is to make sure that what they are advertising is to get what the department needs.

Mr. Creamer said Section 0407 has a little bit of a change in the applications. They do not have to be submitted to the Department of Human Resources, as they may be received by the department that is seeking an applicant. He said, Section 0408 has a minor change, but there is a potentially important reason for it. He said Section 0407 says that the department need not only receive applications all of which meet the minimum requirements for the position. Mr. Creamer said the reason for that is the department should receive all of the applications. He said the department head or anybody could run into someone in the store and say my grandson applied, or such and such, you are not going to know anything about it but, if you were the department head, you would know about it, but if you did not receive the application, you could not give a polite answer to that person. That is what this does, that a department will receive all the applications so someone does not get the impression, if he or she or someone applied, that they did not get any consideration at all. Mr. Cannon said it sounded to him that Section 0408 removed that process on the pre-screen. Mr. Creamer said, yes, and they are suggesting that it stays. Mr. Cannon said, he agrees. Mr. Creamer said it may take a little longer, but it might result in somebody having a better feeling about Wicomico County government. Mr. Cannon clarified that is going to be amended, to which Mr. Creamer responded, they are going to make that recommendation.

Mr. Creamer said Section 0409, Nepotism, depending on the organization, nepotism is not a good thing, and other organizations see it as a good thing. He said he once did some extensive projects for one of the largest counties in the United States and nepotism was invited there. He said there was a private sector company that used to have a very large plant in Wicomico County that encouraged family members to get jobs with the company. He said their thought was that it encourages good employees, and that can certainly be the case, but it also has the potential for a downside. He said the County personnel regulations have, as far as he knows, always had provisions with regard to nepotism that it is discouraged and prohibited through one means or another as best as possible. He said he can go over it, but he is sure Council has all read it and if something needs to be changed, Council can let them know. He said the proposed manual does more than discourage, it means that people would be moved to another department, or if one or the other is not willing to move to another department, somebody has to resign. Mr. Creamer said, to take note of Section 0409 (d), it specifically refers to elected officials, the County will not consider for employment for any position, applicants who are members of the immediate family of the County Council and the County Executive, unless prior review and confirmation of such employment has been obtained by the Ethics Commission of Wicomico County. Immediate family is defined as follows: spouse, children, parent of employee or spouse, or siblings. He said this would inject the Ethics Commission into that situation that is not presently a requirement.

Mr. Creamer said an additional nuance in item (f), Change in Status, if there is a change in status between two employees in a manner that potentially creates a

nepotism arrangement, the department head must report the arrangement to the Director of Administration to determine if the relationship results in nepotism. He said Council could add language there to take steps as may be appropriate. Mr. Cannon said it should also be reviewed by the Ethics Commission as well. In reading this he thought there should be an additional step there in case the Director of Administration may have a conflict of interest. Mr. Creamer said he could add that language if it is Council's wish.

Mr. Creamer continued, he said under item (h)(5) on page 17, please add the Department Head and the Human Resources Director recommends approval of waiver for hire, promotion, retention or transfer. He said that is under the waiver provision. Mr. Cannon said he made a note with item (g) and (h) both that should be with the Director of Administration's approval as well. Mr. Creamer said they could add that for Council's further review.

Mr. Creamer said this may not really mean anything to Council, but going back to Section, 0412, Employment Status. He said there are regular full-time and regular part-time grants for review funded positions, appointed positions, contract positions, and there are seasonal employees, then there was another listing, variable employees and they really found that was redundant in that variable employees would fit into one of those other categories, so that was eliminated. Mr. Creamer said, another change in Section 4, Effective Date of Employment, the effective date of appointment should be set by the head of the department that is hiring the employee. Mr. Joe Holloway said, he knew an individual that went to work for the Board of Education a couple of years ago and the lady called him. Her first day of employment was a holiday, and she got paid for the holiday and went to her supervisor and said she should not get paid for this because she did not work that day, and the supervisor told her not to worry about it. He then asked should there be something put in this section so that does not happen. Mr. Creamer said they will look at that for their consideration too.

Mr. Matt Holloway said he had a question on the Nepotism section. He said up until Section (g), within that section it is very specific and narrow, and then they have a waiver provision, Section (h), it seems like a softening of that section. It seems they should have a hard line nepotism policy, or no policy on nepotism. He said if it was found that nepotism existed, they could go through any of these waiver positions and make a good case as to why that does not apply. It just seems like a softening of the policy. Maybe that is standard language with a nepotism section. Mr. Creamer said that language is in the other manual and they left it in. He said he understands his point. It will be Council's legislation, so it is entirely up to Council.

Mr. Cannon asked if the Employment Eligibility List, is a list where you have people who have applied, that might be possible candidates in the future, and you maintain that list. He then asked if there would be any violation to consider them in the future, to which Mr. Creamer responded that happens very often with administrative and clerical positions where there may be several very good candidates and HR puts together a list and it does not, to his knowledge, eliminate the advertising process, but it assures that good candidate gets consideration.

Mr. Joe Holloway said, Employment Physical Examinations, is discussed in Section 0411. He then asked if somewhere later it talks about drug testing in the manual, to which Mr. Creamer said, yes. He said he noticed it was not brought up in this section. He then asked if it should be brought up in this section or wait until we get to that section, to which Mr. Creamer said when Council comes to that section he is sure Council will be satisfied as it is rigorous. He said this specifically speaks to a physical examination. Mr. Creamer said drug testing would be required under certain circumstances but a physical would not be. If Council thinks it needs to be added here, it could simply add a sentence that says "drug testing as referenced in chapter such-in-such may be applicable as well."

Mr. Cannon asked what Chapters do they think Council will be reviewing next, to which Mr. Creamer responded, the next 3 or 4 chapters, Chapters 5-9. He said Council may not want to take any longer time than that. He said some of these are going to involve some considerable Council discussion. He said at those times they may only recommend one or two chapters. Mr. Kilmer asked if this has been given to County employees yet, to which Mr. Cannon responded that he did not think it has been distributed at all. They need to send it over to the Executive's Office. Mr. Kilmer said he thought this would be a more useful work session to have if this was out there so Council could receive comments on it, and Council could discuss those comments and concerns from the Executive Branch, especially County employees. Mr. Creamer said Council needs to decide when it is appropriate to do that. Mr. Kilmer said he thought it would be appropriate to do this now before they have any more of these work sessions. Mr. Joe Holloway said he has no problem with anybody seeing the proposed Personnel Manual. He said what happened before, is that they started getting a lot of questions before they ever got to them and he would say release what they are going to review next would be a better way of going about it, by the Chapters. Mr. Cannon said they have to really release this as a complete volume because it gets too confusing, and you are not aware of what may be left and get a lot of questions about things that are actually in another chapter. Mr. Creamer said he is sure Council has read the whole manual summarily, but you are not going to be reviewing it in the detail that you are doing today. Mr. Cannon said he would not have a problem with sending the Personnel Manual out now. He said they are going to make revisions similar to what Matt Holloway suggested, which is a major change he is proposing, but he cannot imagine that any releasing of this information to the employees of the whole is going to delay the process. He said it would help Council to move forward. Mr. Hall asked if the proper process would be to release it to the Executive and have an open work session where they would take employee comments after Council vetted it with the Executive Office. He then asked if that would make it easier to go through if they entertain employee comments after it was vetted by the Council and the Executive's Office. Mr. Cannon responded, as it is right now, it should be given to the employees as a whole and let them review it and see what input employees might have. He said it will change a couple of times, but he did not think they were going to be making such extreme changes that they will find themselves repeating the work load. Mr. Kilmer said, at the same time, Council could see what the comments are, and judge based on that. Mr. Hall asked if they thought it would reduce the time, as he did not think it would expand the time. Mr. Creamer said as Council gets into the later Chapters they will find that they made a concerted effort to the extent possible, to give Council

suggestions, to acknowledge at least and address whenever they could, the concerns that were expressed by employees. Mrs. Hurley said, also, there has been discussion about whether or not they should have outside legal counsel review the Personnel Manual for the legalities of it. She said Council may want to consider that before it is released to the employees, or if they should just go ahead and have it considered now. Mr. Creamer said there are only 2 or 3 places, they are not talking about the whole manual, that either directly or indirectly may touch on federal law. He said they are not talking about sending the entire document for review. He said that may be something Council wants to do, have it reviewed by outside legal counsel. If they thought that was needed, the County has competent counsel for that purpose. He said that may be something Council may want to do or not want to do, it is entirely up to Council. Mr. Baker said just two or three incidents in there where positive knowledge of federal law that they think should be reviewed. Mr. Cannon said that might be at the end, one of the last processes. Mr. Creamer said they do not know how long it will take to get the document back when you give your consent to do that. Mr. Cannon said he is not sure what sections they are talking about. He then asked why would they want to send it to legal before they make changes, as there may not be anything for them to review. Mr. Creamer said they are not referencing anything Council would be likely to change. Mr. Kilmer said they need to make sure it works for the Executive Branch, and that the employees have ample input, all that sort of thing. Mr. Creamer said that is Council's decision. Mr. Cannon asked how Council felt about getting this manual out to the employees as a whole, as a draft. Mrs. Hurley then asked if it should be sent to the Executive Branch for them to distribute to the employees, to which Mr. Cannon responded, yes, of course. Mrs. Hurley said she did speak with IT about having something set up on the intranet, so they should be working on that, IT got the head's up that this is coming. Mr. Cannon said he did not remember how that process was initiated last time. He then asked was it through HR, or the Executive's Office, to which Mrs. Hurley responded, she thinks it was done last time through HR. Mr. Creamer said Council requested it, but he does not remember who implemented it specifically. Mr. Cannon said the comments themselves, how were they directed, to which Mr. Creamer responded, the comments came to all Councilmembers. Mr. Cannon said it is pretty much established that they would have to recreate it or make adjustments to it. Mrs. Hurley said IT has to rebuild it. Mr. Baker said whatever is put up, employees would make comments as Council is going through the manual. He said you do not want somebody that makes a comment the first day the manual is posted and a week later the employee says they have not heard from Council. He said an employee will make a comment like, "I do not like Section 0404" and then wonder why he has not heard back from anybody. He said they should note that all of the comments will be accumulated, and Council will consider all of the comments as part of their review, a head's up to the employee they are not going to get a direct response. He said it builds a good relationship with Council and the employees. The employees will know it is going to be considered, but it is not going to be responded to within a week. Mr. Creamer said Council will also have at least one public hearing. It would be an opportunity for people to be heard as well. Mr. Cannon said he guesses that any responses they have would go through the Executive Branch anyway. Mr. Creamer asked if Council finds this process helpful, do they want to continue this way, or did Council want something else done, to which Mr. Cannon responded, he thought this was great, thank you. He said it is an easy read for the first go around. He asked if

Council was in agreement to have this issued to the employees. Council will supply a copy of the Proposed Personnel Manual to the Executive Branch. Mr. Joe Holloway said it is up to the Executive if he wants to distribute it to the employees. Mr. Creamer said that is correct, but Council has the authority to make sure that it gets posted on the website if that is what Council wants to have done.

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Personnel Manual (Chapters 1- 4)**



John T. Cannon, President

(absent)

Larry W. Dodd, Vice President, District 3

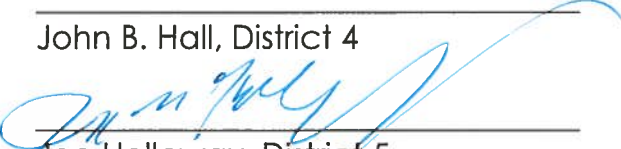


Ernest F. Davis, District 1



Marc Kilmer, District 2

John B. Hall, District 4



Joe Holloway, District 5



Matt Holloway, At-Large



Laura Hurley, Council Administrator