

**Open Work Session**  
**September 3, 2019**  
**Procedure for Filling a Vacancy on the Board of Education**

Mr. Taylor reported, for reasons Mr. John Palmer talked about when he made his public comments earlier in the meeting, he looked at what could be done, what could be changed, and what they do now in terms of filling a vacancy. He said he thinks Council knows what they do now, and that was what Mr. Palmer was talking about, which is a somewhat complex procedure involving a Nominating Commission that then makes recommendations to Council. He said Council saw what happened a couple of months ago where that got hung up in Council, so the whole process can take quite a while. He said there are 60 days for the Commission to make its recommendations, and Council then has 60 days to act on that. He clarified, it does not have to take all of that time, but when they have a 14-member Commission, it is probably going to take a while. He said it is probably not going to take 60 days, but it will probably take at least 30 days, and then there is the time before Council, so it is a several-month process, which is what it was this recent time. He said he addressed that process, but has not addressed what was decided four years ago in the referendum to have an all-elected Board. He said, if Council remembers on the ballot then, they had three options; the all elected, the hybrid with five elected and two appointed by Council, or the third option was to do nothing, essentially, and keep it the way it was, which was appointed by the Governor. He clarified, he is not talking about changing any of that, but he will point out that on the ballot there was nothing addressing these other issues and matters they will be talking about in a few minutes, so the referendum really did not cast anything in stone in terms of how Council goes about filling a vacancy. He said he thinks they will need to have State Legislation, of course, because this is a matter that is governed by State Legislation. Mr. Cannon said the referendum did not state this, but the State Legislation did, to which Mr. Taylor responded, the referendum was pursuant to State Legislation to decide which of the three options under the State Legislation the County wanted.

Mr. McCain asked, if they change anything, would that have to be via a referendum, to which Mr. Taylor responded, he thinks they would be fine without a referendum, but it would have to go through the General Assembly because the referendum did not decide any of these other issues, and all it decided was whether they were going to have all elected, five elected and two appointed by Council, or all elected by the Governor. He clarified, that was the only thing that was on the ballot. Mr. McCain said, when he first saw this, the first thing that came to his mind was why would they limit this to just the consideration of the School Board being appointed because he knows they went through something similar with the County Council appointment. He said there were things that came up during that process that are sort of similar. He said the timeframe was a little different, but there was a lot of parallelism, to which Mr. Taylor responded, he agrees, but that is a matter of Charter. He clarified, filling a vacancy on the Council is a Charter matter. He said it could be changed, but it would have to be by referendum at the next election. Mr. McCain said he thinks maybe it is something they can keep on the horizon because they certainly found plenty of issues associated with that process. Mr. Holloway said it did not take as long to get a Councilperson as it did to fill the Board vacancy, to which Mr. McCain responded, he is not talking about the time part of it. He said both on the School Board side and on the Council side he does not like Council being boxed in when they have to make a decision with candidates. He said, on the Council side there were 20-some applicants, but the Republican Central Committee gave four recommendations, so Council was only able to pick from four, and did not get to consider eight or ten. Mr. Holloway said that is how they narrow it down, but he understands what Mr. McCain is saying. Mr. McCain said, of the four people who were recommended, one recommended themselves, so obviously it was proven that did not work very well. Mr. Cannon said Mr. McCain makes a really good

point because even the Central Committee said to him that there are no real rules when they were talking about how they were going to send a second round of names, but they did not even have any provisions for a second round if Council refused the first round. He said there are a lot of areas that need to be addressed with that, and that is also a State issue.

Mr. Taylor said he prepared a list of what other Counties do, but he will start with the Nominating Commission method, and Wicomico is one of three Counties that have it. He said most Counties do not have a Nominating Commission at all, and it just goes to the appointment authority, whatever that may be in a particular County. He said, in some Counties it is still the Governor, in some it is the Council, and in some it is the Executive with Council confirmation, or County Commissioners, so it is a Legislative Body. He said of course Wicomico has the Legislative Body with the Nominating Commission. He said the first matter to discuss is whether Council wants to do away with the Nominating Commission, and whether there is really any need for it, and it looks like most Counties get by fine without it.

Mr. Cannon said, to cut to the chase, from what Mr. Taylor sent Council, there is one line where it says a vacancy is filled by the Legislative Body/Council/Commissioners in most Counties without a Nominating Commission. He said that would be just Council making the decision, but what is paramount is they have to define the search process, and they have to define public input. Mr. Taylor said, as far as he can tell, and he has not spent a lot of time asking other Counties, it varies across the board. He said with some they just ask people to come in to talk if they want to be on the Board of Education, and some of them have their own search methods, and that would be something, obviously, Council would want to look at if they are going to do away with the Commission. He said the threshold issue is whether they want to do away with the Commission or not. Mr. Dodd said he thinks they wanted the Commission so the public could be more inclusive, to which Mr. Cannon responded, even the Commission members will tell them it was not the best method. Mr. McCain said he thinks they found that they do not need two public hearings at the Commission level having one would have easily been sufficient, but they had to do it twice. Mr. Cannon said they had a problem even getting all of the Commission members to attend the meetings to have a quorum. Mr. Dodd added, the Commission may not have a job to do for ten or twenty years because there may not be any vacancies on the Board. Mr. Taylor said that is true, and that can happen, but of course there would be turnover of the Commission in that period of time.

Mr. Taylor said the second item is whether the appointment should be for the full balance of the term or just part of it, meaning until the next election. He said, as Council probably knows, if the vacancy is filled within a certain amount of time before the next election, that person serves only for up to about two years depending on when the vacancy occurred, and then they have to stand for election for the final two years of that term, similar to vacancies on Council. He said he looked at other Counties, and in most, although not all, the appointment is for the full term no matter when it occurs during that four-year period, so that would be another possible change, which, frankly, he thinks makes sense, but is up to Council's ultimate decision. Mr. McCain said he agrees with Mr. Taylor 100 percent because, to him, it makes no sense to get out of cycle, and he sympathizes with Mrs. Acle who had to go through the appointment process, but now in a year and a half she has to run, and if she gets elected she will then have to run again in two years. Mrs. Acle said it is hard enough to get someone to volunteer to serve. Mr. McCain said he always wondered about the history of this and whether that was actually the intent because, when it says the next general election, he wonders if they meant the next general County election, and just did not put that word in there because that just did not seem to make sense. Mr. Taylor said, if they wanted it to be the full term, they would not mention the election at all, essentially. He said, be that as it may, what they have right now is part-full depending on when the vacancy occurs.

Mr. Taylor said when he looked at some of the other County's provisions just a couple of things stood out to him, and first is there could be a situation where somebody does not run for a seat on the Board of Education. He said apparently that has happened in other Counties, and there is no provision in the State Code to address that, so they might want to add something stating that someone would be appointed by Council so it is not just a structural vacancy that lasts until the next election, which would be four years. He said that is one thing he thinks could be added pretty easily. He said the other thing that just occurred to him is whether it would be worth filling a vacancy if it is almost the end of the four-year term. He clarified, if it was within six months of the end of the term, they would have people running for election, so it would be a fairly short period and Council should have the option to just not make an appointment. He said, in other words, they could just let that time period run. Mr. Holloway said that is a good reason because, if they appointed somebody who was running, that would give them an edge on anybody else. Mr. McCain asked if they could use the filing deadline as a date. He said, if they had a vacancy after the filing deadline, they might as well just wait until the election, to which Mr. Taylor responded, he thinks that would be a good cutoff point. Mr. Dodd said, if they are six months out, there will be people filing for that election anyway. Mr. Cannon asked what that timeframe is, to which Mr. Taylor responded, he does not know what the filing deadline is. Mrs. Hurley said she thinks it is February. Mr. Dodd said it is January. Mr. Taylor said it would be eight to ten months before the election. Mr. Cannon said the Board could possibly go almost a year without a representative, to which Mr. Taylor responded, they would not have to, but he is just saying they could allow the option of not appointing anyone. Mr. Cannon said, if they did not appoint someone, there would be that vacancy for almost a year, to which Mr. Taylor responded, there might, but he thinks if the Board came in and said they would like to have that vacancy filled, Council could go ahead and do it. He said that is a worst case scenario, and it is more likely it would be two, three, or four months, and would not always be eight or ten months. He clarified, his thought is why not just let it ride out and the vacancy would, essentially, be filled by election at the next election. Mrs. Acle said if that was her District she would be very upset if she did not have representation, even if it was six months or three months. She repeated, she would be very upset about that, to which Mr. Cannon responded, that is a very good point. Mr. Taylor said it is up to Council, but this just occurred to him, and it could be shorter than that and would not have to be the filing deadline, but could be three months before the end of the term. Mr. McCain said there needs to be some type of a minimum because the process could take 60 days, but the filing date might be a bad date because it may be too early. Mr. Cannon suggested three months, to which Mr. McCain responded, that is probably more reasonable. Mr. Taylor said, as Mr. McCain pointed out, if somebody left and it was three months, by the time Council appointed someone there would probably only be a month or week left. Mr. McCain said they would only get to go to one meeting. Mr. Dodd said they have to consider the Nominating Committee because they have their deadline, to which Mr. Taylor responded, it would cut it down if they did not have a Nominating Committee. He said, nevertheless, it is going to take some time because they are going to have to wait a certain amount of time for people to apply, and then they would have to interview them and make their decision, so that would probably be at least a 30-day process. Mr. Taylor said he can put something in there if Council wants him to.

Mr. Dodd said he is on the Central Committee, and some of the candidates they had to choose from did not even live in the District, so they weeded a lot out before they got to the top four. He then asked Mr. Taylor if he came across any jurisdictions in his research that had special elections, to which Mr. Taylor responded, he does not think so. Mr. Dodd said he knows Mr. McCain said Council feels boxed in, and they truly do because they are making decisions that really affect people personally, and he thinks the Districts should be voting for these people, but that is just his opinion. Mr. Taylor said, in the Counties that have it for part of the term, if a vacancy occurs early, that is kind of like a special election because it would be a minimum of two years. He said, if the vacancy occurred the day after the person took office,

the election would be in approximately two years, so it is kind of like a special election. He said another thing to bear in mind is that a special election costs money, to which Mr. Dodd responded, there are jurisdictions across the Country that have them, to which Mr. Taylor responded, there probably are, but he does not think there are any in Maryland for the Board of Education.

Mr. Cannon asked, taking into consideration everything Mr. Taylor said tonight, if they were to look at the formal replacement being made at the ballot and Council was to take on the responsibility as opposed to a Commission, would their role only be in effect for possibly one year and nine months of any given year maximum, to which Mr. Taylor responded, it would depend on whether they go to the system where the appointment is for the full term. He said, for example, in the appointment they just made, it would be for three and a half years. Mr. Cannon asked, if it was not for a full term, would it be by special election, to which Mr. Taylor responded, no, it would be the next general election the County is having, and they have elections every two years. Mr. Cannon asked, if Council did not act three months before an election, would that mean this whole premise would be within that cycle of one year and nine months, to which Mr. Taylor responded, he is not following the question. He said the procedure would be proposed Legislation for the General Assembly, and he thinks what they want to do is contact their local representatives in the General Assembly to see how they want to do this, and whether they want Council to give them a punch list of things they want and then go through the drafting, or would they want Council to suggest actual text. Mr. Holloway said he thinks they would like to see multiple drafts for them to choose from, to which Mr. Taylor responded, he thinks so too. Mr. Holloway said he does not think they want to do Council's work, to which Mr. Taylor responded, he thinks it would be less slippage if they did it that way. Mr. Cannon asked if this would require Council vote by Resolution or with a Legislative Bill, to which Mr. Taylor responded, he thinks they should have a Resolution on that. Mrs. Hurley said it would not be by Legislation because they would not be changing the County Code, but would be changing State law. She said, if Council wants to have a Resolution agreeing to the proposed State language, they can do that. Mr. Taylor said they would just be requesting they make these changes, and they could have that exact language as part of the Resolution. Mr. Holloway said they would probably be asked to have a Public Hearing on it as they were before, to which Mr. Cannon responded, there is no doubt they will ask for a Public Hearing on it.

Mr. Cannon said they will put this on the Agenda for the next meeting as another Work Session with a more formalized idea of what they want to do. He clarified, he knows what he would like to see done already with what Mr. Taylor has given them, but there are others who need to look at it.

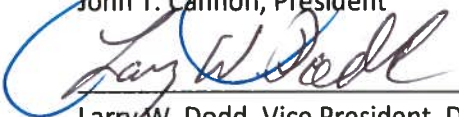
Mrs. Acle asked if there are a lot of people running for the School Board because she knows there was only one person who ran for the School Board in her District, and it did not seem like there were people vying for that job, to which Mr. Cannon responded, that is why he thinks what Mr. Taylor suggested is important in case nobody runs so that appointment can be made. Mr. Hastings said he was watching his District and a couple of other Districts, and for two Districts there was literally no one running, and they had to put out emails to encourage people to do it and that they needed people. Mr. Dodd said one District had three candidates. Mr. Hastings said they all signed up in one 24-hour period.

Mr. Dodd said, if they have another Work Session, he would not mind including and hearing from Board Members, such as Mr. Palmer, and maybe they have some ideas. Mr. Cannon said they did not talk to Mr. Ben Brumbley about this either, but he knows Mr. Brumbley is definitely looking for a solution. Mr. Dodd said maybe they have some ideas, or maybe they have heard from the public. Mr. Taylor said he thinks that is a good idea, and, in fact, he was going to suggest it, so maybe they can draft something up

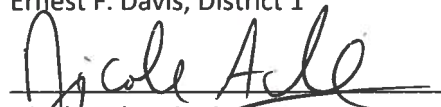
to send to them, or they could wait and hear from them and then draft something up. Mr. Cannon said he thinks it would give them a lot of input for their next Work Session if they could draft something.

Mr. Cannon said he wants to make sure this is something they can get to Annapolis by the deadline, and also in time for their Legislative Meeting in December. Mrs. Hurley said they have a Legislative Breakfast on September 21, to which Mr. Cannon responded, they are going to miss that deadline. Mr. Taylor said he thinks this is a good idea because they want to get it in on both sides. Mr. Cannon said they will bring this back as a Work Session at the first meeting in November, they will vote on it at the second meeting in November, and then by December they can get it to the Legislature. Mr. Taylor said that may be cutting it a little close. Mrs. Hurley said she thinks it may be a good idea to at least mention it to their State Legislators at the Legislative Breakfast to give them a heads up that it is coming. Mr. Cannon asked if she can make Council aware of what the deadlines are, to which Mrs. Hurley responded, she will have to research that first. Mr. Taylor said that is an important deadline. Mr. Cannon said, as long as Mr. Taylor gets this done as soon as possible, they can get it on the Agenda for another Work Session as soon as possible, to which Mr. Taylor responded, that is okay. Mr. Cannon said they should include the Wicomico County Education Association, the Wicomico County Board of Education, and the President of the current Commission, Mr. Brumbley. Mrs. Acle said they should invite the CCAP Committee, to which Mr. Cannon responded, they do not have a role in it. Mrs. Acle said, on the Commission for Education, they have to have someone who is a representative for special needs. Mrs. Hurley then asked Mrs. Acle what CCAP is, to which Mrs. Acle responded, it is a Committee. Mr. Cannon said, if Mrs. Acle wants them included, she can just let Mrs. Hurley know. He thanked Mr. Taylor for taking the time he put into this. There was no further discussion.

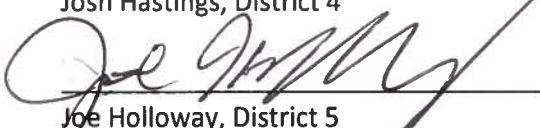
  
\_\_\_\_\_  
John T. Cannon, President

  
\_\_\_\_\_  
Larry W. Dodd, Vice President, District 3


\_\_\_\_\_  
Ernest F. Davis, District 1

  
\_\_\_\_\_  
Nicole Acle, District 2

\_\_\_\_\_  
Josh Hastings, District 4

  
\_\_\_\_\_  
Joe Holloway, District 5

\_\_\_\_\_  
William R. McCain, At-Large

  
\_\_\_\_\_  
Laura Hurley, Council Administrator