

Open Work Session
Discussion on Legal Services for Wicomico County
October 15, 2019

Mr. Cannon said Council again asked Mr. Culver to be here, as well as Mr. Young. He said they refused to attend the last County Council meeting to discuss legal services, and they are refusing to attend this one, and he absolutely cannot understand it for the life of him. He said this is a Department that is funded in the amount of \$300,000, and they all know how important it is. He said Council was told almost three months ago how important it was to give the Executive Branch time to transition from Mr. Paul Wilber to another firm. He said, in the interim, they have about two weeks left of that three months, and Council has not seen anything done in the last three months any different than what was not done the entire last year, so, again, they are coming up to that deadline. He then asked Mrs. Hurley if November 5th is the deadline, to which Mrs. Hurley responded, yes. Mr. Cannon said November 5th is the deadline, which is not far away, and Council has sent numerous, numerous communications to the Executive Branch asking them what their plans are for Wicomico County, and what the plans are for legal services for the citizens of Wicomico County, and, again, Council is getting stonewalled for no specific reason. Mr. McCain said Mr. Rice is in the audience to discuss this, to which Mr. Cannon responded, the irony of this is he thinks it was just a fabrication of an excuse that the Executive Branch was not going to attend a County Council meeting unless Council responded to the Purchasing Department RFP letter that came out explaining the RFP. He said that is not as much of a significant concern of Council as what they are doing with legal. He clarified, they are not so concerned about the RFP process, or how it might have been chosen, or how it might have been decided. He said, in order to go along with the Executive Branch, Council said they have no reservations having Mr. Rice here to discuss this, but that does not preclude the fact that they also need to have the Executive here, and whatever members of his staff could be here to help support it. He concluded, that being said, they are really still at a standstill.

Mr. Holloway said, at the last meeting, Mr. Young said they had an unfortunate breakdown in communications. He clarified, he is not quoting the exact words, but this just proves why, he thinks, and does not improve the situation any. Mr. Cannon said not only that, but, at the last meeting, the Executive was sort of forced to come to the table, and made the comment that he would meet with the County Council under any condition, but, of course, Council has seen that under numerous conditions that is not happening. He said the public pays almost three-quarters of a million dollars for the Executive Branch to exist, and he would think that within that funding the public would think it was the Executive Branch's responsibility to at least attend a public County Council meeting.

Mr. Cannon said Mr. Wilber is in the audience, and he guesses Council may want to at least ask him some questions the Executive Branch is not here to answer for themselves. Mr. Paul Wilber then came before Council. Mr. Cannon said, to lead off, what Council is really trying to define here is where they are headed as a County. He said they felt they were at such a critical juncture three months ago as to not have legal services, so a 90-day temporary acting position was created with Mr. Wilber as the Acting County Attorney. He said in the period of just a little over two weeks they are going to find themselves as a County back in that exact situation. He then asked if Mr. Wilber could shed any light for Council as to where he sees this direction, and where it is heading, to which Mr. Wilber responded, the appointment process rests with the Executive, and he thinks the Executive will have to address that. Mr. Cannon said he could not agree more. He then asked, from a legal perspective, could Mr. Wilber tell Council where he thinks the County will be once the 90-day extension has expired, to which Mr. Wilber responded, as he said at the last meeting, he thinks the Executive can seek his own counsel about his

contract, as well as Council has their own counsel, so he would prefer not to go into legal ramifications that could affect his contract with the County. Mr. Cannon clarified, Mr. Wilber's contract with the County expires at the end of the 90-day period. He then asked Mr. Wilber if that is correct, to which Mr. Wilber responded, if it is not extended. Mr. Cannon asked, when Mr. Wilber says "if it is not extended," by what means, exactly, is he referring to, to which Mr. Wilber responded, Council can always vote to extend. Mr. Cannon said he guesses the question would be, if Council chooses not to extend the 90 days, where would they be, and where would that leave them, to which Mr. Wilber responded, he is going to throw that to the Executive and Council, and their respective counsel.

Mr. Holloway asked if there has been any talk of Mr. Wilber working past the 90-day extension, to which Mr. Wilber responded, he thinks that should be addressed with the Executive. Mr. Holloway asked Mr. Wilber whether Council has followed the rules of the Charter with what they have done, to which Mr. Wilber responded, he is going to defer. Mr. Holloway said Mr. Wilber is the County's legal counsel, and he is asking a legal question, to which Mr. Wilber responded, Mr. Holloway is asking a legal question, but it would directly affect his contract with the County.

Mr. Cannon said he thinks Council's position is, if they were not to grant an extension of the 90 days, Mr. Wilber or his firm, however they might consider it, could not represent the County after that 90 days. He said that is how they recognize the law to be stated in the Charter. He then asked if that is a valid understanding of the law based on the Charter, to which Mr. Wilber responded, again, he is deferring that decision to the respective counsel of each Department. Mr. Cannon said the Charter is very specific, and the Charter is the law, and is not up to interpretation. He clarified, he is asking Mr. Wilber what his legal opinion is as far as the validity of extending the term of a law firm that was only granted a 90-day temporary position legally, to which Mr. Wilber responded, he is answering the same way. Mr. Cannon said Mr. Wilber has not answered their question as far as how does the Charter define if Council chooses not to extend the 90-day period, to which Mr. Wilber responded, that is a question the answer to which would affect his contract with the County, so he is deferring that to both the Executive and Council. Mr. Cannon said this is the Body that has to make that decision, so they need to have that information in order to make that decision, and that is why Council is asking Mr. Wilber as the County Attorney. He clarified, they have to have that information to understand it, to which Mr. Wilber responded, his recommendation is that Mr. Taylor, who has been giving advice to Council, can answer that question. Mr. Cannon pointed out that Mr. Wilber is still the Acting County Attorney, and Council is asking him specifically what his opinion is on that, to which Mr. Wilber responded, he has already answered that. He said, because that question would directly affect the relationship of his law firm with the County, it is not a question he can answer.

Mr. Dodd said, for the record, if November 5th is the deadline, that is in 21 days, which is in three weeks. He said he understands what Mr. Wilber is saying because he is in the hot seat, but it sounds like Mr. Wilber is taking sides with the Executive, and not the County Council Branch, to which Mr. Wilber responded, that is not his intention.


Mr. Davis asked Mr. Cannon if they can move on because, apparently, Mr. Wilber is not going to answer any of their questions, so they are sitting there wasting time, to which Mr. Cannon responded, he was just giving Council their opportunity to express their opinions either way. Mr. Davis said Mr. Wilber is not going to do it either way, so they might as well just move on, and wait for the deadline to come up, and they can make their decision then. There was no further discussion.

Signatures on next page

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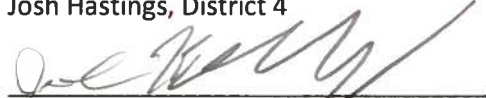
John T. Cannon, President


Larry W. Dodd, Vice-President, District 3

Ernest F. Davis, District 1

____ absent _____
Nicole Acle, District 2

____ absent _____
Josh Hastings, District 4



Joe Holloway, District 5

William R. McCain, At-Large

Laura Hurley, Council Administrator