

## Open Work Session

### Discussion with Wicomico County Board of Electrical Examiners

March 3, 2020

Mr. George Landing, Ex Officio President of the Board of Electrical Examiners; Mr. Rick Wheeler, Vice President; Mr. Allen Carter, Secretary; and Mr. Brett Calloway, Member At-Large, came before Council. Mr. Landing said the reason they are there, for all intents and purposes, is initially because of Planning and Zoning's desire to bring themselves in to try and micromanage what the Electrical Board was doing. He said this all happened about the time one of the inspection agencies determined that they needed an additional person on staff. He said they have a process they go through that has been set forth since 1967 when the Board was actually put in place here in the County. He said, when it comes to any applicant, it is up to the Board's discretion to look at their criteria to see if they are suitable candidates, and they even have a point where they can have them test. He said this one individual apparently did not want to do that, and then people came in from Planning and Zoning who started to try to tell the Board that maybe they should look the other way, or do something different, and try to give this guy some latitude. Mr. Landing said, as it ended up, he was asked to remove himself from the Board. He said they did not even ask for counsel to come in because counsel did not really have any background experience or knowledge of what the ordinances were for the Electrical Board, and counsel said so up front. Mr. Holloway asked Mr. Landing to clarify which counsel he is talking about, to which Mr. Landing responded, the County Attorney. Mr. Landing said he was useless as far as any benefit from the standpoint of giving the Board any input because he did not know. He said ignorance is no excuse in that respect because, given his ability as an attorney, it would have probably taken him about five minutes to figure out the two or three paragraphs that are in the ordinance for what they were supposed to do. He said, regardless, it ended up feeling like they were being pushed or coerced into allowing this guy to get his license. He said he was asked to step down, so he had no input whether or not the guy got his license, so he got the license. Mrs. Acle asked if this was a license to be an inspector, or to be an electrician, to which Mr. Landing responded, an inspector. Mr. Cannon asked if this was the individual that Planning and Zoning said came from another County and they were required to approve this, or was this a different incident, to which Mr. Landing responded, it was the same instance.

Mr. Landing said he is going to give Council a brief outline of how things are supposed to be done. He explained, in order to become an electrical inspector in the County, they have to go through the State Fire Marshall's Office to get their certification, and once they get the certification from the Fire Marshall's Office, if they have a license in some other County, typically, the Electrical Board will allow for reciprocity. He said this individual had no license. He clarified, he did not have a current electrical license in the State, he did not have a current electrical license anywhere, and he only had his State certification from the Fire Marshall's Office, which he claimed with his supervisor was equal to or better than what the Electrical Board licensing would have been as far as testing, which is not true. He said, regardless, he managed to bevel his way through some people in Planning and Zoning and they kind of pursued it, which the Board took issue with. He said then they were more or less told in some uncertain terms that they were going to be schooled on how they are supposed to operate the Board, and they took issue with that as well. He said he has been on and off the Board for the past 33 years, so he thinks he has a pretty good idea how it is supposed to operate. He said they even had three people come from Annapolis who said there was not any problem with the way they were operating and holding their Board meetings, so nothing has really changed over the years. He said they were just hoping to make sure they were on target with the way they were operating. He said Planning and Zoning really does not have that much authority over how they operate, which he thinks is a correct assumption.

Mrs. Acle asked, looking at the Board's bylaws, who is the administrative support for the Board, to which Mr. Landing responded, he is not sure. He said, frankly, he thought they were only responsible to the Council and the County Administrator or Executive at this point.

Mr. Holloway asked Mr. Landing to clarify whether he was referring to the County's Planning and Zoning staff, and whether anybody's safety was an issue with this, to which Mr. Landing responded, electricity is unforgiving and does not usually give any second chances. He said, in the construction industry, if somebody does a really crappy job as far as carpentry where maybe the doors do not work right, or maybe there are leaks around the windows, and things just do not work well, they may have settling; if they have a bad plumbing job, they may have leaks which are just more of an inconvenience; but, if there is bad electrical job, they end up with the potential for people getting electrocuted, or even fires. He answered, yes, at this point, from a couple of other issues in the County that the Electrical Board had to resolve with this same individual, the County has been put at risk. Mr. Holloway asked if there has been follow up with this individual and inspections on things he has done and approved that are not proper, to which Mr. Landing responded, it has not been done specifically looking at him, but just as things have progressed over the past year since he has been approved to have a license. He said one particular project came up at the Airport, and another project recently occurred where it actually took place sometime between March and July 2019 where it was brought up that this same individual was involved in another project, and there are some considerable problems at that location as well, so the Board is going to address that, but they did not want to bring that up here.

Mrs. Acle asked if the inspectors are contracted by the electrician, and are some companies paid by how many they approve, to which Mr. Landing responded, his understanding is that in the State of Maryland they are allowed to have commission. He said in Delaware that is not acceptable, but he understands that in Maryland that is an acceptable practice. Mrs. Acle asked if that is in every County, to which Mr. Landing responded, he is not sure, he thinks it is in Maryland, and he does not think each County has any discretion over that specifically, at least it is not written in this code. Mrs. Acle said it looks like legal counsel is the only administrative staff appointed to this Board, to which Mr. Landing responded, Planning and Zoning, as far as the staff members, came in and tried to tell them they were doing something incorrectly. Mrs. Acle said the bylaws state that the administrative staff is legal advisors, which would be the County Attorney, who shall act as legal advisor to the Board and render such legal assistance as may be necessary, to which Mr. Landing responded, as long as they understand and know what they are speaking about.

Mr. Cannon said Mr. Landing has a valid point. He clarified, they would want to make sure that, even if the County Attorney may not be aware of it, the County Attorney has the authority to seek legal counsel from someone who would be more versed in electrical law, so he does have that authority. He said he does not think the County Attorney would take it upon himself to try to make a judgement call if he does not know anything about that particular field. Mr. McCain said the Code actually says he shall act as legal advisor and shall render such legal assistance as necessary. Mr. Cannon said, recognizing there might be an issue, he can see where the Board has concerns that maybe they did not seek additional advice, to which Mr. Landing responded, what ended up happening is it got to the point where he was siding more with the company that wanted to bring in the other inspection agency saying he could not understand why the Board would not just go ahead and give him the license. He said they found there were a lot of questions brought to this particular individual, and he told the Board he wanted to operate in only two Counties, Somerset and Worcester, but they found out after the fact, and after he was asked if he had already been tested in any of the other Counties, and he indicated that he had not, but then

they found out that he had prior to coming to Wicomico County and even making the application. Mr. Cannon said, with concerns such as that, Council can address them because that is probably the only Department where Council itself has any flexibility. He clarified, if there is an issue with the County Attorney, the Board can address that through a letter, or however they choose, to the Executive Branch and to the County Council who both can independently try to resolve that matter with the County Attorney. Mr. McCain said Mr. Landing already has. He then asked Mr. Landing if they already sent a letter? He said Council has the letter in their briefing material, so is that not the same thing? Mr. Cannon said they are in a situation where Mr. Wilber is sort of operating as the County Attorney, but not really. Mr. Landing said the biggest gripe they had with counsel was that he did not seem to have any understanding of what their ordinance was about, and he was not rendering any real opinion as far as what they were asking. He said they were asking for legal advice as far as how he was going to handle this, and the Board wanted to be able to vet this guy like they normally would. He said, in most cases, most people that come to them wanting to be inspectors are coming from another agency, and they are already established in the County, but this guy had no license, and had nothing really with him except for the State Fire Marshall's certification. He said that was all he had, and he was expected to have a license. Mr. Cannon asked how come Planning and Zoning in their response to the Board specifically said that the individual had a valid license, to which Mr. Landing responded, they did not call it a license, they were just more or less pushing, nudging, and shoving the Board saying that they should go ahead and give it. He said they eluded to the fact that they were primarily concerned about lawsuits because that had come up on an occasion, apparently, he thinks with Mr. Wilber, so there had already been a few lawsuits for the County, and they were trying to avoid lawsuits. Mr. Landing said he really does not give a crap about lawsuits when somebody's life is at stake. Mr. Cannon asked if it is too late for Council to send a letter to the Executive Branch to say that Planning and Zoning may be misevaluating this license and at the same time try to address the issue with Mr. Wilber, to which Mr. Landing responded, he does not know about that because they already had a discussion with Mr. Culver, who said maybe there should be a readjustment of the Electrical Board. Mr. Cannon said he understands that too, and he recognizes that mishap, but the Board is asking Council to play a role, and these are the roles they can play. Mr. Landing said, it would be of benefit to try to bring it back to where the Board was operating without having to worry about someone looking over their shoulders telling them they do not know what they are doing when that person had no clue themselves. Mr. Cannon said maybe Council can get a letter over to the Executive saying they have concerns over this suggestion that there may be a misevaluation of one particular individual, and they could also address the issue that Mr. Wilber in the interim might seek other counsel, to which Mr. Dodd added, with expertise. Mrs. Acle said the Board is just looking for an attorney that would have expertise in this field to give them direction.

Mr. Cannon said, regarding the on-line education, Planning and Zoning says that the Board actually has the authority to approve the on-line education programs, to which Mr. Landing responded, typically they would bring in the course for approval, so the Board looks at it, evaluates it, and approves it. He said, whenever they are submitted to the Board, they do the approvals; however, if it is just kind of like a blanket, and there are 10,000 on-line education programs out there, who is going to say which one when none of them have actually made an application to the County? Mr. Cannon asked if Mr. Landing is saying they go to Planning and Zoning, to which Mr. Landing responded, no. He explained, typically the people providing the online education submit it to the Electrical Board, and the Board does the evaluation of it because they are the people who are actually doing the work. Mr. McCain asked if they have to get a Statewide approval, to which Mr. Landing responded, that is the problem. He clarified, the State, apparently, is approving some of these education courses, but he cannot image how they can even keep up with however many courses are out there. Mr. McCain said, with the industry he is in, they have to do continuing education, but the Counties do not do it individually, the State does it. Mr.

Landing asked if he does it online, to which Mr. McCain responded, yes. Mrs. Acle added, for her license, she does it online, but the State approves which organizations. Mr. McCain said physicians and surgeons can even do it online. Mr. Dodd said part of his license is online too, but the State of Maryland requires these programs to be approved by the State of Maryland. Mr. Landing said they had that discussion with Mr. Young, but how do they know if that particular person taking that online education course is actually the person they claim to be? Mr. Dodd said that could happen with anything. Mr. Landing said he understands that apparently there is an application on the computer where if somebody gets up and walks away from it without saying anything, it kicks them off and they have to start over again. Mr. Dodd said he is big on bricks and mortar. Mrs. Acle said it sounds like the Board just needs some expert or more specific legal counsel to give them more direction.

Mr. Dodd said he likes Mr. Cannon's idea of sending a letter because that would be a start.

Mr. Cannon asked if Mr. Landing wants to provide Planning and Zoning a list of what he considers accredited courses, to which Mr. Landing responded, they would like to see a list of the online education courses to be approved. Mr. Cannon asked if they want some consistency in the County where they recognize only accredited online training, to which Mr. Landing responded, yes.

Mr. Carter said there were times where Planning and Zoning attended their meetings, and they did not have a problem with that, but it seemed like they wanted to take the Electrical Board over, and they feel like they are doing a great job. Mr. Dodd said they were appointed to do the job. Mr. Carter said they have many years of experience between all of them, and they felt like Planning and Zoning came in and wanted to tell them how to run the Electrical Board. Mr. Cannon said maybe Council can put a letter together, which Council will approve by consensus.

Mr. Cannon said the only other issue is the time constraint, whereas the Board said they did not have enough time to deal with the changes that may be in effect, and they responded saying there is no limitation as to how long they have to take to codify it. Mr. Landing said their understanding of the way it is written into the ordinance is that it becomes effective as soon as it is published for the public, and it is supposed to become law. He said, if that is the case, that would mean this past January it would have become law, but of course nobody is actually able to get a copy of the book until about October. Mr. Cannon asked, as Mr. McCain said earlier, are there State guidelines as to when they have to codify it locally, to which Mr. Landing responded, there are some Counties in this State who are still on 1999. Mrs. Acle said she thinks the Board just needs legal counsel to give them direction on this. Mr. Dodd said this County is not going to approve the code until October 2022, so they are working with 2017 right now. Mr. Cannon said they have time, to which Mr. Landing responded, that part is not much of a problem, but, obviously, understanding that as soon as it became a factor that it is law, so that would mean it would have given them about a two and a half month window at best to put any material together and get any kind of education on these 5,000 or some-odd changes every three years. Mr. Cannon asked what Mr. Landing suggests Council can do to help them with that. He clarified, they cannot supersede State law, but what does Mr. Landing think their role might be to help, to which Mr. Landing responded, as they understood it to be, the County was the one to put it in the ordinance, so they were just looking to see if the County could at least have some kind of communication with the Electrical Board as far as having any kind of change as far as adopting anything. Mr. Dodd asked if they are looking for an amendment, to which Mr. Landing responded, not the way he is understanding it because it sounds like they are saying it will be three years until a code change. Mr. Dodd said the State of Maryland does theirs every three years, and then the City and the County follow suit about a year

later when they adopt it. Mr. Landing said it was his understanding the way it was written that they immediately had to start using that as the law of the land for the electrical code.

Mr. Cannon asked if next year is sort of ad hoc, or is there something specific? Mr. Dodd said the Fire Marshall's Office adopts this code every three years, and then typically the County will do it about a year later. Mr. Cannon asked if that is typical, to which Mr. Dodd responded, they do not have to adopt every single code. He said they have the fire code, the building code, the electrical code, but they do not have to adopt every single code. He said they can use the old code, and someone said earlier that someone was using 1999. He said he thinks the County does exactly what the State does. Mr. Landing asked if they are supposed to start implementing the code once the code becomes effective, to which Mr. Dodd responded, as soon as the County adopts it. Mr. Calloway said the Council does not need to do that, it is already built into the code.

Mr. Holloway said he wants to get back to the issue of safety because he thinks that should be a concern of this Council and the citizens of the County. He said Mr. Landing said there were two issues, and one was at the Airport. He then asked how that was discovered, to which Mr. Landing responded, Mr. Carter had a contract there to do work changing out the surface equipment of the old terminal, and there was another company that came in and put in a transfer switch and supplied a generator for that particular project. He said, as Mr. Carter's people were in there doing some of the work, they discovered that there were some apparent problems as far as the way the wires of the generator were wired. He said the individual who actually had done the work had not gotten a permit to do the work. He clarified, he had a license, but he did not have a permit, and this person said he was told by somebody at the Airport that he did not need to get a permit, to which Mr. Holloway responded, that sounds par for the course. Mr. Landing clarified, it was Mr. Carter's people who saw it, not himself, but through the permitting process they come out to do the inspection on the service equipment, which was when he saw inside the transfer switch. He said a similar situation happened on Kaywood Drive where there was another contractor on a job, and the contractor called and asked him to come out and look at it. He clarified, it was by invitation, and it is not as if he is chasing these things down. He said, typically, being on the Electrical Board, he winds up the bad guy being the policeman with the whistle and no ticket book, so he just gets a siren and yells, and that is it. Mr. Holloway said he has known three of the gentlemen sitting there for many, many years, and he does not think they would be trying to chase people down and cause people problems. He said Mr. Landing's business has been pretty reputable over the years, and he does not think he would be trying to chase people down just to cause them problems. He said he thinks he has the best interest of the citizens at heart, and he appreciates them all coming forward and bringing this forward. He said it really disturbs him when he hears the story about someone saying they did not have to have a permit.

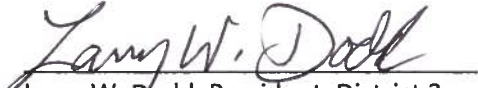
Mr. Carter said the Electrical Board represents the County and the public, and they look very hard at any decisions put in front of them and take them seriously. He said they saw issues with the inspector, and they did not feel he was a good applicant at the time, so they rejected him, but then all of a sudden Planning and Zoning gave him a license. Mr. Holloway asked if this was the same inspector who had problems at the Airport, to which Mr. Carter responded, yes. Mr. Wheeler said, if he met all of the requirements for Wicomico County for an inspector license, he could have it, but, in his opinion, he did not meet the requirements because all of his continuing education credits were not up to the current date, not even close. He said the last one he sent to him was from 2011, and the credits are only good for two years.

Mr. Hastings asked if the Board has a standard process when they reject someone to follow up and give them the reasons why, to which Mr. Wheeler responded, this was all through his credentials that he presented the Board to achieve his inspector license, and Mr. Landing was asked to step down because they felt he was being bias. Mr. Dodd then asked who asked Mr. Landing to step down, to which Mr. Landing responded, Planning and Zoning. Mr. Wheeler said they asked him to step down because they thought he was partial, and this is all due to the gentleman who was trying to get his license. He said then, when they brought forward the Airport issue, he started to bring all of that back up again after it had been settled for a couple of months. He said, personally, he felt like he bought his way into getting an inspector license. Mr. Dodd then read, "The County Executive may remove any member of the Board for misconduct, incompetency, neglect of duty, or for any other sufficient cause. A failure to attend three consecutive meetings shall be deemed sufficient cause for removal." He then asked Mr. Landing if he falls under that, to which Mr. Landing responded, he does not think so.

Mr. Dodd asked where they will go from here, to which Mr. Cannon responded, he thinks Council will try to get something together that gives them a better answer on when the County needs to codify State changes. He said Mr. Landing said it seemed kind of arbitrary about a year later, so maybe they can establish some kind of guideline for one year after the State makes the changes, but whatever Council does, they would have to run it by the Board anyway. He said the second thing is that he thinks they need to establish guidelines for acceptable online education programs. He said the third thing is legal counsel, so they are going to have to talk to legal counsel to remind them that if they feel this is something out of their knowledge, they can seek out other assistance from an attorney that is familiar with electrical rules and regulations. Mr. Landing said legal counsel knew about this a couple of weeks prior to the meeting, so it was not like they caught him off guard by calling him and asking him to come in that afternoon. Mr. Dodd said he could have borrowed a handbook, to which Mr. Landing responded, he did not need to have the handbook, but he had the ordinance, which is not that long, so he figures the legal counsel probably could have read through it in a few minutes and figure it out. He said, regardless, the Board appreciates Council's time and trouble.

Mr. Taylor said he is just surprised that the Department of Planning and Zoning is even involved in this, to which Mrs. Aclé responded, it is not even in their bylaws. Mr. Taylor said also that is not normally what they deal with, so the whole thing just has him scratching his head wondering if that might not be a code change that could be considered, but that is all he will say right now. Mr. Landing said the Board suggested to a couple of the County Councilmembers maybe asking about listening to the recordings because the Board feels that maybe they have been altered. He said, when they looked at a number of the minutes the following month, they did not reflect anything that had actually taken place at the meetings, and a couple of times the Board rejected the minutes, but he thinks they got passed anyway. Mr. Taylor said he is reading it, and when he reads the language it almost sounds like they just have an administrative duty. He said someone could get a permit if they are otherwise qualified, which Planning and Zoning should not have any say on, and pay whatever the fee is. He said it sounds almost like something that a lot of times the County Treasurer would do, so it is just interesting. Mr. Landing said it is the Board's understanding that they are trying to streamline the processes. He said, in a case like this, even with plumbing or building, they think on the construction side they would not want to streamline it to a large degree. He said they are not asking a lot, and, actually, when it came right down to it, they were asking this gentleman to come in and test, and he refused to test. He said he was not going to do it, so that was when he wanted to have the meeting, and that was when the Board contacted legal counsel to come because they figured there was going to be a problem, and they wanted to have somebody in their corner who knew the nuances, at least the legal side.


Mrs. Hurley explained, it is not unusual for a County Department to assist a County Board or Commission. She then asked if the Planning and Zoning Department provides administration to do the minutes for the Board, to which Mr. Landing responded, they do. He said either Ms. Courtney or Ms. Amanda are there, and before that it was Debbie. Mr. Taylor said that is just secretarial, and this is more "official", he will put it that way. Mr. Cannon said it seems as if Planning and Zoning feels they are in a position to supersede the Board's authority, and that may be the issue. Mr. Dodd said Council will have to look into that. There was no further discussion.

  
Larry W. Dodd, President, District 3


  
John T. Cannon, Vice President, At-Large

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