



**BOARD OF COUNTY COMMISSIONERS OF
WASHINGTON COUNTY, MARYLAND**

Open Session Minutes

February 12, 2019

INVOCATION AND PLEDGE OF ALLEGIANCE

A moment of silence was observed, followed by the Pledge of Allegiance to the Flag by the full assemblage.

CALL TO ORDER

President Jeffrey A. Cline called the regular meeting of the Board of County Commissioners of Washington County, Maryland, to order at 9:00 a.m. at 100 West Washington Street, Room 1113, Hagerstown, Maryland, with the following members present: Vice President Terry L. Baker and Commissioners Wayne K. Keefer, Cort F. Meinelschmidt, and Randall E. Wagner.

APPROVAL OF MINUTES

February 5, 2019

Commissioner Baker, seconded by Commissioner Keefer, moved to approve the minutes of February 5, 2019. The motion passed unanimously.

CONVENE IN CLOSED SESSION

Commissioner Baker, seconded by Commissioner Meinelschmidt, moved to convene in closed session at 9:02 a.m. to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals; to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; to consult with counsel to obtain legal advice on a legal matter; and to conduct or discuss an investigative proceeding on actual or possible criminal conduct, in accordance with Section 3-305(b)(1), (4), (7), (12) of the General Provisions Article of the Annotated Code of Maryland. The motion passed unanimously.

In closed session, the Commissioners discussed the potential appointment of specific individuals to a commission over which the Commissioners have appointing authority and gave staff direction in regards thereto. They also discussed the filling of a personnel vacancy with a specific individual and heard updates regarding proposals for several business organizations to locate in the State and County. The Commissioners were briefed on the status of an investigation into criminal conduct. Present during closed session were Commissioners Jeffrey A. Cline, Terry L. Baker, Wayne K. Keefer, Cort F. Meinelschmidt, and Randall E. Wagner. Also present were Robert J. Slocum, County Administrator; Krista L. Hart, County Clerk; Kirk C. Downey, County Attorney, Kendall McPeak, Assistant County Attorney, and at various times Deb Peyton, Director, Health and Human Services; Susan Small, Director, Business Development; Dave Hays, Director, Division of Emergency Management; Susan Buchanan; Director, Office of Grant Management; and Rich Eichelberger, Director of Construction.

RECONVENE IN OPEN SESSION

Commissioner Meinelschmidt, seconded by Commissioner Wagner, moved to reconvene in open session at 9:49 a.m. The motion passed unanimously.

The Commissioners recessed at 9:49 a.m. and returned to the meeting at 10:00 a.m.

President Cline informed attendees that the Board will reconvene into closed session following the open session portion of the meeting. Due to inclement weather, the Commissioners delayed the start of the closed session from 8:00 a.m. to 9:00 a.m.; several agenda items were not presented.

COMMISSIONERS' REPORTS AND COMMENTS

Commissioner Wagner shared that he has received communications from retirees regarding a reduction in health insurance. Additionally, he shared that he is concerned with the amount of time and effort that has been placed into the Fort Ritchie / Cascade property; shared that it is time to liquidate that property while working with the Master Developer.

Commissioner Meinelschmidt provided information regarding a follow-up question submitted at the evening session of the State of the County regarding the proposed bill for an increase to \$15.00 minimum wage; he shared that if passed, the impact to Washington County would be approximately a \$30 million increase in wages and benefits.

Commissioner Cline thanked staff for working through the delay of the meeting as a result of inclement weather. He requested Rob Slocum, County Administrator, provide the results of the survey conducted on the necessity of evening meetings. Mr. Slocum stated that the chosen time was 6:00 p.m.

REPORTS FROM COUNTY STAFF

Health and Human Services Position Recommendations

Deb Peyton, Director, shared with the Board that Mr. Robert Foltz will be hired for the position of Building Inspector I with the Division of Construction.

Planning and Zoning

Jill Baker, Deputy Director, shared information on a potential grant opportunity from the State of MD regarding the 2020 Census. Ms. Baker provided information to the Board regarding the process of the Census Bureau. Staff presented the recommendation that the Board not apply for the grant, due to several restrictions. The Commissioners discussed options and reached a consensus to forgo the application submittal for grant funding.

County Attorney

Kirk Downey, County Attorney, brought forth several proposed bills to obtain the Commissioners position as requested by the delegation. He referenced Senate Bill 99 and shared that Delegate Wivell has asked if the Commissioners would be in favor of having Washington County amended onto the bill, which is adding Anne Arundel County to the list of jurisdictions where the Maryland

Building Performance Standards do not apply to agritourism buildings or where agritourism is the intended use of the building. The Commissioners discussed the proposed bill and reached a consensus to defer consideration of the matter until review by the code review committee with possible action during the next legislative session. Mr. Downey also shared that Delegate Corderman has requested the Commissioners position on House Bill 928 (the Suzanne Jones Act) which would require that the Division of Corrections transport an inmate who released from confinement from a State correctional facility to the jurisdiction where the inmate was domiciled immediately prior to confinement and specifying that the jurisdiction would be where parole or probation supervision occur. The Board discussed the proposed bill and unanimously supported the bill.

County Administrator

Rob Slocum recognized Katie Yoder for receiving her AA degree in Graphic Design. The Commissioners presented Ms. Yoder with a certificate of recognition for accomplishment. Mr. Slocum encouraged staff and Directors to do the same for any of their employees who have accomplished the same. Additionally, he shared that Comptroller Franchot will be visiting Washington County today at 11:30 and at 2:30 p.m.

County Clerk – Appointment / Reappointment to Boards and Commissions:

Gaming Commission

Commissioner Baker, seconded by Commissioner Wagner, moved to appoint Brandy Osborne to serve a first, two (2) year term from March 1, 2019 through February 28, 2021; and to reappoint David Kline for a first, two (2) year term from March 1, 2019 through February 28, 2021. The motion passed unanimously.

CITIZENS' PARTICIPATION

Brent Walls, 15307 Dellinger Road, Williamsport, shared his opinion on Senate Bill 387 and House bill 669, regarding the Pipeline and Water Safety Act. He has requested a letter from the Commissioners requiring Maryland Department of Environment conduct the full 401 water quality review. Commissioners discussed the request and reached a consensus that they would review the bill and consider.

Chip Wood, 16 Bittersweet Drive, Hagerstown, discussed the proposed pipeline and shared his opposition.

Emily Conrad, 110 Key Street, Hagerstown shared her opposition to the Foggy Bottom annexation and has requested that the Board consider the environment prior to the building of the overpass bridges.

FINANCIAL SUPPORT FOR UNIVERSITY SYSTEM OF MARYLAND, HAGERSTOWN'S CONTRIBUTION TO THE URBAN IMPROVEMENT PROJECT

Mark Halsey, Executive Director, University System of Maryland Hagerstown (USMH); Howard Bowen, USMH Board of Advisors; and James Hozapfel, USMH Board of Advisors, requested approval for a funding request in the amount of \$250,000 for expenses associated with the Urban Improvement Project (UIP). Mr. Halsey explained that USMH is requesting a financial contribution of \$250,000, which can be structured in installments payable over five (5) years. Mr.

Halsey shared information regarding USMH's involvement in renovations pertaining to the UIP and plans for development of a Hospitality Center. Mr. Halsey confirmed that expenditure reports would be submitted annually to the Office of Grant Management.

The Board discussed the request as presented to include private funding donations and funds raised through fundraising efforts.

Commissioner Meinelschmidt, seconded by Commissioner Wagner, moved to approve the funding request of \$250,000, payable in structured installments over a five (5) year period. The motion passed 4-1 (Commissioner Keefer abstained)

PUBLIC HEARING: APPLICATION FOR ZONING MAP AMENDMENT RZ-18-003; P OVERLOOK LLLP

President Cline convened a public hearing at 11:00 a.m. to obtain public comment regarding the application from P Overlook LLLP for Map Amendment RZ-18-003 to the Washington County Zoning Ordinance (Ordinance). The application concerns a request to change the zoning classification from Rural Village with a nine (9) lot residential density restriction to Rural Village without any density restriction. Commissioner Cline reviewed the procedures for the Public Hearing and County Clerk Krista L. Hart administered the oath to those who planned to give testimony in the matter.

Jill Baker, Deputy Director, Planning and Zoning, distributed Staff Exhibit 2A to the Board.

Ms. Baker presented the staff report and analysis on behalf of the Washington County Department of Planning and Zoning. The subject parcel (Property) is bounded on three (3) sides by State and County roads. The northern boundary of the property is Keep Tryst Road, to the west of the property is US 340, and the eastern boundary is Sandy Hook Road. The subject Property contains 24.32 acres of land that is mostly wooded and currently vacant.

Ms. Baker explained that the applicant is claiming that the county erred in the rezoning of the property first in 2003 and again in 2005. Piecemeal rezoning applications are under an obligation to meet the test of the "change or mistake rule". Staff contended that this is not a case of change or mistake but rather a reconsideration of a previous zoning decision.

The Washington County Planning Commission considered the application during a public rezoning input meeting held September 10, 2018 and recommended the denial of the application on October 1, 2018. The Planning Commission recommended denial of the application based on the opinion that the Commissioners were within their legislative authority to place residential density restrictions on this property based on an analysis of compatibility with surrounding land uses. The Planning Commission referenced a public comment taken at the public input meeting noting that numerous judicial proceedings, in varying levels of the Maryland judicial system, have not negated the Commissioners decision to apply the density restriction. The Planning Commission believes the restriction is valid and should remain.

Ms. Baker stated that eleven (11) comments in opposition to the rezoning request have been received during the Planning Commission's hearing, and nine (9) complaints have been received at the time of the Commissioners' hearing.

Attorney Jason Divelbiss, 11125 Bemisderfer Road, Greencastle, Pennsylvania, presented the Applicant's case for P Overlook LLLP. He entered Applicant's Exhibits #1, #2, #3, and #4 into the official record. Mr. Divelbiss presented the procedural history relating to the Property since 2003 and argued that the 9-lot density restriction was impermissible and should be removed.

The hearing was opened for public comment and five individuals offered comments. Mike Brown, 19112 Sandy Hook Road, Knoxville; Eric Whinton, 556 Clark Road, Knoxville; Diane Younkins, 19514 Keep Tryst Road, Knoxville; Andrea Norouzi 1350 Rohrsersville Road, Rohrsersville; and Mervin Nuice, 19104 Sandy Hook Road, Knoxville, each commented against the rezoning, citing concerns about traffic, incompatibility with the existing neighborhood, and incongruent density were the condition to be removed.

Jason Divelbiss presented rebuttal on behalf of the Applicant. He addressed comments regarding a suburbia style neighborhood. He confirmed that the request is for Rural Village, which he argues would not be inconsistent with adjacent surrounding properties. Mr. Divelbiss further discussed the comprehensive rezoning of rural areas of Washington County, asserting that when the comprehensive rezoning took place in 2005, there was an error made by Washington County.

Commissioner Baker asked where the referenced error originated. Mr. Divelbiss responded by adding that the error was two-fold and shared that in 2005, if the comprehensive rezoning was intended to incorporate the piecemeal density restriction, that was error; then the second error was in 2006, when the Planning Director acknowledged that is what happened.

The Public Hearing was closed at 12:11 p.m.

Commissioner Meinelschmidt requested an opportunity to reopen the hearing. The Commissioners reached a consensus to reopen the public hearing on the record at 12:12 p.m.

Commissioner Meinelschmidt shared that he understood that the applicant appealed the letter from the Director of Planning and Zoning in 2006 and asked why the applicant has not appealed the zoning decision of 2005. Attorney Divelbiss explained that justification could not be appealed due to time limitations.

The Public Hearing was closed at 12:13 p.m.

The Commissioners took no action on the rezoning request, took the matter under advisement, and asked that it be placed on a future agenda for further consideration.

SENATOR AMOSS FUNDING ALLOCATION

Tom Brown, Assistant Director of Emergency Communications, presented the recommendation for distribution of the Senator William H. Amoss Fire, Rescue and Ambulance Fund subsidy allotted to counties by the State of Maryland for disbursement to fire and rescue companies. The funds may be used toward capital expenses such as firefighting apparatus and a spending report is

submitted to the County each year from companies receiving such funds. Mr. Hays indicated that the Fiscal Year 2019 allocation of \$337,711 is proposed to be distributed as follows: \$12,988.88 each to the twenty fire companies (including \$77,933.30 divided between the six Hagerstown Fire Departments), and \$12,988.88 each (\$77,933.30) divided between the six ambulance companies operating in the County.

Commissioner Baker, seconded by Commissioner Keefer, moved to approve the recommended distribution of the Fiscal Year 2019 Senator William H. Amoss Fire, Rescue & Ambulance Fund subsidy of \$337,711 as discussed and outlined in the attachment to the Agenda Report Form. The motion passed unanimously.

PRESENTATION OF THE 2020 – 2029 CAPITAL BUDGET, DRAFT ONE

Sara Greaves, Chief Financial Officer, and Misty Rosenberry, Accountant, Budget and Finance, presented a first look at the County's proposed Capital Improvement Project (CIP) Plan budget for 2020-2029 that includes \$60,908,000 for Fiscal Year 2020; which is an increase from fiscal year 2019 of \$17,200,000. Ms. Greaves explained that \$10.9 million of that increase is due to an increase in anticipated grant funds, \$2 million is due to additional contributions, and \$4.9 million is related to self-supported bonds. Ms. Greaves indicated that a debt capacity analysis currently suggests the County can afford to issue approximately \$15 million in debt. Borrowing for this ten-year CIP Plan is assumed at \$12 million. Ms. Greaves and staff presented an overview of CIP requests in the draft budget.

Due to time constraints, the remainder of the budget will be presented at a future date.

HAGERSTOWN ANNEXATION A-2018-01, FOGGY BOTTOM FARM AND OTHER LANDS; AND A-2018-02, ANTIETAM CREEK, CREEK BED

Steve Goodrich, Director, Planning and Zoning, brought forth the proposal to grant/not grant express approval to the City of Hagerstown to allow development on the annexed land of A-2018-01 Foggy Bottom Farm and other lands in conformance with the Hagerstown zoning district Industrial-Mixed Use (i-MU) as described in the annexation Resolution and Annexation Plan, which may be substantially different than the uses that would be allowed under the current county zoning districts of Office Research and Industry (ORI). A-2018-02 involves 1.47 acres of land that lies within the banks of the Antietam Creek, most of it underwater; ownership is undetermined.

Kirk Downey, County Attorney, discussed the issues the Board should consider when making its determination. Steve Bockmiller, Development Planner / Zoning Administrator, City of Hagerstown, joined the discussion to assist with any questions. The Commissioners discussed who would be responsible for maintenance of the road and bridge in conjunction with the cost of building the bridge and roadway. Rob Slocum shared that he would prefer the maintenance be a collaborative effort between the City of Hagerstown and Washington County.

The Commissioners discussed the matter and reached a consensus to defer a decision on the express approval. The Commissioners have agreed to work cooperatively with the City of Hagerstown for the acquisitions of the property for the buildout of the road and the maintenance. Further discuss will occur between City and County staff.

INCREASE FEE PAID TO SOIL CONSERVATION DISTRICT FOR ADMINISTRATION OF FOREST CONSERVATION FUND PROGRAM

Mr. Goodrich, and Elmer Weibley, Soil Conservation District, requested approval of a revised Memorandum of Understanding (MOU) with the Soil Conservation District (SCD) Board of Supervisors to increase the reimbursement for SCD services from \$700 to \$900 per acre and to add language to the explanatory statement that further describes eligible costs. Mr. Goodrich explained that this approval would be of no cost to Washington County's general fund and/or the citizens of Washington County.

Commissioner Meinelschmidt, seconded by Commissioner Wagner, moved to approve the Memorandum of Understanding increasing the reimbursement for Soil Conservation District services from \$700 to \$900 as presented. The motion passed unanimously.

FORT RITCHIE / CASCADE SUSTAINABLE COMMUNITIES DESIGNATION RENEWAL

Mr. Goodrich brought forth an application to renew the *Sustainable Communities* designation for Fort Ritchie / Cascade. Mr. Goodrich explained the terms regarding the designation, which originated in 2014, and remained effective for five (5) years. He has requested that the Board renew the application for an additional five (5) years.

Commissioner Meinelschmidt, seconded by Commissioner Wagner, moved to renew the application for the *Sustainable Communities* designation as presented. The motion passed unanimously.

REQUEST TO FUND FORT RITCHIE COMMUNITY CENTER

Susan Small, Director, Department of Business Development, has recommended approval to provide financial support in the amount of \$150,000 for Fiscal Year 2020 from the Cascade Town Centre Fund to the Fort Ritchie Community Center.

Commissioner Keefer, seconded by Commissioner Wagner, moved approve the funding request from the Fort Ritchie Community Center in the amount of \$150,000 as requested. The motion passed unanimously.

RECORDS RETENTION CONTRACT – BUDGET TRANSFER

Krista Hart, County Clerk, requested approval to transfer funds from the General Fund Contingency Funding (505150 10 11200) to the Clerk Departmental Fund for Consulting Services (515130 10 10110) in the total amount of \$26,000. Ms. Hart explained that the funding is necessary to bring the County into compliance with the Code of Maryland Regulations (COMAR) in Records Retention. Ms. Hart shared that the funds for the records retention contract was previously included in the County Clerks Operational budget but at some point, had been removed.

Commissioner Meinelschmidt, seconded by Commissioner Keefer, moved to approve the budget transfer in the amount of \$26,000 as presented. The motion passed unanimously.

INTERGOVERNMENTAL COOPERATIVE PURCHASE OF ONE EXTENDED CAB ¾ TON PICKUP TRUCK WITH SNOW PLOW, AND ONE EXTENDED CAB ¾ TON PICKUP TRUCK FOR DEPARTMENT OF WATER QUALITY

Mark Bradshaw, Deputy Director, Environmental Management, Engineering Services; recommended authorizing by resolution the Intergovernmental Cooperative Purchase of one (1) Extended Cab ¾ Ton Pickup Truck with Snow Plow, and one (1) Extended Cab ¾ Ton Pickup Truck with Hertrich Fleet Services, Inc., of Milford, Delaware, BPO#001B9400177, awarded by the State of Maryland Department of General Services Office of Procurement and Logistics statewide contract. The cost of the pickup with plow will be \$35,372 and the cost of the pickup without plow will be \$30,489.

Mr. Bradshaw discussed the intergovernmental cooperative purchase bid method that allows entities to use another entity's contract to eliminate Washington County's bid process and obtain overall better pricing due to economies of scale offered by the subject contract. A determination to allow or participate in an intergovernmental cooperative purchasing arrangement is by a resolution indicating the cost benefits and efficiencies to the County. He shared that funds are budgeted in the Water Quality Capital Improvement Plan, account number VEH007.

Commissioner Meinelschmidt, seconded by Commissioner Wagner, moved to authorize by resolution the Intergovernmental Cooperative Purchase INGT-19-014 relating to the purchase of one Extended Cab ¾ Ton Pickup Truck with Snow Plow and one Extended Cab ¾ Ton Pickup Truck from Hertrich Fleet Services, Inc. of Milford, Delaware, in the amount of \$65,761 as presented. The motion passed unanimously.

(Resolution No. RS-2019-01 is recorded among the Acts, Ordinances, and Resolutions of Washington County and the original is located in the County Commissioners' Office.)

INTERGOVERNMENTAL COOPERATIVE PURCHASE OF BUSES FOR COUNTY TRASIT DEPARTMENT / COUNTY COMMUTER

Rick Curry, Director, Purchasing; and Kevin Cerrone, Director, Transit; recommended authorizing by resolution the Intergovernmental Cooperative Purchase (INGT-19-0013) with Cecil County, Maryland, contract (RFP#18-2) awarded to American Truck and Bus, Inc. of Annapolis, Maryland, and approved by the Federal Transit Administration, and the Maryland Transit Administration; for the purchase of six (6) medium-duty buses at a cost of \$279,429 each. Mr. Curry shared that funds are budgeted in the Transit Department Capital Improvement Plan, account number VEH003.

Mr. Curry discussed the intergovernmental cooperative purchase bid method that allows entities to use another entity's contract to eliminate Washington County's bid process and obtain overall better pricing due to economies of scale offered by the subject contract. A determination to allow or participate in an intergovernmental cooperative purchasing arrangement is by a resolution indicating the cost benefits and efficiencies to the County.

Commissioner Meinelschmidt, seconded by Commissioner Wagner, moved to authorize by resolution the Intergovernmental Cooperative Purchase relating to the purchase of six (6) medium-duty buses from American Truck and Bus Inc., Annapolis, Maryland. The motion passed unanimously.

(Resolution No. RS-2019-02 is recorded among the Acts, Ordinances, and Resolutions of Washington County and the original is located in the County Commissioners' Office.)

RECONVENE INTO CLOSED

Commissioner Baker, seconded by Commissioner Meinelschmidt, moved to reconvene in closed session at 1:52 p.m. to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals; to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; to consult with counsel to obtain legal advice on a legal matter , in accordance with Section 3-305(b)(1), (4), (7) of the General Provisions Article of the Annotated Code of Maryland. The motion passed unanimously.

In closed session, the commissioners provided staff with direction concerning the filling of certain vacancies given the pending retirement of certain employees. The Commissioners received legal advice concerning contractual matters and provided direction to staff in regards thereto and received legal advice concerning the proposed establishment of a certain commission. The Commissioners also provided direction regarding a matter involving the removal or resignation of an employee over which the Board has jurisdiction.

Present during closed session were Commissioners Jeffrey A. Cline, Terry L. Baker, Wayne K. Keefer, Cort F. Meinelschmidt, and Randall E. Wagner. Also present were Robert J. Slocum, County Administrator; Krista L. Hart, County Clerk; Kirk C. Downey, County Attorney, Kendall McPeak, Assistant County Attorney, and at various times Todd Moser, Real Property Administrator; Scott Hobbs, Director, Engineering; Andrew Eshleman, Director of Public Works; and Deb Peyton, Director of Health and Human Services.

The Commissioners recessed at 1:52 p.m. during closed session and returned to closed session at 2:12 p.m.

RECESS

The Commissioners recessed at 4:03 p.m.

EVENING MEETING – TOWN OF WILLIAMSPORT

An evening meeting of the Board of County Commissioners of Washington County, Maryland, was held at the Byron Park Community Center, Williamsport, Maryland.

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

A moment of silence was observed, followed by the Pledge of Allegiance to the Flag by the full assemblage.

CALL TO ORDER

President Cline called the meeting to order at 6:31 p.m. with the following members present: Vice-President Terry L. Baker and Commissioners Wayne K. Keefer, Cort F. Meinelschmidt and Randall E. Wagner.

MAYOR AND COUNCIL COMMENTS

Mayor William Green thanked the Commissioners for attending the evening meeting in Williamsport.

COMMISSIONERS REPORTS AND COMMENTS

Commissioners Baker, Meinelschmidt, and Keefer thanked the Mayor and Council for hosting the evening meeting.

Commissioner Baker shared that the County is gearing up for the Project Open Space grants and wanted to ensure that the town is prepared.

Commissioner Keefer commented on the hospitality received from the Town of Williamsport and citizens.

Commissioner Meinelschmidt shared that he graduated from Williamsport High School and that he looks forward to the upcoming meeting with the National Park Service.

Commissioner Wagner shared that he was raised in Williamsport and shared his enthusiasm for the evening meeting in his hometown.

Commissioner Cline shared that he appreciated hearing updates on the aqueduct and will be present in the evening meeting with the National Park Service.

COUNTY STAFF

Rob Slocum, County Administrator, asked staff in attendance at the evening meeting to introduce themselves.

CITIZEN PARTICIPATION


Steve Hamburg, 20400 Highview Court, Hagerstown, Maryland, shared that he was a volunteer at C&O Canal and appreciates the history.

Margaret Yaukey, 16 East Salisbury Street, Williamsport, Maryland, shared that she looks forward to being a part of the history in Williamsport.

Tom Perry, retired pastor in Williamsport, shared that he is the ex-president of the C&O Canal Association.

ADJOURNMENT

Commissioner Wagner, seconded by Commissioner Keefer, moved to adjourn at 6:41 p.m. The motion passed unanimously.



Krista L. Hart, *County Clerk*