

COUNTY COUNCIL OF CECIL COUNTY
LEGISLATIVE MEETING MINUTES
LSD 13-11
June 4, 2013

County Council of Cecil County met in regular session at the County Administration Building, 200 Chesapeake Blvd., Suite 1009, Elkton, MD. The following members of the Council were present:

Dr. Alan McCarthy, Vice President
Joyce Bowsbey, Council Member
Michael Dunn, Council Member
Diana Broomell, Council Member
Robert J. Hodge, President

NOTE: Audio recording of this meeting is available on the County website www.ccgov.org.

CALL TO ORDER

The meeting of the County Council of Cecil County, June 4, 2013 was called to order by President Robert Hodge at 7:00 p.m. and opened with the Pledge of Allegiance.

PUBLIC HEARINGS

Rezoning Applications

Council Manager Massey stated for the record:

File 2013-01-APPLICANT: Capital Development Partners, LLC., c/o Frank Cason. **PROPERTY LOCATION:** 2758 Augustine Herman Highway, Chesapeake City, MD 21915. **ELECTION DISTRICT:** 2, **TAX MAP:** 43, **PARCEL:** 390. **PRESENTLY ZONED:** Southern Agricultural Residential, (SAR). **REQUEST:** Request to rezone .6479 Acres from Southern Agricultural Residential, (SAR) to Business General, (BG). **PROPERTY OWNER:** John W. & Helen A. Myers, Sr. Notice of the public hearings was published for the Planning Commission and Council Legislative meetings on May 1 and May 8, 2013.

Applicants presenting testimony were sworn in by Council Manager Massey.

Mr. Rick Leopold, Milestone Commercial Realty representing Capital Development Partner, LLC, advised the Council that the applicant is c/o Frank Cason, not c/o Frank Lason as stated on the agenda. He testified that the rezoning application is being submitted based on a mistake in the last Comprehensive Rezoning. The property has been owned and operated as a commercial business, Jack and Helen's Restaurant, and has not been used for agricultural purposes for at least the last thirty (30) years. He advised the Council that the application was amended at the Planning Commission meeting to include adjacent Parcel 390, .08 acres to be rezoned from Southern Agricultural Residential (SAR) to Business General (BG). The adjacent parcel has always been used as part of the commercial operation for the septic system drain field and storage building for the restaurant business.

Counsel Clara Campbell advised the Council that the rezoning application was amended at the Planning Commission meeting to include the .08 acre adjacent Parcel 390 as part of the rezoning application.

Members of the Council provided their comments relative to the rezoning application.

All members of the audience who were providing testimony were sworn in by Council Manager Massey.

COMMENTS IN SUPPORT OR OPPOSITION

Attorney Robert Jones, 157 East Main Street, Elkton, representing the parties in opposition to the rezoning application presented written testimony to the Council that included a petition signed by approximately 345 individuals. He referred to the information submitted and testified in opposition to the proposed rezoning application. Mr. Jones called the following witnesses to testify in opposition to the rezoning application:

Michael Pugh, 11 Ground Pine Path, Elkton,

Discussion ensued relative to the testimony provided and the signature requirement of the property owner for the rezoning application.

Daniel Patel, Middletown, DE, owner Valero Gas Station;
Lee Howard Vozners, Randalia Road, Chesapeake City;
Paige Howard, Director of the Friends of Mount Harmon Plantation;
Allaire Hummel, 633 Buds Landing Road, Warwick;
Christina Vosners, Randalia Road, Chesapeake City; and
Caroline DuPont Crickett, Chesapeake City

Mr. Jones requested a show of hands from those in the audience in opposition to the rezoning application. He summarized the argument in opposition to the rezoning request.

Planning and Zoning Director Eric Sennstrom advised the Council that the staff of Planning and Zoning and the Planning Commission have recommended approval of the rezoning application based on a mistake in the 2011 Comprehensive Rezoning. He advised the Council that the Priority Funding Area map was approved by the local legislative body, which was the previous Board of County Commissioners and both properties are located within the priority funding area.

Zoning Administrator Cliff Houston stated the Findings of Facts for the proposed rezoning application. He advised the Council that applicants have been permitted to amend their rezoning application at the Planning Commission hearing and the owner of Parcel 390 has not signed the application.

Mr. Leopold testified that the property has been commercial and a mistake was made in the last Comprehensive Rezoning.

Mr. James Myers, representing his parents, testified that his parents have owned this property and operated the restaurant business since 1978.

In response to a statement by the Council President, Counsel Campbell advised the Council that all testimony in support or opposition to this rezoning application should be made at this public hearing in order to give everyone an opportunity to hear the testimony, and Council members should not entertain any additional testimony and/or information relative to the rezoning application/request.

President Hodge opened the floor for final public comment:

Jennifer Buckman, Chesapeake City, provided testimony in opposition to the application; and Barbara Myers, Chesapeake City, provided testimony in support of the application.

President Hodge closed the public hearing and advised the public that Rezoning File 2013-01 will be scheduled for consideration by the Council at the June 18, 2013 Council Legislative meeting.

Council Manager Massey stated for the record:

File 2013-02-APPLICANT: Carpenter Engineering, LLC, Ronnie B. Carpenter, PE. **PROPERTY LOCATION:** 995 Turkey Point Road, North East, MD 21901. **ELECTION DISTRICT:** 5, **TAX MAP:** 31, **PARCELS:** 274 & 1074. **PRESENTLY ZONED:** Low density Residential, (LDR). **REQUEST:** Request to rezone 21.5 Acres from Low Density Residential, (LDR) to High Density Residential, (RM). **PROPERTY OWNER:** Eustace W. Mita. Notice of the public hearing for the Planning Commission and Council Legislative meetings was published on May 1 and May 8, 2013.

Counsel Campbell advised the Council that there is a preliminary matter that needs to be brought to the attention of the Council.

Applicants presenting testimony were sworn in by Council Manager Massey.

Attorney Findley McCool advised the Council that his client, adjoining property owner, Shady Beach Trust, Trustee Sarah Amy McDaniel Arguto, would like to request that President Hodge recuse himself from this rezoning case due to pending litigation between her daughter and President Hodge.

President Hodge called a recess to confer privately with legal counsel at 8:00 p.m. relative to this matter.

President Hodge called the meeting to order at 8:03 p.m. and advised the Council that he has decided to recuse himself and not preside over this rezoning application, and he turned the meeting over to Vice President McCarthy.

Attorney Robert Jones stated that the applicants do not have any information on the pending litigation and he suggested that the request to have President Hodge recuse himself from this case should be referred to the County Ethics Board for consideration.

CLOSED SESSION

On motion made by Councilwoman Bowsbey, seconded by Councilwoman Broomell, the Council moved to convene in closed session pursuant to the Annotated Code of Maryland, State Government, Title 10, Subtitle 5, Section 10-508 (a) (7) to consult with counsel to obtain legal advice on the rezoning application. Motion carried unanimously.

Present at Closed Session: Council members McCarthy, Bowsbey, Dunn and Broomell convened in closed session with Counsel Campbell, Counsel Manager Massey, Director of Administration Al Wein, and Planning and Zoning Director Eric Sennstrom.

Counsel Campbell provided the Council legal advice relative to the issue brought before them on Rezoning File 2013-02.

The closed session was adjourned and the members returned to the public meeting.

Vice President McCarthy called the public meeting to order. He advised the that they may continue with the rezoning hearing without President Hodge, or withdraw the application until the issue brought before the Council during this hearing has been resolved.

Counsel Jones advised the Council that on behalf of his clients, they would prefer to withdraw the rezoning application at this time, without prejudice and resubmit the application after the issue has been resolved relative to the rezoning application.

President Hodge returned to the meeting as the presiding officer.

Council Manager Massey stated for the record:

Bill No. 2013-04 - Amendment - Zoning Ordinance – Floodplain District – An Act to amend the Cecil County Zoning Ordinance, Article XI, Part III, Floodplain District. Bill 2013-04. Bill No. 2013-04 was introduced by the Council President on behalf of the County Executive at the May 7, 2013 Council Legislative meeting, scheduled for a public hearing on the June 4, 2013 Council Legislative meeting, and tentative consideration will be scheduled for the June 18, 2013 Council Legislative meeting.

Planning and Zoning Director Sennstrom provided a synopsis of Bill 2013-04. He advised the Council that the State of Maryland has updated their regulations and maps, and the County has been mandated to update our local regulations to be in compliance. The Planning Commission has recommended approval of Bill 2013-04.

Members of the Council provided their comments relative to Bill 2013-04.

COMMENTS IN SUPPORT OR OPPOSITION

Joe Carabetta, Perryville, commented on the requirements for flood insurance;
Al Reasin, Conowingo, commented on the new floodplain maps.

Planning and Zoning Director Sennstrom advised the Council that the revised floodplain maps would go into effect on July 8, 2013.

President Hodge stated that the decision regarding Bill 2013-04 will be scheduled for consideration by the Council at the June 18, 2013 Council Legislative meeting.

APPROVAL OF MINUTES

On motion made by Vice President McCarthy, seconded by Councilwoman Bowsbey, the Council moved to approve the minutes of the May 21, 2013 Council Legislative meeting, as presented. Motion carried unanimously.

PUBLIC COMMENTS

Dean Geracimos, North East,
Michael W. Dawson, Perryville,
Geoff Doyle, Charlestown,
Cindy Wilkowski, Perryville,
Donna Caudell, Elkton,
Chip Hazel, Charlestown,
Reta Reynolds, Perryville,
Ron Lobos, Elkton,
Matt Vandervort, Perryville,
Cathy Rogers, Perryville,
Joe Carabetta, Perryville,
Diane Carabetta, Perryville,
Jackie Gregory, Elkton,
Glenn Davis, Carpenters Point,
Linda Jackson, Perryville

PRESIDENT AND COUNCIL COMMENTS

Councilwoman Bowsbey had no comments.

Councilwoman Broomell commented on the rezoning decision relative to York Building Products and the Cecil County Patriot's organization.

Vice President McCarthy had no comments.

Councilman Dunn had no comments.

President Hodge had no comments.

SPECIAL PRESENTATIONS

Cecil County Health Department Update

Health Officer Stephanie Garrity reviewed the updates from the Health Department relative to inspections performed by staff at food establishments, meeting scheduled in Cecil County on the Affordable Care Act, rabies vaccination clinics, water quality checks at local beaches, importance of developing individual and family plans for emergency preparedness, and precautions to take to avoid problems from the summer heat.

Discussion ensued regarding water quality checks at local beaches and gambling addiction counseling and services provided in the county.

2012 Department of Planning and Zoning Annual Report

Director of Planning and Zoning Eric Sennstrom presented the 2012 Department of Planning and Zoning Annual Report. He advised the Council that the department is required to file an annual report with the local legislative body.

Members of the Council had no questions or comments relative to the annual report.

INTRODUCTION OF BILLS

Council Manager Massey stated for the record:

Bill No. 2013-05 – Zoning Ordinance – Brownfield Development District – An act to amend the Cecil County Zoning Ordinance, Article II, Part I, Section 12- Definitions; Brownfield Redevelopment District (BR); Article III, Part VIII, Section 42.2.e – Brownfield Redevelopment District (BR); and Article XI, Part VI, Section 247. Bill No. 2013-05 is being introduced by the President on behalf of the County Executive, scheduled for a public hearing at the July 2, 2013 Council Legislative meeting, and tentative consideration will be scheduled for the July 16, 2013 Council Legislative meeting.

Planning and Zoning Director Sennstrom presented an overview of Bill No. 2013-05.

Members of the Council provided their comments relative to Bill No. 2013-05.

Councilwoman Broomell made a motion to amend Bill No. 2013-05 to have the Brownfield Development District follow the same procedure as a rezoning request.

President Hodge advised the Council that, before a motion for an amendment to a Bill is considered, the amendment must be provided to the Council in writing.

Council Manager Massey stated for the record:

Bill No. 2013-06 – Amendment – Flag and Seal Ordinance – Official County Seal - An act to amend the Public Laws of Cecil County, Chapter 105, by restoring to the county the official seal in use following the establishment of Cecil County on June 6, 1674. Bill No. 2013-06 is being introduced by Vice President McCarthy at the request of Michael W. Dawson, scheduled for a

public hearing at the July 2, 2013 Council Legislative meeting, and tentative consideration will be scheduled for the July 16, 2013 Council Legislative meeting.

Vice President McCarthy read a statement in support of Bill No. 2013-06.

Members of the Council provided their comments relative to Bill No. 2013-06.

President Hodge advised the Council that a fiscal note will be provided to the Council prior to consideration of the legislation.

INTRODUCTION AND CONSIDERATION OF RESOLUTIONS

Introduction:

Council Manager Massey stated for the record:

Resolution No. 48-2013

Title of Resolution - Amendment – Master Water and Sewer Plan - Highlands to Meadowview Sewer Interconnection.

Synopsis - A Resolution to amend the Wastewater Service Area Map in the Cecil County Master Water and Sewer Plan to convey sewage from the Highlands Sewer Collection System to the Meadowview Wastewater Treatment Plant and remap several parcels to S-2 in the proposed service area. Resolution 48-2013 is being introduced by the President on behalf of the County Executive and will be scheduled for a public hearing on at the July 2, 2013 Council Legislative meeting.

There were no comments from the Council on Resolution 48-2013.

Council Manager Massey stated for the record:

Resolution No. 49-2013

Title of Resolution – Amendment - Budget Ordinance FY2013 – Citizen Corp’s Program - Emergency Services.

Synopsis - A Resolution approving an amendment to the Annual Budget and Appropriation Ordinance for Cecil County, Maryland for the fiscal year ending June 30, 2013 to provide the General Fund with additional expenditure appropriation authority to receive a carryover of \$1,591 in Federal grant funds for the FY2010 State Homeland Security Program Grant – Citizen Corp’s Program in the Department of Emergency Services. Resolution 49-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

There were no comments from the Council on Resolution No. 49-2013.

Council Manager Massey stated for the record:

Resolution No. 50-2013

Title of Resolution - Amendment – Budget Ordinance FY2013 – Economic Development.

Synopsis - A Resolution approving an amendment to the Annual Budget and Appropriation Ordinance for Cecil County, Maryland for the fiscal year ending June 30, 2013 to provide the

General Fund with additional expenditure appropriation authority to receive an increase in State grant funds of \$29,006 for the FY2013 Marketing Grant in the Department of Economic Development. Resolution 50-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

There were no comments from the Council on Resolution 50-2013.

Council Manager Massey stated for the record:

Resolution No. 51-2013

Title of Resolution - Amendment – Budget Ordinance FY2013 – Cecil County Drug Task Force Grant - Sheriff's Office.

Synopsis - A Resolution approving an amendment to the Annual Budget and Appropriation Ordinance for Cecil County, Maryland for the fiscal year ending June 30, 2013 to provide the General Fund with additional expenditure appropriation authority to receive \$1,200 of local grant funds for the FY2013 Cecil County Drug Task Force Grant of the Sheriff's Office. Resolution 51-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

Finance Director Robinson presented information relative to proposed Resolution No. 51-2013.

There were no comments from the Council on Resolution 51-2013.

Council Manager Massey stated for the record:

Resolution No. 52-2013

Title of Resolution - Amendment 2 – Budget Ordinance FY2013 – Neighborhood Youth Panel Grant.

Synopsis - A Resolution approving an amendment to the Annual Budget and Appropriation Ordinance for Cecil County, Maryland for the fiscal year ending June 30, 2013 to provide the General Fund with an additional \$3,664 expenditure appropriation authority to receive an increase in State grant funds for the FY2013 Neighborhood Youth Panel Grant. Resolution 52-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

There were no comments from the Council relative to Resolution 52-2013.

Council Manager Massey stated for the record:

Resolution No. 53-2013

Title of Resolution - Appointment – Board of Appeals.

Synopsis - A Resolution to confirm the appointment by the County Executive of Eric Marshall to the Board of Appeals. Resolution 53-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

Director of Administration Wein reviewed the proposed appointment to the Board of Appeals.

There were no comments from the Council relative to Resolution 53-2013.

Council Manager Massey stated for the record:

Resolution No. 54-2013

Title of Resolution - Appointment – Economic Development Commission.

Synopsis - A Resolution to confirm the appointment by the County Executive of Robert Palsgrove to the Economic Development Commission. Resolution 54-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

There were no comments from the Council relative to Resolution 54-2013.

Council Manager Massey stated for the record:

Resolution No. 55-2013

Title of Resolution - Appointments – Susquehanna Workforce Investment Board.

Synopsis - A Resolution to confirm the appointment by the County Executive of Daniel Schneckeburger to serve a 3 year term to expire June 30, 2016; and the reappointment by the County Executive of Daniel DeMarinis, Renee Quietmeyer, and Lisa Webb to serve a 2 year term to expire June 30, 2015; and Dr. D’Ette Devine, Mark Kamholz, and Terrence Lovell to serve a 3 year term to expire June 30, 2016 to the Susquehanna Workforce Investment Board. Resolution 55-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

Members of the Council provided their comments relative to Resolution 55-2013.

Council Manager Massey stated for the record:

Resolution No. 56-2013

Title of Resolution - Nomination – Historic Designation – Town Point School.

Synopsis - A Resolution to establish and designate the property located at 19 Port Herman Road, Chesapeake City, MD, District 2, Tax Map 47, Parcel 7 known as the Town Point School, No. 4 as a Historic District. Resolution 56-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

Planning and Zoning Director Sennstrom presented an overview of the request for historic designation of the Town Point School. He advised the Council that the Historic Commission and the Planning Commission have recommended approval of Resolution 56-2013.

There were no comments from the Council relative to Resolution 56-2013.

Council Manager Massey stated for the record:

Resolution No. 57-2013

Title of Resolution – Litigation Settlement – York Building Products Co., Inc. v. Cecil County, Maryland.

Synopsis - A Resolution to settle litigation in York Building Products, Co., Inc. v. Cecil County, Maryland by restoring the zoning designation on York Building Products, Co., Inc.'s parcel 122 on Tax Map 35, Election District 5, to M-2 Heavy Industrial and to revise the County's zoning maps to reflect such zoning restoration. Resolution 57-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for tentative consideration at the June 18, 2013 Council Legislative meeting.

Director of Administration Wein advised the Council that the Consent Order from Circuit Court was signed on May 22, 2013 to remand the matter back to the Council to restore the M-2 zoning designation to the parcel and revise the Cecil County Zoning Maps to reflect the zoning designation.

Members of the Council provided their comments relative to Resolution 57-2013.

Council Manager Massey stated for the record:

Resolution No. 58-2013

Title of Resolution - Approval—Refinancing Bond—Town of Elkton – YMCA.

Synopsis - A Resolution approving the issuance and sale by the Town of Elkton of its economic development revenue bonds in an approximate principal amount not to exceed \$2,230,000, and the loan of the proceeds thereof to the Young Men's Christian Association of Cecil County, Inc. (YMCA) to be used to refinance certain tax-exempt bonds and other loans which financed the costs of the acquisition and improvement of certain facilities in Cecil County, Maryland. Resolution 57-2013 is being introduced by the Council President on behalf of the County Executive and will be scheduled for a public hearing at the July 2, 2013 Council Legislative meeting.

Members of the Council provided their comments relative to Resolution 58-2013.

Counsel Dwight Thomey, representing the YMCA, presented information relative to proposed Resolution 58-2013.

Finance Director Robinson presented information relative to proposed Resolution 58-2013. He clarified the process relative to the issuance of development revenue bonds.

Consideration:

Council Manager Massey stated for the record:

Resolution No. 43-2013 - Appointment – Council Attorney - a Resolution to appoint Jason Allison, Esquire as council attorney for general legal opinions and advice, and the law firm of Funk and Bolton for special counsel. Resolution No. 43-2013 was introduced by Council President Hodge at the May 21, 2013 Council Legislative meeting.

Council Manager Massey stated for the record Amendment 1, introduced by Council President Hodge, to amend Resolution 43-2013 as follows:

On Page 2, line 16, insert the following:

“WHEREAS, Clara E. Campbell Law Offices has served the Cecil County Planning Commission and assisted the Department of Planning and Zoning with issues of zoning and land usage; and”

On Page 2, line 21, insert the following:

“AND BE IT FURTHER RESOLVED that the County Council of Cecil County designates Clara E. Campbell to assist the Council in Rezoning Hearings.”

SUMMARY:

Designates Clara Campbell to assist Council with rezoning hearings.

Members of the Council provided their comments relative to Resolution 43-2013.

On motion made by Councilwoman Bowsbey, seconded by Vice President McCarthy, the Council moved to approve Amendment 1 to Resolution 43-2013. Roll call vote: McCarthy - Y, Bowsbey - Y, Dunn - N, Broomell - N, Hodge - Y. Motion carried by a vote of 3 in favor and 2 in opposition.

On motion made by Vice President McCarthy, seconded by Councilwoman Bowsbey, the Council move to approve Resolution 43-2013, as amended. Roll call vote: McCarthy - Y, Bowsbey - Y, Dunn - N, Broomell - N, Hodge - Y. Motion carried by a vote of 3 in favor and 2 in opposition.

Council Manager Massey stated for the record:

Resolution No. 44-2013 - Agreement – Feasibility Study Maryland Horse Park – a Resolution authorizing the County Executive to enter into an agreement between Cecil County, Maryland, the Maryland Stadium Authority, and the Maryland Department of Business and Economic Development to conduct a feasibility study for the establishment of a horse park in Maryland. Resolution No. 44-2013 was introduced by the Council President on behalf of the County Executive at the May 21, 2013 Council Legislative meeting.

Members of the Council provided their comments relative to Resolution 44-2013.

On motion made by Vice President McCarthy, seconded by Councilwoman Bowsbey, the Council moved to approve Resolution 44-2103. Roll call vote: McCarthy - Y, Bowsbey - Y, Dunn - N, Broomell - N, Hodge - Y. Motion carried by a vote of 3 in favor and 2 in opposition.

Council Manager Massey stated for the record:

Resolution No. 45-2013 - Agreement--Nutrient Credits—Conowingo Mobile Home Properties - a Resolution approving a Nutrient Credit Transfer Agreement between Cecil County, Maryland, a body corporate and politic, and Conowingo Mobile Home Properties, LLC, a Maryland limited

liability company, in accordance with the Maryland Department of the Environment Water Management Administration's *Maryland Policy for Nutrient Cap Management and Trading in Maryland's Chesapeake Bay Watershed*, pursuant to which, and subject to approval of the Maryland Department of the Environment, Conowingo Mobile Home Properties, LLC will permanently relinquish 105 lbs/yr of TN, from which Cecil County, Maryland will accept 100 lbs/yr of TN, with 5 lbs/yr of TN retired, and Cecil County, Maryland will relinquish 50 lbs/yr of TP from the North East River Advanced Waste Water Treatment Plant, from which Conowingo Mobile Home Properties, LLC will accept 47 lbs/yr of TP to be applied solely toward compliance with the phosphorous load limit applicable to the Conowingo Waste Water Treatment Plant, with 3 lbs/yr of TP retired. Resolution No. 45-2013 was introduced by the Council President on behalf of the County Executive at the May 21, 2013 Council Legislative meeting.

On motion made by Vice President McCarthy, seconded by Councilwoman Bowsbey, the Council move to approve Resolution 45-2013. Roll call vote: McCarthy - Y, Bowsbey - Y, Dunn - Y, Broomell - Y, Hodge - Y. Motion carried unanimously.

ADJOURNMENT

On motion made by Councilwoman Broomell, seconded by Vice President McCarthy, the Council moved to adjourn the meeting. Motion carried unanimously and the meeting was adjourned at 10:30 p.m.

The next Council Legislative Meeting is scheduled for Tuesday, June 18, 2013 in the Elk Room of the County Administration Building, 200 Chesapeake Blvd., Elkton.