

**County Council of Dorchester County**  
**Regular Meeting Minutes**  
**April 4, 2017**

The County Council of Dorchester County met in regular session on April 4, 2017 with the following members present: Ricky C. Travers, President; Tom C. Bradshaw, Vice President; Rick M. Price and Don B. Satterfield. Also present were E. Thomas Merryweather, County Attorney; Jeremy Goldman, County Manager; and Donna Lane, Executive Administrative Specialist.

**REGULAR SESSION**

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Councilman Satterfield led the invocation and the pledge of allegiance.

**CALL FOR ADDITIONS OR DELETIONS TO AGENDA**

Jeremy Goldman, County Manager, advised that the following items were added after the publication of the agenda: 1) Travel Request-Emergency Services; and, 2) Special Events Agreement-Dorchester YMCA Crab Run-Sheriff's Office. He said there is also one addition, a Request to Advertise for Seasonal Maintenance staff, Program staff and lifeguards-County Pool. The Council approved the amended agenda.

**APPROVAL OF MINUTES- MARCH 21, 2017**

The Council approved the minutes of March 21, 2017.

**APPROVAL OF DISBURSEMENTS**

The Council approved the vouchers with additions.

**FINANCIAL REPORT: CASH AND INVESTMENTS**

Councilman Travers reported total cash and investments as \$7,102,671.58.

**CLOSED SESSION SUMMARY**

The Council adjourned from a Regular Session and convened in a Closed Session pursuant to Title 3 of the General Provisions Article of the Maryland Annotated Code, pursuant to §3-305(b)(1) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; pursuant to §3-305(b)(4) to consider a preliminary matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; and pursuant to

§3-305(b)(7) to consult with counsel to obtain legal advice on a legal matter on April 4, 2017 at 4:30 p.m. in Room 110, County Office Building, 501 Court Lane, Cambridge, Maryland 21613.

Action taken at the Closed Session: 1) discussed a matter relating to the possible acquisition/expansion of an entity in the County; 2) approved the restructuring of a portion of a Division in a County Department; 3) conducted follow-up from a personnel hearing held on February 16, 2017; 4) discussed personnel matters relating to a County Department and the Sheriff's Office; 5) confirmed the hiring by the Circuit Court Judge of an individual to fill a Truancy Court Coordinator position by a 4 to 0 vote; 6) discussed a matter relating to benefits for a specific employee; 7) discussed the filling of Seasonal Pool employee positions and agreed to consider a request to advertise in open session by a 4 to 0 vote; 8) discussed a proposal to develop a summer work schedule for a Division in a County Department; and, 9) discussed with legal counsel a lease relating to a County owned property.

The purpose of the Closed Session is also set forth in the "Written Statement of Closing a Meeting Under the Open Meetings Act," which will be provided upon request. Voting in favor of the Closed Session were all of the present Council members.

## **REGULAR SESSION**

Councilman Travers noted that Councilman Nichols is not present because he is ill.

## **COMMENDATIONS-NORTH DORCHESTER HIGH SCHOOL SENIOR CLASS PLAY PARTICIPANTS**

The Council presented Commendations to the North Dorchester High School Senior Class Play participants and crew.

## **PROCLAMATION-CRIME VICTIM'S RIGHTS WEEK**

The Council presented a Proclamation declaring April 2 to April 8, 2017 as Crime Victim's Rights Week.

## **MEETING WITH MUNICIPALITIES TAX DIFFERENTIAL/REBATE**

Pursuant to Section 6-306, Tax Property Article, Annotated Code of Maryland, once a year the Council must hold a meeting with municipalities to provide them the opportunity to discuss proposed tax differential/tax rebates. The Council recognized that Susan Dukes, Mayor Town of Secretary, was present.

Mayor Dukes provided an update on the Town's main project, a new wastewater treatment plant, which is in the design phase. She thanked Senator Adelaide Eckardt and the other legislators who supported legislation to allow Bay Restoration Funds to be used for such projects. She expressed her understanding that consequently the Town will

receive increased funding for the plant. Mayor Dukes asked the Council to consider utilizing County Program Open Space funds to renovate the tennis courts in Secretary. She thanked the Council for allowing the Town to dispose of dredging material at the Beulah Landfill.

In response to an inquiry from Councilman Price, Mayor Dukes expressed dismay that the State Highway Administration has repeatedly denied their request to lower the speed limit on Main Street to 25 mph.

## **MANAGERS COMMENTS**

### **REQUEST TO HOLD HEARING-BONNIE BROOK SANITARY DISTRICT CREATION AND WATER FACILITY IMPROVEMENTS RESOLUTION**

The Council approved the request of Cindy Smith, Grant Monitor, on behalf of the Dorchester County Sanitary District, to schedule a public hearing on the adoption by the Council of a resolution for the Bonnie Brook Sanitary District creation and water facility improvements.

### **FY18 SENIOR OPERATING GRANT APPLICATION-MARYLAND DEPARTMENT OF AGING-DELMARVA COMMUNITY SERVICES**

The Council approved Ms. Smith's request, on behalf of Delmarva Community Services (DCS), to submit a FY18 Senior Operating Grant application to the Maryland Department of Aging for \$35,104 for the Senior Centers in Cambridge and Hurlock. The Council acknowledged that DCS will provide a match of \$21,528 and there is no County match.

### **SURPLUS PROPERTY DECLARATION REQUEST-AIRPORT**

The Council approved the request of Meighan "Chis" Chisholm, Airport Manager, to: 1) declare the old Automated Weather Observation system components as surplus property; 2) retain them for one year; and, 3) offer them on a "as is, where is, make an offer" basis. The Council recognized that any unsold components will be discarded using the proper electronics waste process.

### **REQUEST TO ADVERTISE FOR PROPOSALS-MURAL-TOURISM**

The Council discussed the request of Amanda Fenstermaker, Tourism Director, to advertise for proposals for a mural on the side of the Miller Building that faces Route 50. Councilman Price inquired as to the building's location and whether other areas were considered. Councilman Travers said the building is on the old Burger King property. He expressed his belief that the location was chosen to support the City of Cambridge's efforts to create a Gateway. The Council approved Ms. Fenstermaker's request with Councilman Price opposing. The Council acknowledged that this mural project is being

funded by a Maryland Heritage Area Authority grant and permission has been granted to use this site.

#### ARCHITECTURAL COMMITTEE MEMBERS-DORCHESTER REGIONAL TECHNOLOGY PARK COVENANTS-ECONOMIC DEVELOPMENT

Based on the request of Susan Banks, Business Development Manager, the Council agreed to appoint the following as Architectural Committee members for the Dorchester Regional Technology Park: Jeremy Goldman, County Manager; Mary Losty, City Planning Representative; and Tim Crosby, Business Representative. The Council recognized that this is the governing board to ensure businesses locating in the Technology Park are in full compliance with the covenants. The Council acknowledged that this is an Advisory Board.

#### LEASE RENEWAL-ATM-STATE EMPLOYEE CREDIT UNION OF MARYLAND

The Council agreed to renew the lease agreement between Dorchester County and the State Employees Credit Union of Maryland for one additional year until March 29, 2018. The Council acknowledged that all other terms and conditions remain the same including the monthly rent of \$250.

#### ADMINISTRATIVE OFFICE OF THE COURTS GRANT TIME EXTENSION REQUEST-SECURITY-CIRCUIT COURT

The Council approved the request of Ms. Smith, on behalf of Brett Wilson, Circuit Court Judge, for a time extension of an Administrative Office of the Courts Grant for security equipment to allow for installation delays.

#### SANITARY COMMISSION APPOINTMENT

The Council agreed to appoint Chris Hauge to the Sanitary Commission due to the retirement of Robert Tieder.

#### TRAVEL REQUEST-EMERGENCY SERVICES

The Council approved the request of Anna Sierra, Emergency Services Director, for authorization to travel to and attend the National Hurricane Conference in New Orleans, LA from April 17 to April 21, 2017 at the cost of \$1,778. The Council recognized that: 1) this amount includes the flight, hotel, food, transportation and parking; and, 2) Homeland Security Grant Funds will cover the costs.

#### SPECIAL EVENTS AGREEMENT-DORCHESTER YMCA CRAB RUN-SHERIFF'S OFFICE

The Council agreed to enter into a Special Events Agreement between the Dorchester County YMCA, the County Council and the Sheriff of Dorchester County for the

provision of public safety services in the form of one vehicle and one deputy at the cost of \$200 for the YMCA Crab Run/5K & Half Marathon on April 8, 2017 from 7 a.m. to 11 a.m.

#### **REQUEST TO ADVERTISE FOR SEASONAL MAINTENANCE, PROGRAM STAFF AND LIFEGUARDS-COUNTY POOL**

The Council agreed to advertise for Seasonal Maintenance staff, Program staff and lifeguards for the 2017 County pool season.

#### **LEGISLATIVE SESSION**

The Council adjourned into Legislative Session.

#### **PUBLIC HEARING**

**BILL NO. 2017-2 AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND TO REPEAL AND REENACT WITH AMENDMENTS SECTION 144-46 OF ARTICLE XIII AND SECTION 144-48 OF ARTICLE XIV OF THE CODE OF DORCHESTER COUNTY, MARYLAND RELATING TO THE TAXATION OF MACHINERY AND EQUIPMENT USED TO GENERATE ELECTRICITY FOR SALE.**

E. Thomas Merryweather, County Attorney, advised that a public hearing is being held on proposed legislation to repeal and re-enact with amendments Section 144-46 of Article XIII and Section 144-48 of Article XIV of the Code of Dorchester County, Maryland relating to the taxation of machinery and equipment used to generate electricity for sale.

Lin Spicer, resident, said he is not opposed to the proposed legislation; however, he is concerned that this provides a mechanism to tax other personal property, such as irrigation systems. Mr. Merryweather clarified that this tax only applies to machinery and equipment used for generating electricity for sale. Mr. Goldman explained that this mechanism already exists, noting that the personal property tax was established several years. In response to a question posed by Mr. Spicer, Mr. Goldman said this legislation applies to all energy generating facilities, including solar arrays and the Vienna Power Plant. Mr. Goldman said the tax will not be assessed on those solar arrays/panels that provide electricity for on-site use only, i.e. on the roof of a residence.

In response to inquiries from Tracy Whitby, resident and a North Dorchester Neighborhood Coalition member, Mr. Goldman said the State sets the value of the personal property of a public utility. Mr. Goldman explained that the Council will consider entering into a Payment In Lieu of Taxes (Pilot) on a project by project basis. In response to a question posed by Ms. Whitby, he said the Council could advise an entity to go through the planning process prior to them making a determination on whether to enter into this type of agreement. Pursuant to another inquiry from Ms. Whitby, Mr.

Goldman said the annual assessment is \$2.44 per \$100 of the assessed value of the equipment used to generate electricity.

Councilman Satterfield said the Council is concerned about the negative impact energy generating facilities may have citizens' use of their property. He stated that the provisions in the legislation will give the Council the ability to control, with a Pilot, the location of specific projects. Ms. Whitby expressed her appreciation for the Council's concern about the potential impact these facilities may have on citizens. She said she is willing to provide assistance in developing a comprehensive plan strategy for the County.

Bill Malkus, resident, expressed concern about providing exceptions to the tax. Mr. Goldman explained that the Council has Pilots with other entities including agreements relating to senior and low income housing. He noted that Pilots are used throughout the State.

Mr. Merryweather said zoning provisions are not affected by this bill. Councilman Travers explained that some solar companies can apply and the Public Services Commission can approve their request for pre-emption; however, this action will not impact the tax bill. In response to a query from Ms. Nagel, Councilman Satterfield said a company can either pay the tax or seek a Pilot from the County.

Councilman Bradshaw referenced the withdrawn solar project in Linkwood on property that can be seen from Route 16 and Linkwood Road. He noted that the developer's representatives were unwilling to address neighbors' concerns. He stressed that the Council will take resident's concerns and comments into consideration before pursuing a Pilot. Pursuant to an inquiry from Ms. Nagel, Councilman Bradshaw said the Council will give the same consideration to all residents regardless of the proposed location.

In response to an inquiry from Ms. Whitby, Mr. Merryweather confirmed that pre-emption does not affect this tax. Councilman Travers said the Council recognizes that solar is a viable option; however, some locations are better than others. He explained that Pilots can include screening requirements and provisions relating to the future responsibility of the site after a solar facility is no longer functioning. He said farmers can place solar on their properties to generate electricity for their own use.

The roll call on the enactment of Bill No. 2017-2 was as follows: Nichols-absent; Satterfield-aye; Bradshaw-aye; Price-nay; and Travers-aye.

## **INTRODUCTION**

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY MARYLAND, ACTING PURSUANT TO THE LAND USE ARTICLE OF THE MARYLAND ANNOTATED CODE, WHICH ENTRUSTS LOCAL JURISDICTIONS WITH LAND USE PLANNING AUTHORITY TO GUIDE GROWTH AND DEVELOPMENT AND ACTING PURSUANT TO TITLE 27, CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS, SUBTITLE 01, CRITERIA FOR LOCAL CRITICAL AREA PROGRAM DEVELOPMENT, OF THE CODE OF MARYLAND REGULATIONS (COMAR) AND ACTING PURSUANT TO SECTION 8-1808 OF THE NATURAL RESOURCES ARTICLE, PROGRAM DEVELOPMENT FOR THE CHESAPEAKE BAY CRITICAL AREA, TO REPEAL CHAPTER 62 OF THE DORCHESTER COUNTY CODE ENTITLED, AGRICULTURAL USE, AND TO REPEAL CHAPTER 97 OF THE DORCHESTER COUNTY CODE ENTITLED, FORESTRY, AND TO REPEAL SECTION 100-13, CRITICAL AREA PROTECTION, AND SECTION 100-13.1, CIVIL PENALTIES IN CRITICAL AREA; ADMINISTRATIVE ABATEMENT ORDERS, OF CHAPTER 100 OF THE DORCHESTER COUNTY CODE ENTITLED, GRADING, EROSION AND SEDIMENT CONTROL, AND TO REPEAL ARTICLE XV, ADDITIONAL PROVISIONS, SECTION 134-31, CRITICAL AREA PROTECTION, OF CHAPTER 134 OF THE DORCHESTER COUNTY CODE ENTITLED, STORMWATER MANAGEMENT, AND TO REPEAL ARTICLE XII, CRITICAL AREA PROTECTION, SECTION 140-49 THROUGH SECTION 140-55.1 OF CHAPTER 140 OF THE DORCHESTER COUNTY CODE ENTITLED, SUBDIVISION REGULATIONS, AND TO REPEAL CERTAIN TERMS AND THEIR DEFINITIONS SET FORTH IN SECTION 155-13, TERMS DEFINED IN CHAPTER 155 OF THE DORCHESTER COUNTY CODE ENTITLED, ZONING, AND TO REPEAL ARTICLE VII, DISTRICT REGULATIONS, SECTION 155-38, CA CRITICAL AREA PROTECTION DISTRICT, OF CHAPTER 155 OF THE DORCHESTER COUNTY CODE ENTITLED, ZONING, AND TO ENACT NEW CHAPTER 68 ENTITLED, CHESAPEAKE BAY CRITICAL AREA, TO THE DORCHESTER COUNTY CODE PROVIDING FOR THE PROTECTION OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES

Mr. Merryweather said Bill No. 2017-2, which will consolidate all of the Critical Area rules and regulations into one code location (Chapter 156 "Chesapeake Bay Critical Area") is scheduled for introduction. The Council agreed to proceed with publication of a public hearing on this matter.

The Council convened into Regular Session.

## **MANAGERS COMMENTS**

### **2017 MARYLAND GENERAL ASSEMBLY LEGISLATIVE SESSION DISCUSSION**

Rebecca White, Executive Assistant to County Manager, provided the following updates on legislation being considered during the 2017 Maryland General Assembly Legislative Session:

- House Bill 1350 “Public Service Commission-Application for Certificate of Public Convenience and Necessity-Consistency with Comprehensive Plan,” which requires the Public Service Commission to provide each unit of local government a Certificate of Public Convenience and Necessity application for construction of a generating station or overhead transmission line before holding a public hearing; it passed unanimously in the House; it is sitting in the Senate in Rules Committee; other counties are having issues regarding solar facilities.
- The Bay Restoration Fund can be used for upgrades and not just for Best Available Technology as noted by Mayor Dukes earlier in the meeting; the legislation to approve this use passed unanimously in the House and Senate.
- Senate Bill 266 “Environment - On-Site Sewage Disposal Systems - Best Available Technology for Nitrogen Removal” was substantially amended and is close to the language already codified; it is sitting in the House and is not scheduled for vote; BAT is no longer a mandate for the State.
- No additional highway user revenue funds were allocated for counties; capital grants were increased by \$4 million, of which Dorchester County will receive an additional \$207,000 for a total of \$440,000.
- House Bill 1362 “Criminal Procedure-Immigration-Community Trust” also known as the Maryland Government Trust Act; President of the Senate said it will not move forward; there was considerable debate on this proposed bill; believe it it would be vetoed if it did pass through the legislature; law enforcement lobbyist groups were very vocal about their opposition to this legislation.
- House Bill 1 “Labor and Employment - Maryland Healthy Working Families Act” passed 88-51 in the House and 29-18 in the Senate; veto proof passing for each chamber; for minimum paid sick leave; it will affect the County for summer hires; she has provided it to Becky Dennis, Human Resources and she is prepared to react to this bill; pursuant to the fiscal note expenditures will increase significantly.

In response to a question from Councilman Travers, Ms. White said employers with 14 employees will be subject to the sick leave requirements.

Ms. White advised that she testified in front of the House in support of Senate Bill 273 “State Forest, State Park, and Wildlife Management Area Revenue Equity Program.”



She noted that it passed in the Senate and is sitting in the House Natural Resources Committee. Based on her request, the Council agreed to send a letter of support for this bill.

Pursuant to an inquiry from Councilman Travers, Ms. White confirmed that the session ends on April 10, 2017.

## **PUBLIC COMMENTS**

Mark Eberspacher, resident and farmer, expressed dismay that the Highway Division has been downsized. He said it is his understanding that some surplus property equipment has been sold and there is more to sell. He questioned whether the shortage of manpower and loss of equipment will result in less ditching being performed. He noted that trees impeding County roads also need to be cut back. Mr. Goldman explained that new equipment has been purchased to replace old pieces of equipment. He referenced the loss of over \$4 million in highway user revenues which historically have been used to fund Public Works. Mr. Eberspacher said he is in favor of paying increased taxes if the addition monies are earmarked for roads. He said it is his understanding that the surplus equipment was advertised on a government website. He expressed concern that local farmers are not being advised of the availability of such equipment. He suggested advertising in the Delmarva Farmer.

Councilman Travers said two ditching teams have been created. Mr. Goldman explained that County staff is ditching every day. He noted that they are currently working to the left of Gootees Marine. In response to questions from Mr. Eberspacher, Mr. Goldman said he is welcome to contact him if he has any issues with the work performed by Highway Division staff.

Libby Nagel, resident, advised that the remaining beavers in the Middlebranch Creek that caused the blockage of culverts in that area have been removed. She said her farm lane on Middletown Branch Road was completely underwater due to a drainage problem on that road. She expressed her understanding that culverts are broken on that road and were supposed to be replaced. Mr. Eberspacher confirmed there is a drainage problem on that road. Mr. Goldman advised Ms. Nagel that staff will arrange a time for him to tour the area.

Ms. White encouraged the public to be involved in the legislative process to support the County Council, noting they can contact their Delegates and Senators.

In response to a question from Donald Gray, Councilman Travers confirmed that Tom Moore, Public Works Director, will be retiring. Based on additional inquiries from Mr. Gray, Mr. Goldman: 1) reiterated that ditching is being performed to the left of Gootees Marine; 2) the spoil site he spoke to him about is no longer needed; 3) matters relating to work productivity in the Highway Division have been addressed.

Wendell Foxwell, resident, said he has read recent articles relating to solar panels and projects. He referenced House Bill 1350, noting his understanding that the Public Service Commission will have to take into consideration the Comprehensive Plan of the County in which a facility will be located. He also referred to two Board of Appeals meetings regarding a proposed facility in Dorchester County at which he learned that the County's Comprehensive Plan needs to be updated. He referenced a local bill passed by the Talbot County Council that sets a size limitation on the total land used in the agriculture and resource zoning districts of that county for medium and large scale solar arrays. He noted that there is a 25 acre solar facility in the County and an extension was provided for another proposed project. He expressed concern that the public was unable to make many comments at two hearings regarding a proposed facility in Linkwood. He expressed his understanding that adjacent and nearby residents wish to retain a rural setting. He also conveyed his concern about the condition of farm land and the ability to till the acreage after the removal of a facility. He said he is not in favor of placing solar facilities on agricultural land.

### **COUNCIL'S COMMENTS/ADJOURNMENT**

Councilman Satterfield commended law enforcement and emergency responders for their response during the recent events. He also recognized and thanked the 29<sup>th</sup> Infantry Division for its service, noting it was paramount at hitting the shores in France during World War II. He explained that their aviation brigade and headquarters are working out of Kuwait and Iraq. He referenced several discussions the Council has had regarding solar facilities and their location in the County. He said he is an advocate for landowners who should be able to make decisions about the use of their land without government infringement.

Councilman Price offered his thoughts and prayers for Councilwoman Elzey on her husband's passing and recognized her service to the citizens of the County as a Council member. He said he voted in opposition to the legislation tonight based on his prior record of opposing new taxes. He noted that currently a special exemption is required for a solar facility. He expressed his belief that these types of facilities should be addressed in the County's Comprehensive plan instead. He concurred with Mr. Spicer's concerns about having a mechanism to tax other personal property. He said it is his understanding that proponents of this tax agree that while it will enhance revenue opportunities for the County, it is also intrusive.

Councilman Bradshaw expressed dismay that House Bill 924 "Natural Resources-Oyster Management-Prohibited Actions" passed through the House and Senate with a veto proof majority. He noted that several environmental organizations were in favor of this legislation, which removes the Department of Natural Resources' authority over oyster sanctuaries. He referenced the need to turn over oysters to keep them viable. In response to a question from Councilman Travers, Councilman Bradshaw said pursuant to this bill the legislature controls the sanctuaries. Councilman Bradshaw expressed his understanding that during the 2018 legislative session a moratorium of oyster harvesting

for three years may be introduced. Councilman Bradshaw cited concern about the potential economic impact this legislation may have on local waterman and the seafood industry.

Councilman Travers announced that: 1) Members of the Council will attend a regional meeting with representatives of the support counties of Chesapeake College to discuss the College's budget on April 5, 2017 at 5 p.m. in Grasonville; 2) the April 6, 2017 Budget Work Session has been cancelled and will not be rescheduled; 3) the next Council meeting will be held on April 18, 2017; and, 4) the Council reserves the right to meet in closed session prior to regular session.

With no further business to discuss, the Council adjourned.

ATTEST:

  
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Jeremy Goldman  
County Manager


DORCHESTER COUNTY COUNCIL:

  
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Ricky C. Travers, President

  
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Tom C. Bradshaw, Vice President

  
\_\_\_\_\_  
William V. Nichols

  
\_\_\_\_\_  
Rick M. Price

  
\_\_\_\_\_  
Don B. Satterfield

Approved the 18<sup>th</sup> day of April, 2017.