

**County Council of Dorchester County
Regular Meeting Minutes
August 2, 2016**

The County Council of Dorchester County met in regular session on August 2, 2016 with the following members present: Ricky C. Travers, President; Tom C. Bradshaw, Vice President; William V. Nichols; Rick M. Price and Don B. Satterfield. Also present were Jeremy Goldman, County Manager, and Donna Lane, Executive Administrative Specialist.

REGULAR SESSION

CLOSED SESSION

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 and pursuant to 3-305(b)(7) to consult with counsel to obtain legal advice on a legal matter.

Voting in favor of the closed Closed Session were all Council members.

REGULAR SESSION

INVOCATION AND PLEDGE OF ALLEGIANCE

Councilman Nichols led the invocation and the pledge of allegiance. Councilman Travers remembered Harry Short, a prior County employee, who recently passed.

CALL FOR ADDITIONS OR DELETIONS TO AGENDA

The following item was removed from the agenda: Request To Advertise For Proposals-Mural Artist-Visitors Center-Tourism.

APPROVAL OF MINUTES- JULY 19, 2016

The Council approved the minutes of July 19, 2016.

APPROVAL OF DISBURSEMENTS

The Council approved the vouchers as presented with Councilman Travers abstaining for payments made to Simmons Center Market.

FINANCIAL REPORT: CASH AND INVESTMENTS

Councilman Travers reported total cash and investments as \$6,436,577.23.

CLOSED SESSION SUMMARY

The County Council of Dorchester County convened in an Closed Session at 5:00 p.m. on August 2, 2016 in a closed session at Room 110, County Office Building, 501 Court Lane, Cambridge, Maryland, 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 and pursuant to 3-305(b)(7) to consult with counsel to obtain legal advice on a legal matter.

Motion made, seconded and carried to conduct a closed session pursuant to the above. All members of the Council voted in the affirmative to conduct the closed session for the purposes stated above and to discuss the topics listed below.

Action taken at the closed session: 1) confirmed the following actions taken by the State's Attorney by a 4 to 0 vote – the transfer of an individual to fill a vacant Assistant State's Attorney position and the hiring of an individual to fill the resulting grant attorney vacancy; 2) deferred a request to advertise a Grading Inspector/Right-of-Way Agent position-requested additional information; 3) approved the request of the Public Works Director to hire an individual to fill a Motor Equipment Operator II Position by a 4 to 0 vote; 4) discussed a personnel matter relating to a County Department; and, 5) discussed a matter relating to a Housing Rehabilitation Lien.

The above information is being provided to the public pursuant to and in compliance with Section §3-306(b) and (c) of Title 3 of the General Provisions Article.

REGULAR SESSION

INTRODUCTION-KAREN HOUTMAN-SOIL CONSERVATION DISTRICT MANAGER

The Council welcomed Karen Houtman, the new Soil Conservation District Manager.

MANAGERS COMMENTS

REQUEST TO USE SAILWINDS PARK AMPHITHEATER-CITY OF CAMBRIDGE

The Council approved the request of Brandon Hesson, Associate Director of Economic and Community Development, City of Cambridge, to use the Sailwinds Park Amphitheatre to hold a free family movie night on September 23, 2016 from 8:00 p.m. to 10:00 p.m.

**LETTER OF SUPPORT REQUESTS-GRANT APPLICATIONS-PHILLIPS
BUILDING-EASTERN SHORE LAND CONSERVANCY**

The Council approved the request of Katherine Parks, Director, Center for Towns, Eastern Shore Land Conservancy (ESLC), to send a letter of support for ESLC's grant application to the Rural Maryland Prosperity Investment Fund-Rural Entrepreneurship Development for \$50,000 for the reuse of the Phillips Packing Company, Factory F, located in Cambridge. The Council also approved Ms. Parks request to send a letter of support for Cross Street Partners application to the Maryland Heritage Structure Rehabilitation Tax Credit Program requesting support of \$3 million. The Council acknowledged that Cross Street Partners is ESLC's partner on the Phillips reuse project.

**REQUESTS TO ADVERTISE FOR PROPOSALS-AIRPORT- TERMINAL CARPET
REPLACEMENT-GROUND POWER UNIT**

Based on the recommendation of Meighan "Chis" Chisholm, Airport Manager, the Council agreed to advertise a request for proposals for supplying replacement carpet for the Cambridge Dorchester Regional Airport Terminal Building and for a ground power unit at this facility.

CHANGE ORDER REQUEST-AIRPORT APRON EXPANSION PROJECT

The Council, based on Mr. Chisholm's recommendation, approved a Change Order to the Airport Parking Apron Expansion project which authorizes the construction of concrete bearing pads at the intersection of each trench drain segment and the filling of voids with flowable fill at the cost of \$8,542.

**REQUEST TO ADVERTISE FOR PROPOSALS-HERITAGE AREA MURAL-
VISITORS CENTER-TOURISM**

The Council approved the request of Amanda Fenstermaker, Tourism Director, to advertise for proposals for the design, completion and installation of a heritage area mural at the Visitors Center.

**REQUEST FOR PROPOSALS-HAZARD MITIGATION & RISK ASSESSMENT FOR
CULTURAL SERVICES-TOURISM-GRANT MONITOR**

The Council approved the request of Cindy Smith, Grant Monitor, on behalf of the Tourism Department, to advertise a request for proposals for consultant services to be rendered toward the Hazard Mitigation & Risk-Assessment for Cultural Resources in Dorchester County. The project will be 100% grant funded.

LETTER OF SUPPORT REQUEST-FRIENDS OF BLACKWATER-HEART OF CHESAPEAKE COUNTRY HERITAGE AREA MINI-GRANT

The Council approved the request of Janet Kerr, Secretary, Friends of Blackwater National Wildlife Refuge, to send a letter of support for the organization's grant application for a Heart of Chesapeake Country Heritage Area Mini-Grant in the amount of \$5,000, to be matched by the Friends of Blackwater. The Council acknowledged that the funds will assist in providing programs and activities for adults and children during the 17th Annual Eagle Festival at the Refuge which is to be held in March 2017.

FY17 SENIOR OPERATING GRANT APPLICATION-DELMARVA COMMUNITY SERVICES-GRANT MONITOR

The Council approved the request Ms. Smith made on behalf of Delmarva Community Services for the submission of a FY17 Senior Operating Grant application for funds of \$41,500 to support the two senior centers run by DCS with no County match.

REQUEST FOR PROPOSALS AWARD RECOMMENDATION-LOCAL MANAGEMENT BOARD COMMUNITY PARTNERSHIP AGREEMENT

The Council approved the request of Nancy Shockley, Local Management Board Director, on behalf of the Dorchester Community Partnership for Children, to provide Governor's Office of Children funding of \$319,144 to the Dorchester County Health Department Connecting for Success program in FY17 for the implementation of strategies relating to children of incarcerated parents and their families and to disconnected youth.

EXTENSION OF BITUMINOUS MATERIALS CONTRACT REQUEST-PUBLIC WORKS

The Council approved the request of Tom Moore, Public Works Director, to extend the County's existing contract with Hammaker East to supply bituminous materials for a one year period. The Council acknowledged that: 1) the current contract provides an option for two additional one-year periods under the same terms and conditions; and, 2) the product cost is tied into the State of Maryland posted price for asphalt cement.

E-CYCLING GRANT AWARD-LANDFILL-PUBLIC WORKS

The Council approved the request of Mr. Moore to accept an E-Cycling grant award from the Maryland Department of Environment in the amount of \$15,000 which will be used to purchase two containers specifically constructed and labeled for the purpose of accepting and hauling electronics for recycling and some costs associated with disposal of any materials received.

**CAPITAL BUDGET EXPENDITURE REQUEST-JMS SERVER REPLACEMENT-
DETENTION CENTER**

The Council approved the request of Steve Mills, Warden, to sole source and purchase a JMS server from Dell to replace the older existing server which has aging hardware at the price of \$6,858.39 utilizing FY15 and FY16 Capital Budget funding.

**FY16 EMERGENCY MANAGEMENT PERFORMANCE GRANT AWARD-
EMERGENCY SERVICES**

The Council approved the request of Anna Sierra, Emergency Services Director, to accept a FY 2016 Emergency Management Performance Grant award in the amount of \$71,612 with a 100% match which will be covered through 911 surcharge/expenses.

**FY14 STATE HOMELAND SECURITY GRANT EXTENSION REQUEST-
EMERGENCY MANAGEMENT-EMERGENCY SERVICES**

The Council approved the request of Ms. Sierra to submit a request to extend the FY2014 State Homeland Security Grant to August 15, 2016 to provide time to close to the grant.

APPOINTMENT-COUNTY CODE OFFICIAL-PLANNING AND ZONING

The Council approved the request of Steve Dodd, Planning and Zoning Director, to appoint Jeff Beever as the County Code Official, pursuant to Chapter 65, Section 4.C. of the Dorchester County Code.

**REQUEST TO HOLD PUBLIC HEARING-WATER AND SEWER AMENDMENT-
GROUNDWATER MANAGEMENT AREA MAP-PZ**

The Council approved the request of Rodney Banks, Assistant Planning and Zoning Director, to hold a public hearing on a Water and Sewer Amendment for the Dorchester County Environmental Health Department to modify the existing Groundwater Management Area Boundaries Map.

FY16 BUDGET TRANSFER REQUESTS-FINANCE

The Council approved the following FY16 Budget Transfer requests submitted by Robert Willey, Assistant Finance Director: 1) 911 Communications Center-to transfer \$27,000 to cover overtime costs in excess of budget with transfer of available funding from regular salaries and \$10,953 to cover budget overrun in principally electric, with excess funding in telephone and rent; 2) Highway Division-to transfer \$99,000 from various line items, principally roadway materials, bridges contractual and shop parts, to cover unanticipated costs in various line items, principally stone, mowing, shop contractual and snow; 3) Airport-to transfer \$24,000 from each of the salaries and fuel costs line items to reflect conversion to contractual services and to cover unanticipated repairs; 4) Emergency Management-to transfer \$2,481 in excess funding in various accounts to other accounts

with unanticipated costs; 5) Emergency Medical Services-to transfer \$35,000 from various accounts to contractual services to cover unanticipated costs; 6) Economic Development-to transfer \$8,100 from printing and publishing to various expenditure accounts to cover unanticipated costs; 7) Circuit Court-to transfer \$1,988 from various line items to office supplies to cover unanticipated costs; 8) Finance-to transfer \$7,300 from various accounts, principally postage, into various over-expended accounts, principally data processing; and, 9) Planning and Zoning - to transfer \$50,788 for the continued use of contractual services due since the new inspector staff position was not filled until late in year and to transfer \$5,300 in various expenditure categories to cover overruns in other categories.

MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT BOND ALLOCATION REQUEST

The Council approved the written request of Amy Grutzner, Director, Single Family Housing, Maryland Department of Housing and Community Development (DHCD), to transfer Dorchester County's 2016 tax-exempt housing bond allocation of \$1,145,953 to the Community Development Administration (CDA) for the CDA Maryland Mortgage Program/Maryland HomeCredit Program.

PUBLIC COMMENTS

Tim Norman, resident and General Manager, Barnes Electric, said he has been working with County staff regarding the adoption of changes relating to poultry houses. Mr. Norman noted that as a result of these changes costs to construct these types of facilities have increased which has caused a financial hardship on local contractors and poultry house owners. He explained that the company received correspondence from the County citing Article 547, "Agriculture Buildings," Section 547.5, "Wiring Methods," of the National Electrical Code. He queried as to whether the entire section is being enforced. Mr. Norman said it is his understanding the County has not formally defined an agricultural building which is necessary in order to determine which wiring methods should be used.

In response to an inquiry from Jeremy Goldman, County Manager, Mr. Norman advised that he is seeking the definition of the interior of a building so they can determine which light fixtures, devices and wiring methods must be used.

Councilman Satterfield questioned whether a request was submitted to the Council in writing. Mr. Norman said he has been communicating with the Planning and Zoning Office. Councilman Bradshaw said he has spoken to Paul Barnes, Owner, numerous times and Mr. Goldman has information pertaining to Mr. Norman's inquiry.

Mr. Goldman read: 1) Section 547.1 "Scope" of the National Electrical Code, 2008 edition, that defines poultry areas as agricultural buildings which are covered under Section 547, 2) Section 547.5 "Wiring Methods," which describes the type of material to be used and, 3) Section 104.10 "Modifications" of the 2015 International Building Code,

which provides that the building official shall have authority to grant modifications for individual cases provided modification is compliant with the intent of code and it does not lessen health, accessibility, life and fire safety or structural requirements. Mr. Goldman explained that the Council adopted the new codes, which were prepared by the State, and enforces that Code. He advised that he has spoken to special legal counsel at Funk and Bolton who said the Council does not have the authority to retroactively revise the code nor approve the use of substitute wire.

Mr. Norman reiterated his request for the County's definition of a poultry house. Mr. Goldman referenced the Code sections he previously read which defines those types of facilities. He advised Mr. Norman that he should contact the Department of Agriculture if he disputes that definition.

Paul Barnes said he has been in business for 45 years and they have wired over 300 poultry houses on the Eastern Shore. He advised that a Code inspector is present, at his request. He explained that approximately \$50,000 of Romex (nonmetallic) wire has been purchased for a project on Cokesbury Road. He stated that he is seeking authorization to use this material for the project. He said the wire cannot be returned because it was specially ordered. Mr. Barnes advised that the State of Delaware is allowing the use of this wire for all projects approved in January in that jurisdiction. He expressed dismay that no information was made available about the new wiring requirements when a permit was issued in Dorchester County for the Cokesbury Road project.

Pursuant to an inquiry from Councilman Travers, Mr. Goldman said the new code has been in effect since 2008. Mr. Barnes expressed dismay that until this project inspectors have approved the Romex wiring even though it does not meet code. Mr. Goldman said Mr. Barnes should address their concerns with those inspectors.

In response to a question from Councilman Travers, Mr. Barnes advised that he has not had any problems with projects in other counties. Mr. Barnes stressed that he is seeking authorization to use the Romex wire they have purchased for one project. Mr. Goldman reiterated that the Council cannot retroactively modify the code pursuant to special legal counsel's determination. He queried as to whether any action has been taken to ensure that the poultry structures will be insurable if they are not built pursuant to the specifications outlined in the new code. Mr. Barnes expressed his belief that it will be insurable since it has the same wiring that was used on other farms in the County.

George Landing, sole proprietor, Maryland Electrical Inspections, said primarily his company is licensed to conduct inspections in the lower four counties but they have conducted some across Maryland for State and Federal projects. He advised that Worchester County has required the use of UF cable in poultry houses since 2002. He expressed his understanding that counties can adopt or reject certain portions of the State code, such as Wicomico County which rejected a portion relating to a bonding waterline project. He noted that counties can also adopt their own code. Mr. Landing advised the industry practice has been the use of regular nonmetallic wire, with the exception of Worchester County, throughout the lower counties and lower Delaware for the past 30

years. Mr. Landing said he understands concerns about utilizing certain wiring in wet locations, noting that since 2008 nonmetallic wiring could not be utilized on the exterior of a structure or buried in the ground. Mr. Landing expressed his understanding that Mr. Barnes is seeking the definition of the interior of a poultry house and, in particular, if it considered a wet location. He noted that there will there a certain degree of dust is present in poultry houses.

In response to a question from Councilman Travers, Mr. Landing said he is not stating that other counties have less restrictive wiring requirements than Dorchester County. Mr. Landing clarified that, with exception of Worchester County, the industry practice has been the use of nonmetallic and not UF cable or other items described in the 2008 revision, National Electrical Code. He expressed his understanding that if there is a substantial change there is usually a one year grace period after a State code modification. He opined that consistent enforcement is essential.

Mr. Landing said Worchester County has the highest wiring standard for the use of UF wiring in response to an inquiry from Councilman Travers. Pursuant to additional questions posed by Councilman Travers, Mr. Barnes said: 1) he is seeking authorization to use the wire he has purchased for one project only; 2) he is willing to use UF cable for all future projects; 3) the wire cannot be returned since it was specially ordered for this project. In response to a query from Mr. Goldman, Mr. Barnes said the wire cannot be pulled through conduit. Mr. Barnes reiterated that Delaware grandfathered his company's use of the old product.

The Council members agreed to forward Mr. Barnes' request to Special Legal Counsel for a legal opinion.

Councilman Bradshaw questioned whether contact has been made with the Maryland Department of Agriculture or State legislators regarding this matter. Mr. Goldman said Delegate Johnny Mautz referred him to Legislative Services which provided him the code sections he cited earlier.

Mr. Barnes advised that he contacted the State Fire Marshall's Office and the individual(s) he spoke with were not aware of the code requirements.

In response to a question from Councilman Bradshaw, Mr. Barnes said there are approximately five miles of wiring in poultry houses.

Pursuant to a query from Councilman Travers, Mr. Barnes advised that a Middle Department Inspection Agency inspector denied their request to use the nonmetallic wire. He said Mr. Landing or First State can inspect the project if necessary. Councilman Travers and Mr. Goldman noted that an inspection has already been conducted.

Councilman Satterfield expressed the following concerns: 1) about asking another inspector to conduct a second inspection particularly since both most adhere to the same code requirements; and 2) that enforcement of the new code since 2008 may not have

been consistent. Councilman Satterfield said he would be supportive of a making an exception for this one project, if legal counsel determines the Council has the authority to take that action. He cited his main concern is ensuring that the citizens of Dorchester County will not be liable if the code requirements are not met.

Mr. Barnes said he believes the insurance company will insure the poultry house even it does not meet the code requirements based on its prior approvals for such structures using nonmetallic wire. In response to question from Councilman Travers, Mr. Barnes said the use of UF wire is now required by the four Eastern Shore counties in which he/his staff conduct inspections.

COUNCIL'S COMMENTS/ADJOURNMENT

Councilman Satterfield thanked emergency responders and law enforcement for their efforts in ensuring public safety and highway employees for the work they have performed on County roads. He recognized the receipt of an email message from a resident in the southern part of the County and reminded motorists to be cautious in areas with an abundance of wildlife and/or pets. He expressed his hope the Council can assist Mr. Barnes. However, he stressed that the Council must adhere to the State code as adopted by the County.

Councilman Price said he too hopes the Council is able to assist Mr. Barnes. He noted that tonight is National Night Out and provided an overview of several other events that are being held throughout the County.

Councilman Bradshaw said he will be attending a meeting with Senator Adelaide Eckardt, Delegate Johnny Mautz, representatives from the Black Gold potato company, farmers and Maryland Department of Transportation Commercial Enforcement Division officials, to discuss enforcement concerns. He thanked Mr. Barnes for his contributions to the local economy through his business. He expressed his hope that a satisfying conclusion can be reached so Mr. Barnes can proceed with the project. He said the poultry house inventory remains steady particularly since several poultry houses have recently been replaced.

Councilman Bradshaw noted that the oyster management study, which is approximately 900 pages, and includes information on sanctuaries has been released and he is waiting for the Oyster Advisory Committee's review of the document. He expressed his understanding that certain areas in the Little Choptank River will never be opened to harvest as they were in the past since federal money was used to deposit fossilized material in that area.

Councilman Travers reminded the public of the citizen survey which will assist the Council in making future decisions including during budget deliberations. He announced that: 1) the next County Council meeting will be held on August 16, 2016; 2) the Council reserves the right to meet in closed session prior to regular session; and, 3) the Council

will attend the Annual Maryland Association of Counties Summer Conference on August 17 to August 20, 2016 at the Roland Powell Convention Center in Ocean City, Maryland.

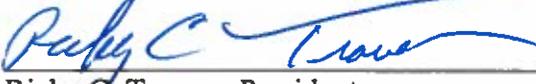
With no further business to discuss, the Council adjourned.

ATTEST:



Jeremy Goldman
County Manager

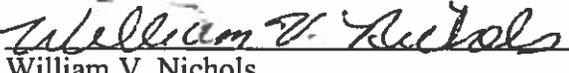
DORCHESTER COUNTY COUNCIL:



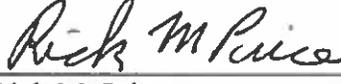
Ricky C. Travers, President



Tom C. Bradshaw, Vice President



William V. Nichols



Rick M. Price



Don B. Satterfield

Approved the 19th day of August 2016.