

The Wicomico County Council met in Legislative Session on Tuesday, March 6, 2018 at 6:00 p.m. in Council Chambers, Government Office Building, Salisbury, Maryland.

In attendance: John T. Cannon, President; Larry W. Dodd, Vice-President; John Hall, Marc Kilmer, Ernest F. Davis, and Joe Holloway, and Matt Holloway.

Present: Laura Hurley, Council Administrator, Levin Hitchens, Assistant Internal Auditor, Robert Taylor, Attorney, and Lynn Sande, Executive Office Associate.

On motion by Mr. Dodd and seconded by Mr. Davis, the Legislative Minutes from February 20, 2018 were unanimously approved.

On motion by Mr. Hall and seconded by Mr. Dodd, the Open Work Session Minutes from February 6, 2018 – Capital Improvement and Budget Program Recap, were unanimously approved.

On motion by Mr. Hall and seconded by Mr. Dodd, the Open Work Session Minutes from February 6, 2018 – Cedar Hill Bulkhead Project-Amendment to CIP for Fiscal Years 2018-2022, were unanimously approved.

On motion by Mr. Davis and seconded by Mr. Hall, the Open Work Session Minutes from February 6, 2018 – New Vendor Complaint Form, were unanimously approved.

On motion by Mr. Davis and seconded by Mr. Hall, the Open Work Session Minutes from February 6, 2018 – Animal Ordinance (Legislative Bill 2018-01), were unanimously approved.

On motion by Mr. Davis and seconded by Mr. Hall, the Open Work Session Minutes from February 6, 2018 – Capital Improvement Budget and Program - Public Safety Building, were unanimously approved.

Robert Taylor, Council Attorney

Mr. Taylor said there are two Bills tonight both involving amendments to the Zoning Code. He said they are related in the sense that they are both products of requests made by the owner of a particular property to have that property rezoned into a new zoning district, and to have the permitted uses in that district changed. He said he points that out because there is a slight error in the Brief Book in the memorandum that was sent by Mr. Strausburg indicating these were requested by the Planning and Zoning Commission, and they are not, but they are requests made by the owner of that property, which they will get into.

Public Hearing on Legislative Bill No. 2018-02 – An Act to amend Chapter 225 of the Wicomico County Code titled “Zoning”, Section 225-67, Table of Permitted Uses, and Section 226-108, Retail Sales, to add General Merchandise Retail Sales in Commercial Buildings not exceeding 10,000 square feet of gross floor area by Special Exception in the LB-2 Light Business and Residential District. Mr. Taylor said Mr. Jack Lennox, Director of Planning, Zoning, and Community Development is here to present on that, but he would like to make a point first. He said this is ordinary Legislation that is a text amendment of one of the operational provisions of the Zoning Code. He said he points that out because the next Bill is slightly different as it is a special Bill. He said, in any event, they are up for Public Hearing tonight, and, as he indicated, Mr. Lennox is here. Mr. Lennox came before Council. He said he would like to enter into their record the report of the Planning Commission which references findings included in a staff report following their Public Hearing of December 21, 2017. He said, as Mr. Taylor mentioned, this and the following article had been initiated privately, so they are considered petitioned articles. He said,

however, they were well received by the Commission, and, he believes, primarily because they are in accordance with the recent comprehensive plan adopted by Council and the Executive. He said they are starting to see the beginning of implementation of that plan in terms of zoning changes. Mr. Lennox said, when Council sees the changes, they see both text changes and map changes, and that is the sequence Mr. Taylor explained to Council. He said the particular article in front of Council right now deals very specifically with a change to the light business and residential district generically. He said he will point out that in the County right now there is one light business and residential district, and that is located on Route 50, basically, from American Legion Drive to Boundary Lane. He said that probably tells them that the purpose of that district is a transition. He said Council, in adopting the new comprehensive plan, saw a need to have, in some cases, additional districts, although those are not in front of Council today, that would serve as a transition. He said this does not get into the residential districts but provides for that transition along arterial roads, the existing one on Route 50, and the one Council will discuss later, obviously, Nanticoke Road. He said the comprehensive plan saw the need to provide for some limited additional retail considering it of a neighborhood scale, hence the cap of 10,000 square feet in this instance. He said the text change includes that, by special exception, meaning Board of Appeals and Public Hearing, they have to meet that criteria, and caps it at 10,000 square feet. Mr. Kilmer said his comment is more on the zoning change. He said they are doing this for a small section of land. He then asked if there is a need to do a more comprehensive change in zoning for the entire County now that they have adopted the comprehensive plan, to which Mr. Lennox responded, one of the policy discussions Council had with the comprehensive plan was whether to enact it all at once, or deal with it individually. He said Council knows there are things that might make sense today, and there are things that might make sense in 10 or 20 years depending on the market, and depending on the interest of property owners. He said, if they find they are making these in such a fashion that they do see it desirable to do it all at once, they do a comprehensive rezoning of the County. He said that would open up a lot of discussion in a lot of neighborhoods, and is an approach they can take. He said so far the direction they have gotten as staff was to allow property owners to now, on their schedule, fit into the County plan. He said this just happens to be the first in front of Council, and he believes there will be others as well. Mr. Dodd asked how many properties this one zoning change affects, to which Mr. Lennox responded, just one, and that is the next article. Mr. Taylor asked Mr. Cannon if Council would like to vote on this Bill before moving on to the next Bill, to which Mr. Cannon responded, they certainly could. Mr. Taylor said they should go ahead and vote on it. Mr. Cannon opened the floor for public comments. There were no public comments. Mr. Cannon closed the public hearing. There being no further discussion, by roll call vote, Mr. Matt Holloway, aye; Mr. Ernie Davis, aye; Mr. Joe Holloway, aye; Mr. John Hall, aye; Mr. Marc Kilmer, aye; Mr. Larry Dodd, aye, and Mr. John Cannon, aye, Legislative Bill No. 2018-02 was unanimously approved.

Public Hearing on Legislative Bill No. 2018-03 – An Act to Amend Chapter 225 of the Wicomico County Code titled “Zoning” amending the map entitled “Wicomico County Official Zoning Map” referred to in Section 225-16, to rezone property consisting of 4.12 acres, more or less, situated in the Salisbury Election District, Wicomico County, Maryland, bounded on the northerly side of Nanticoke Road, westerly side of Kenney Drive, and southerly side of Old Quantico Road. The property is shown and designated on County Tax Map No. 37 as Parcel 66; the property is to be rezoned from R-8 Residential to LB-2 Light Business and Residential. Mr. Taylor said he would like to point out why this is special Legislation. He said a rezoning of a specific piece of property is called piecemeal rezoning. He said the difference between this zoning and comprehensive zoning is comprehensive zoning is for large sections of the County, but it does not have to be the entire County with all the properties rezoned at one time. He said that does not necessarily mean they change the zoning district, but at least it is considered on a property-by-property basis. He said this Bill just for a specific property, and the name piecemeal is used

to describe it. He said it is permitted under the Code, and that is why they are here. He said, in addition to what is in the Code, the case law in Maryland, and there are a lot of cases on piecemeal rezoning, probably at least 100 over the years, have established some special requirements. He said one is the so-called change in State rule which he has mentioned, and he is sure Mr. Lennox will speak on it, so he will not get into the weeds of it right now. He said the other part of it, which is considered to be Council's action, is called quasi-judicial, so it is a little different from normal Legislation. He said an analogy would be a trial. He said the person who is the property owner asking for rezoning has to, essentially, establish why it should be re-zoned. He said he and Mrs. Hurley looked to see if there were any rules for Council procedure on this, and they could not find any. He said he is not aware of any, Mrs. Hurley is not either, and one of the reasons for that might be that there has not been a piecemeal rezoning in the County for a number of years, maybe 20 years or more, and even then there were not many. He said maybe there are some rules somewhere, but they could not find them. He said he talked to Mr. Cannon and suggested they follow rules that are, in general, application in other jurisdictions that do this kind of zoning, and, particularly, that do it a little bit more frequently than Wicomico County does. He said a couple of the parameters of that are 1) the witnesses would be sworn, and 2) there would be an order of presentation. He said the order of presentation he is suggesting, and this is very common, is that the Planning Commission part of it be discussed first by Mr. Lennox, then the applicant for this zoning speaks and presents whatever he or she wants to present, and then, if there are any people opposed to it, and the technical term is protestants, they would then speak. He said, other than Mr. Lennox, he would suggest they speak from the podium. He said he thinks all of the witnesses can be sworn at one time, and he would ask that when they come to the podium they just state their name and address, and state they have been sworn. He said he will do that now, and he will ask that anybody who plans on speaking to say "I do" when he repeats the oath language. He then said the oath language is "Do you solemnly swear or affirm under the penalties of perjury that the response that you give and statements that you make will be the whole truth and nothing but the truth." He said if that is their view, say "yes" so they can hear it. Members of the audience then said "I do." Mr. Cannon then asked Mr. Taylor if they could have those people stand so they know they are covering all their bases, since this is new. Those members of the audience then stood.

Mr. Lennox said, as in the previous item, he would like to enter the report of the Planning Commission for Council's record that includes the associated staff report, and the findings outlined in the staff report with the obvious intent that, if Council accepts the Commission's recommendation, which, in this case, is in support of the petitioner, Council will include those by reference in their action. He said on December 21, 2017 the Planning Commission held an advertised Public Hearing in this room with appropriate notification given to adjacent property owners to the posting of the property. He said they reviewed the proposal as well as the criteria that Mr. Taylor eluded to in the State of Maryland where they have to demonstrate for a map change, and, again, this is a map change, and they have to document change or mistake. He said he recalls that, since the new zoning code in 2004, they have done one map change, he believes, and that was deemed a mistake. He said, in this particular instance, they are looking at change, and the change actually goes back to the comprehensive plan. He said they held many workshops and Public Hearings, and it was ultimately acknowledged that, since the previous comprehensive plan, there had been a change in the Nanticoke Road corridor with the dualization of the road, the additional commercial property developments along the way, and also the need to identify a transition area. He said the property in question, he is told, is the location of the former William's Market before they moved a little further down Nanticoke Road. He said there has been additional commercialization, there has been additional traffic, there has been a need, and recognition that this is probably not the best location for a pure residential category, and that is what it is right now under R8. He said the comprehensive plan said there has been a change, recommended that a change take place, and now the

zoning request mirrors that. He said, in listening to public testimony and looking at the County comprehensive plan, the Commission chose to recommend to Council that the change be approved, that it be approved along the lines of the change which they feel has been well documented, again, through the staff report and the comprehensive plan, and they are recommending, at this point, Council's favorable consideration.

Mr. Cannon opened the floor for public comments. Mr. Brock Parker with Parker and Associates in Salisbury, Maryland, came to the podium. He said he has been sworn. He said, as the applicant's representation, they are doing the civil engineering and land planning for the project, and he feels like he has to at least make a presentation so they can at least check that box on the new rules of order. He said he does not want to belabor the point, but he would certainly like to echo what Mr. Lennox has stated very artfully, and he could not have said it better himself. He said he would like to respectfully request Council adopts the findings the Planning Commission has made, and rezone this property based on a change. He said, if Council likes, he can elaborate, but he thinks he will save them all the time and effort if that is okay with Council. There were no further public comments. Mr. Cannon closed the public hearing.

Mr. Taylor said he thinks Mr. Lennox introduced the Planning Commission file, essentially, on this. He said that should be marked as Planning Commission Exhibit 1. He said he thinks that is, essentially, what is in the Brief Book, so that would be an exhibit in this hearing. He said it is the only one since nobody else spoke.

Mr. Taylor said this is an opportunity for Council to discuss the matter as desired, and they could vote on it tonight. He said, as he pointed out in his memo, he thinks it is a good idea to have findings of fact. He said they do not necessarily have to be written, though they can be, but, whatever they are, they should be specific as to the points outlined in the memo. He said he can go over those if Council wants him to. Mr. Cannon said he does not know if it is required at this time. He said, for the record, he thinks Council does not have questions. He said they could certainly move forward on the vote, but he is trying to follow what Mr. Taylor's recommendation had originally been. Mr. Taylor said the recommendation is, no matter when they vote, to essentially have findings they have discussed as desired, and adopted. He said they could do that by adopting the findings that were made by the Planning Commission, which he believes, in this case, are stated in the staff report, or they could discuss it further, and make whatever findings they care to make. Mr. Cannon asked if that is somewhat a foregone conclusion, or is Mr. Taylor saying they need consensus to formally adopt them, to which Mr. Taylor responded, they either need a vote or a consensus. He said ordinary practice where there is some matter of discussion on a particular rezoning is normally for Council to discuss informally, essentially in a Work Session, and if they cannot be hammered out right at that time, to come back at a later meeting and have somebody prepare them, in the meantime, based on what their consensus is, and then, finally, adopt them. He said, if they want to skip over that second meeting, they can adopt them tonight, but there should be findings. He said, as he said, they can discuss them and make their own, or, if they think the findings in the staff report, which are the ones the Planning Commission, essentially, adopted, Council could adopt that as well. He said it is their decision, essentially. Mr. Cannon asked if he could get a consensus from Council to consider the Planning Commission's report as adopted along with this Legislation. Mr. Kilmer said, as someone who drives by this on a daily basis, the Planning Commission seems to have gotten it right in the way the corridor has changed there. He said he is in favor of adopting their findings as Council's findings, and move forward. There being no further discussion, by roll call vote, Mr. John Hall, aye; Mr. Kilmer aye; Mr. Dodd, aye; Mr. Joe Holloway, aye; Mr. Davis, aye; Mr. Matt Holloway, aye, and Mr. Cannon, aye, Legislative Bill No. 2018-03 was unanimously approved.

Mr. Cannon recognized Mrs. Jamie Dykes, Ad Interim State's Attorney, and Sheriff Mike Lewis in the audience, and said it is good to have them there.

Laura Hurley, Council Administrator

Mrs. Hurley said she would like to make once announcement, and that is there is a change to the Agenda for this evening. She said they added a Work Session to discuss House Bill 1476, and House Bill 1595. She said the updated Agenda is posted on the County's website, and is also on the Council Table.

Resolution No. 21-2018 – Confirming the Appointment of Mr. Ernie Colburn to the Wicomico County Ethics Commission. Mrs. Hurley said the Ethics Commission provides published advisory opinions, and makes determinations regarding complaints filed by any person alleged in violation of the ethics law. She said the Ethics Commission is also responsible for all forms required under the ethics law, is responsible for developing procedures and policies for advisory opinion requests, processing of complaints, as well as to conduct a public information program regarding the purpose and application of the ethics law. There being no discussion, on motion by Mr. Hall and seconded by Mr. Davis, Resolution No. 21-2018 was unanimously approved.

Resolution No. 22-2018 – Confirming the Appointment of Ms. Ruth Colbourne as Director for the Department of Corrections. There being no discussion, on motion by Mr. Hall and seconded by Mr. Dodd, Resolution No. 22-2018 was unanimously approved.

Resolution No. 23-2018 – Authorizing the County Executive to Accept a Grant Award from the Maryland Department of Commerce, Acting Through the Maryland Tourism Development Board, in an amount up to \$75,000, and to Authorize the County Executive to Execute a Grant Agreement on Behalf of Wicomico County, Maryland. Mrs. Hurley said this grant is in partnership with the Town of Ocean City, Worcester County, and the Ward Foundation to advertise and promote the 2018 National Folk Festival. Ms. Kristen Goller, Wicomico County's Tourism Manager, and Mr. Steve Miller, Director of Parks, Recreation, and Tourism, came before Council. Ms. Goller said they applied for and have been awarded a private sector consumer advertising grant from the Maryland Office of Tourism to help promote the National Folk Festival out of market. She said they have partnered with Ocean City and Worcester County to put together the application, as well as the Ward Foundation. She said, in partnership, they would be contributing a total of \$75,000, and then the State would match that, giving them a total budget of \$150,000 to promote the Festival out of market. Mr. Cannon asked if they have guidelines as far as what they are planning to do with these funds, to which Ms. Goller responded, yes. She said they will report back to the State after the campaign runs, but they have worked with Ocean City and Worcester County to put together a tentative schedule. She said they will be doing some print and billboard advertising, and then heavily on social and web-based advertising. She said they are targeting the Baltimore, D.C., Philadelphia, and Harrisburg markets, and then they are also targeting the Ocean City Beach traffic. She said they have some billboards planned for Route 50, and some non-traditional advertising in Ocean City for the summer to capture that audience as well. There being no further discussion, on motion by Mr. Hall and seconded by Mr. Dodd, Resolution No. 23-2018 was unanimously approved.

Public Comments:

Mr. Rob Garcia came to the podium. He said he lives in Salisbury, and he is representing himself. He said he is also a firefighter, but he is not here to talk about the Fire Department as he is pretty sure Council heard a lot about them last year, but he is here to speak about Salisbury-Wicomico 2.0. He said, for a little background on this, recently last year Amazon caused quite a stir when they announced they were looking for a second headquarters promising 50,000 jobs, and \$5 billion-dollars-worth of investment. He

said, however, Amazon was not looking for a super fulfillment center, but were looking for an area to support their technology for Amazon Web Services. He said Amazon Web Services is the largest cloud-based provider in the world, and accounts for 75 percent of Amazon's profits. He said, as a research project, he went ahead and looked to see what it would take for Salisbury and Wicomico County to go ahead and support a technology company like that. He said his results were pretty surprising. He said their power grid is big enough to support several data centers, or super computer clusters. He said, thanks to the Maryland Broadband Cooperative, they have some of the fastest band width in the world. He said they have plenty of commercial space, and they are cheap as they are about 30 percent cheaper than across the Bridge. He said Paolo Alto and San Jose are about five times more expensive than here in Salisbury. He said their problem is people. He said their largest employers are government, manufacturing, healthcare services, and education. He said when they bring people over here, if they are not local, they have a tendency to go away. He said he spoke to somebody at Wallops Island, and she told him when she recruited, after one year, they went ahead and started looking for jobs over at Greenbelt. He said another person at Wallops Island told him about the boom when the space shuttle program closed down, and all of these engineers came up to Wallops Island to go to work, but then, as soon as Space Next started hiring, they all went away. He said he spoke to City Council last week, and he spoke to Dave Ryan just yesterday, and, the thing is, what they are trying to do is to figure out a way to go in and future-proof their pipeline. He said they have all of the big pieces, everything is paid for, the bandwidth is paid for, the buildings are paid for, the power grid is paid for, and all they have to do is go ahead and start building up their local groups. He said it is going to take a couple of years, but there are certain things that cost no expense that the County and the City can go ahead and do. He said, for example, if the Board of Education submits students every month or every quarter for recognition by Council, that would show a commitment to STEM, and would also provide the children with something to put on their resumes and college applications later on. He said they could expand the Wicomico Economic Impact Scholarship to include a little bit of STEM. He said, as far as the people using gale force out of Wicomico County library, they could provide them with an incentive saying they are going to give them deferred rent, or lowered rent the same way they do with the Riverside Apartments, and also go ahead and bring them together like the living-learning community at Salisbury University does. He said the Maryland STEM festival is always looking for places to go. He said they could offer the Civic Center, and all it takes is a phone call to say "Would you like to come to Salisbury to show a little bit of work." He said, most importantly, they need an advocacy group to go across the Bridge and say "We are Wicomico County, we have the power, we have the bandwidth, we have the space, we are cheap, and you tell me what you need people-wise, and I will fill that job." He said there are a lot of people who want to go ahead and help. He said he spoke to the VFW, and they are more than willing to send a representative to go down to the bases and ask if they would like to come over to Salisbury. He said they carry clearances, they carry benefits, they carry experience, and they could go ahead and attract some of those companies, especially Northrop Grumman that just bought all of ATK, and is moving into Wallops Island. He said, in this paper, there are a bunch of recommendations, and he just asks Council to go ahead and look at it to start off the discussion. He said the reason being is, when these companies have a discussion about where they want to move to, they want Salisbury-Wicomico County to be part of that discussion.

Council Comments: There were no Council comments.

Council President Comments: There were no Council President comments.

There being no further business, on motion by Mr. Dodd, seconded by Mr. Matt Holloway, and unanimously approved, the Legislative Session was adjourned to go into Open Work Sessions, followed by an Closed Work Sessions and an Administrative Closed Work Session pursuant to the General

Provisions Article, Section 3-305(b)(7)(8) to consult with staff, consultants, and other individuals about pending or potential litigation, and to consult with legal counsel, and Section 3-104 to discuss Council Administrator Direction.

The Wicomico County Council met in Closed Work Sessions, and an Administrative Closed Work Session on Tuesday, March 6, 2018, at approximately 7:30 p.m. in Council Chambers, Government Office Building, Salisbury, Maryland.

In attendance: John T. Cannon, President; Larry W. Dodd, Vice President; John Hall, Marc Kilmer, Joe Holloway, Ernie Davis, and Matt Holloway.

Present: Laura Hurley, Council Administrator, Steve Roser, Internal Auditor, Levin Hitchens, Robert Taylor, Attorney, Levin Hitchens, Assistant Internal Auditor, and Lynn Sande, Executive Office Associate.

The purpose of the Closed Work Session was to consult with staff, consultants, and other individuals about pending or potential litigation, and to consult with legal counsel. The purpose of the Administrative Closed Work Session was to discuss Council Administrator Direction.

On motion by Mr. Dodd, seconded by Mr. Matt Holloway, and unanimously approved, the Closed Work Session was adjourned at approximately 9:45 p.m. The legal authority for the Closed Work Session is General Provisions Article, Section 3-305(b)(7)(8).

On motion by Mr. Dodd, seconded by Mr. Matt Holloway, and unanimously approved, the Administrative Closed Work Session was adjourned at approximately 9:45 p.m. The legal authority for the Administrative Closed Session is General Provisions Article, Section 3-104.


Signatures on next page

Legislative Minutes
March 6, 2018



John T. Cannon, President

Larry W. Dodd, Vice President, District 3

Ernest F. Davis, District 1

Marc Kilmer, District 2

John B. Hall, District 4

Joe Holloway, District 5

Matt Holloway, At-Large

Laura Hurley, Council Administrator