

County Council of Dorchester County
Regular Meeting Minutes
December 17, 2013

The County Council of Dorchester County met in regular session on December 17, 2013 with the following members present: Present were Jay L. Newcomb, President; William V. Nichols, Vice President; Ricky Travers; Rick Price and Tom Bradshaw. Also present were E. Thomas Merryweather, County Attorney, and Donna Lane, Executive Administrative Specialist.

REGULAR SESSION

EXECUTIVE SESSION

The Council adjourned from a Regular Session and convened in a closed Executive Session pursuant to State Government Article pursuant to §10-508(A)(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 §10-508(A)(3) to consider the acquisition of real property for a public purpose and matters directly related thereto; pursuant to §10-508(A)(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 §10-508(A)(7) to consult with counsel to obtain legal advice on a legal matter.

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

REGULAR SESSION

INVOCATION AND PLEDGE OF ALLEGIANCE

Councilman Nichols led the invocation and the pledge of allegiance.

CALL FOR ADDITIONS OR DELETIONS TO AGENDA

The Council agreed to add the following items to the agenda: a request to conduct seasonal tandem parachute operations at the Cambridge Dorchester Airport; a discussion regarding the execution of a contract for incubator facility; the appointment of an Acting County Manager; an insurance discussion and the potential adoption of a resolution as part of the Coordination Planning discussion.

APPROVAL OF MINUTES- DECEMBER 3, 2013

The Council approved the minutes of December 3, 2013.

APPROVAL OF DISBURSEMENTS

The Council approved the vouchers as presented with Councilman Newcomb abstaining for a reimbursement for conference registration costs relating to the Maryland Association of Counties Winter Conference held on December 11 to December 13, 2013.

FINANCIAL REPORT: CASH AND INVESTMENTS

Councilman Newcomb reported total cash and investments as \$12,344,529.73.

EXECUTIVE SESSION SUMMARY

The County Council of Dorchester County convened in an Executive Session at 4:30 p.m. on December 17, 2013 in a closed session at Room 110, County Office Building, 501 Court Lane, Cambridge, Maryland, pursuant to the State Government Article pursuant to §10-508(A)(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 §10-508(A)(3) to consider the acquisition of real property for a public purpose and matters directly related thereto; pursuant to §10-508(A)(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 §10-508(A)(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 above.

Action taken at the closed session: 1) approved request of the Economic Development Director to hire an individual to fill a vacant Business Development Manager position by a 4 to 1 vote; 2) agreed to change the title of the Airport Technician II to Public Works Maintenance Specialist to reflect job duty changes and to increase the salary of the position by a 5 to 0 vote; 3) approved request of Circuit Court Judge to increase the salary for the grant funded Family Support Services Coordinator position by a 5 to 0 vote; 4) discussed a matter relating to health insurance; 5) approved the hiring of an individual by the Sheriff to fill a vacant Deputy position by a 5 to 0 vote; 6) approved a job description for a part time Grass Cutter/Maintenance position in the Public Works Department by a 5 to 0 vote; 7) discussed an offer to purchase County owned property-requested additional information; 8) discussed with legal counsel liability issues regarding the possible use of a County owned property-agreed to discuss in open session; 9) discussed with legal counsel a matter relating to a proposed County economic development project-agreed to discuss in open session; and, 10) discussed with legal counsel a matter relating to a farm lease.

The above information is being provided to the public pursuant to and in compliance with Section 10-509(b) and (c) of the State Government Article.

REGULAR SESSION

ELECTION OF OFFICERS

Via motion, the Council agreed that Councilman Newcomb shall remain as President and Councilman Nichols shall remain as Vice President of the Council for one more year.

Councilman Newcomb thanked the Council members and staff for their hard work and assistance during the absence of Jane Baynard, County Manager.

FY15 BUDGET PLANNING AND REVENUE ESTIMATES/DIRECTION TO STAFF- CAPITAL AND OPERATING BUDGETS

Councilman Newcomb noted that in lieu of holding a budget work session in December 2013 Council agreed to discuss FY15 budget planning and revenue estimates and to provide direction to Finance Staff regarding capital and operating budgets during this meeting.

Michael Spears, Finance Director, provided each Council member a packet of information which included the status of FY14 General Fund major revenues and FY15 General Fund major revenue projections. He projected that there will a \$.8 million decline in major revenues in FY15 to include: a real property decrease of \$.4 million, no change in income taxes and a decrease of \$.4 million in recordation taxes. He noted that Emergency Medical Services and Immigration Customs Enforcement prisoner revenues are currently performing under budget with a projected decline at the end of FY14 of \$800,000 (\$400,000 each). Mr. Spears noted that as a result of these projections the Council may be faced with a \$1.6 million budget deficit in FY15. He explained that year to date, through November, income tax revenue is \$0.5 million or 18.9% above budget and \$.03 million or 10.9% above prior year actual.

Mr. Spears explained that based on early estimates from the Board of Education enrollment in the local public school system has increased by 58 students which results in an approximate increase of \$200,000 in maintenance of effort funding. Councilman Bradshaw referenced legislation passed during the 2012 Maryland General Assembly legislative session requiring maintenance of effort to be calculated based on a statewide five year moving average beginning in FY15 and questioned whether that average was included in the maintenance of effort calculations. Mr. Spears said he will obtain clarification from the Board of Education regarding this calculation. In response to a question from Councilman Bradshaw, Mr. Spears noted his understanding that the County's contribution for teachers' pension costs is included in the maintenance of effort figure.

Mr. Spears said approximately \$3.2 million is available for FY15 capital projects and that the County's Internal Reserve Fund is estimated at \$2.6 million which is approximately 5% of the operating budget.

The Council, recognizing that major revenue projections indicate a decline in real property tax revenue and recordation tax revenue in FY 2015, instructed Mr. Spears to advise Department Heads and County agencies to submit level funded operating budget requests and capital budget requests for critical needs only.

MANAGERS COMMENTS

MARYLAND BROADBAND ROAD OPENING PERMIT APPLICATION- INSTALLATION OF FIBER OPTIC CABLE-PUBLIC WORKS

The Council briefly discussed the application that Pete Peterman, Outside Plant Services Engineer, submitted on behalf of Maryland Broadband Cooperative, Inc., for a road opening permit to install a fiber optic cable on the south shoulder of Bay Shore Road in Taylor's Island. The Council requested clarification regarding plans to ensure that the last mile provider can utilize this cable and agreed to continue to discuss this application at its January 7, 2014 regular session meeting. The Council instructed Tom Moore, Public Works Director, to contact Mr. Peterman to obtain this clarification.

REQUEST TO WAIVE BID PROCESS/ADVERTISE REQUEST FOR PROPOSALS- REPLACEMENT OF VEHICLE LIFT-PUBLIC WORKS

The Council approved the request of Mr. Moore to waive the bid process and allow him to obtain prices for the purchase of a single two post vehicle lift with a capacity of 10,000 lbs to replace an existing lift that has failed utilizing remaining FY13 Capital Budget funds which were allocated for equipment. The Council members acknowledged that once quotes are obtained Mr. Moore will provide them for their review and consideration. The Council further acknowledged that there is \$15,828.45 remaining to utilize for this purchase.

COASTAL COMMUNITIES GRANT OPPORTUNITY-CRITICAL AREAS ORDINANCE UPDATE-PLANNING AND ZONING

The Council approved the request of Steve Dodd, Planning and Zoning Director, to submit a CoastSmart Communities Grant request in the amount of \$12,000 to \$14,000 to update the County's Critical Areas Ordinance with no local match and an estimated grant period of October 1, 2014 to September 30, 2015. The Council acknowledged that the grant can be administered through the lower shore office of the Maryland Department of Planning (MDP) and that Mr. Dodd, in his preliminary discussions with MDP personnel has clarified that the update must incorporate all local program refinements negotiated between the County and the Critical Areas Commission and must represent only the minimum requirements set forth by law or regulation. The Council also acknowledged Mr. Dodd's request to waive the bidding process and to sole source with Gradecak & Associates, Inc., as a consultant, to update the Critical Areas Ordinance, which company has extensive experience in performing this work, at an estimated project cost of \$12,000 to \$14,000. The Council further recognized that the County's Critical Areas Ordinance has not been updated since initial adoption in 1988 and therefore, does not include many of the regulatory changes passed since Critical Areas Commission was granted regulatory authority in 2008.

CONTRACT FOR REHABILITATION AND CONTRACTUAL LIEN-COMMUNITY DEVELOPMENT BLOCK GRANT-CHANNEL MARKER-GRANT MONITOR

Based on the request of Cindy Smith, Grant Monitor, the Council agreed to enter into a Contract for Rehabilitation and Contractual Lien with Channel Marker Foundation, Inc. to set forth terms and conditions for the use of Community Development Block Grant (CDBG) funds of \$60,000 to renovate homes located 503 and 505 Academy Street, Cambridge and to convey a contractual lien on the property unto the County per CDBG grant requirements. The Council acknowledged that E. Thomas Merryweather, County Attorney, will record this document upon receipt of copies of the grant and exhibits.

BID AWARD-RENOVATIONS-COMMUNITY DEVELOPMENT BLOCK GRANT-CHANNEL MARKER-GRANT MONITOR

Pursuant to the recommendation of Ms. Smith, on behalf of Channel Marker Foundation staff, the Council agreed to award the bid for renovations to the kitchen and bath of 505 Academy Street to BarMar Construction, lowest bidder, at the cost of \$24,923.40; renovation of the kitchen of 503 Academy to J&L Services, lowest bidder, at the cost of \$14,931 and the replacement of the roof of both residences to Bay Area Roofing at the cost of \$23,300. The Council acknowledged that Community Development Block Grant funds will be utilized to cover these costs.

FY 2014 COMMUNITY PARTNERSHIP AGREEMENT-DORCHESTER COMMUNITY PARTNERSHIP FOR CHILDREN AND FAMILIES-LMB

The Council approved the request of Nancy Shockley, Local Management Board Director, to accept and execute a FY 2014 Partnership Agreement between the Governor's Office of Children and Dorchester Community Partnership for Children & Families for administrative funds of \$65,000 and program funding of \$368,413 for the period of July 1, 2013 to June 30, 2014 to fund the programs including: Early Intervention and Prevention: Communities Mobilizing for Change on Alcohol; Youth Services Bureau; School Based Behavioral Health; Teen Ambassadors; and Girls Circle. The Council acknowledged that Local Management Board (LMB) will receive \$80,529 from the Governor's Office for Children and that balance will be deducted from LMB's earned reinvestment account.

EROSION AND SEDIMENT CONTROL REVIEW FEE INCREASE-SOIL CONSERVATION

Based on information provided by Dale Brown, Soil Conservation Director, the Council discussed the Dorchester Soil Conservation Board of Directors' October 9, 2013 decision to increase erosion and sediment control review fees to the engineered plan amount, effective January 1, 2014. The Council expressed concern about this proposed fee increase and requested clarification on the reason for this decision. The Council directed that each member of the Board of Director be provided a copy of the correspondence to be sent to Mr. Brown.

Mr. Moore expressed concern that until recently the County was not assessed these types of fees. He explained that pursuant to State requirements all sediment and erosion control plans must be reviewed by Soil Conservation. He said he believes an independent contractor reviews the plans on behalf of that entity and that the fee is based on acres disturbed. E. Thomas Merryweather, County Attorney, noted that the Board of Directors agreed to charge \$125 for the first disturbed acre and \$10 per every additional tenth of an acre.

In response to an inquiry from Robert Murphy, resident, regarding the reason for this increase, Councilman Newcomb said he needs to contact the Soil Conservation Board of Directors which set this fee.

CONTINUED DISCUSSION-PURCHASE OF COMPUTERS-COUNCIL'S OFFICE

Based on information and quotes provided by Don Keyes, Information and Technology Director, the Council members agreed to purchase Inspiron 17 7000 Series laptop computers for their use at a cost of \$1099.99 each with funding allocated for this purpose from the FY14 Capital Budget of \$7,944.

BOARD APPOINTMENTS

Based on a motion made by Councilman Bradshaw, the Council agreed to reappoint Elizabeth Hill to the Board of Appeals as the District 5 representative and acknowledged that her term will expire on December 31, 2016.

Councilman Nichols announced for the record that he is appointing Dwight Cromwell as his representative on the Board of License Commissioners.

REQUEST TO CONDUCT SEASONAL TANDEM PARACHUTE OPERATIONS-CAMBRIDGE DORCHESTER AIRPORT

Based on information provided by Mr. Moore, the Council approved the written proposal submitted by Joshua Dolan, President, Ocean City Skydiving Center, Inc., to operate Skydive Cambridge, a proposed satellite tandem skydiving service as an extension of that business, at the Cambridge Dorchester Airport, contingent upon approval by Local Government Insurance Trust, the County's insurance provider. Skydive Cambridge will be required to abide by all Federal Aviation Administration and Cambridge Dorchester Airport regulations, carry aviation liability insurance and general premise liability insurance to the fullest extent available including naming Dorchester County as an additional insured party. It is the Council's understanding that the County, Council members and the Airport Manager will be named as released parties on the waiver form that will be executed by all participants prior to skydiving. Additionally, it is Council's understanding that there will be a maximum of three parachutes in the air at one time and after being loaded into an airplane on the taxiway and in the air participants will jump within five to 10 minutes.

DISCUSSION REGARDING THE EXECUTION OF CONTRACT FOR INCUBATOR FACILITY

The Council agreed to enter into a design build contract with Willow Construction for the construction of an incubator facility in the Dorchester Regional Technology Park, once that document has been finalized, with Councilmen Bradshaw and Price opposing.

APPOINTMENT OF ACTING COUNTY MANAGER

E. Thomas Merryweather, County Attorney, explained that pursuant to the County Code a County Manager must be appointed for bonding purposes; therefore, since Jane Baynard, the current County Manager, is on an extended medical leave, the Council needs to appoint an individual as Acting County Manager until her return. The Council officially appointed Councilman Newcomb as the Acting County Manager in addition to his duties as Council President, acknowledging that he has informally performed these duties since Ms. Baynard's departure. The Council instructed Finance Staff to move forward with preparing the appropriate bond and other documents to facilitate this change.

REGULAR SESSION

PUBLIC COMMENTS

William Ackridge, Founder and Executive Director, Charter School Alliance, encouraged the Council and the public to attend the Board of Education meeting on Thursday, December 19, 2013 at 2 p.m. to support his application on behalf of the school which the Board members will consider. He noted that the meeting will be held at the Dorchester Career and Technology Center in lieu of the Board of Education. He also encouraged those who are unable to attend this meeting to either contact Dr. Henry Wagner, Superintendent of Schools or their Board of Education representative to express their support for the application.

Councilman Nichols, based on concerns he received from residents, expressed his dismay that this meeting was being held at 2 p.m. instead of later in the evening in order to allow those residents who are employed the opportunity to attend. Mr. Ackridge said he was also concerned about the time which was set by Board of Education staff. In response to questions from Councilman Nichols, Mr. Ackridge explained that if the Board of Education does not approve the charter school application, he can file an appeal with the State of Maryland Board of Education, which can overturn the decision, deny the appeal or remand the matter back to the local school board for its reconsideration.

In response to a question from Councilman Bradshaw, Mr. Ackridge said the Board members denied his first charter application request because they felt there were discrepancies in the application. He explained that, after several attempts, he obtained a list of those discrepancies, of which the main issues were transportation, food service and a proposed location for the charter school. He noted that vendors and/or contractors will not execute service agreement until approval is received from the Board of Education.

Mr. Ackridge explained that it is his intention to renovate a building located at 401 High Street to house the charter school.

Based on a question posed by Councilman Travers, Mr. Ackridge said pursuant to State law, the State Board of Education members can approve charter school applications and if they do so, will become the authority agency. In response to an inquiry from Pete Macinta, resident, Mr. Ackridge again stressed that he will file an appeal if the Board of Education members deny the application.

Councilman Nichols questioned how Mr. Ackridge will proceed if neither the local Board of Education or State Board of Education members approve the application. Mr. Ackridge said he will continue to seek approval, noting that if established, this will be the first charter school on the Eastern Shore in Maryland.

Councilman Newcomb left the meeting.

Mr. Murphy, resident, advised Council that he is constructing four additional poultry houses on his property. He expressed concern regarding the difference between storm water and permitting fees and performance bond requirements relating to poultry houses in Dorchester County versus surrounding counties. Mr. Murphy explained that the County permitting process for the construction of poultry houses has changed substantially since 2011. He further explained that despite three recent visits to the County's Planning and Zoning Department and speaking to Middle Department Inspection Agency (MDIA) staff, he has not been provided a list of information and/or documents that need to be submitted in order to obtain a building permit for these structures. He noted that his recent conversation with the MDIA staff member was not productive and expressed concern about that individual's attitude. Councilman Travers stated that it is his understanding that Councilman Newcomb has spoken to that individual's supervisor in response to Mr. Murphy's concerns. In response to a question from Councilman Travers, Mr. Murphy said he was not contacted by that individual's supervisor.

In response to a question from Councilman Bradshaw, Steve Dodd, Planning and Zoning Director, clarified that MDIA staff are responsible for enforcing the County's building code, pursuant to an agreement between the Council and that agency and; therefore, answer residents' questions regarding the County's permitting process.

Councilmen Bradshaw and Price said it is their understanding that several residents have experienced problems when working with MDIA staff on various issues. Councilman Travers asked Mr. Dodd whether he has knowledge of other County residents having encountered problems with these employees. Mr. Dodd said residents have expressed concern about MDIA staff's interpretation of the County's Building Code. He explained that prior to that agency undertaking these duties, County staff were charged with this responsibility and interpreted the code differently. He noted that County staff did not require residents to submit plans as part of the building permit process for the construction of poultry houses. He said it is his understanding that Mr. Murphy is seeking clarification from MDIA staff of what information needs to be included in those

plans. Mr. Murphy noted that Caroline County does not require its residents' to submit building plans for poultry houses.

Based on concerns expressed by Mr. Murphy and an inquiry from Councilman Travers, Mr. Dodd said it his understanding that the cost of a building permit has always included a fee for the installation of affixed mechanical equipment. H explained that a large portion of every fee collected by Planning and Zoning staff is provided to MDIA for its services. Mr. Murphy advised that he spoke with several individuals who expressed concern about their interactions with MDIA staff.

Councilman Bradshaw referenced the Council's previous direction to Public Works, Planning and Zoning and Soil Conservation to conduct a work session to discuss bonding for agriculture buildings and existing single family lots and to review the County's fee schedules relating to permit and questioned the status of that meeting. Greg LeBlanc, Engineer, said that meeting will be held tomorrow, Wednesday, December 18, 2013.

Councilman Newcomb rejoined meeting.

Mr. Murphy stressed that he is ready to begin construction on the four poultry houses.

In response to a question from Councilman Nichols, Mr. Dodd said building and planning and zoning fees are included in the County's Schedule of Fees, noting that in order to amend those fees a public hearing must be held. He explained that those fees, of which a large portion is provided to MDIA for its services, are referenced in the contract between the Council and that agency. Mr. Merryweather said the Council has the option of either modifying or terminating its contract with MDIA. In response to a question from Councilman Newcomb, Mr. Merryweather confirmed that the Council can make any modifications to these fees retroactively, noting that the public hearing process will take approximately 30 days. Mr. Dodd stated that the Council can also elect to amend the County's Building Code to exempt poultry houses from those regulations.

Mr. Murphy asked the Council to consider amending the County's Schedule of Fees so they are more consistent with surrounding counties.

The Council requested that a meeting be scheduled between Planning and Zoning staff, MDIA staff, and County Council member(s) to discuss Mr. Murphy's concerns regarding the County's planning and zoning regulations and fees relating to poultry houses and his interactions with Middle Department Inspection Agency staff.

HEALTH INSURANCE DISCUSSION

The Council agreed to continue to pay an 85% contribution for the Medicare Supplement Health Insurance Policy for over 65 retirees in 2014 and an 85% contribution for the self funded prescription plan for over 65 retirees in 2014 with the retirees being responsible for the remaining 15% in light of Medicare rate increases.

COORDINATION PLANNING DISCUSSION

Councilman Newcomb introduced Charles “Chip” MacLeod, Funk and Bolton, noting he is special legal counsel for Dorchester County and has been instrumental in assisting Council’s in its efforts to establish the Clean Chesapeake Coalition with a goal of identifying ways to improve the water quality and health of the Chesapeake Bay in the most effective and fiscally responsible manner. Mr. MacLeod commended the Council members for reaching out to other local governments to form the coalition. He advised Council that earlier in the day the Wicomico County Council voted unanimously to join this coalition with the full endorsement of Rick Pollitt, County Executive. In response to a question from Mr. Merryweather, Mr. MacLeod stated that the members of the coalition include Dorchester County, Caroline County, Cecil County, Carroll County, Kent County, Allegany County and Frederick County. He pointed out that several of the membership counties are from Western Maryland, noting that they joined the coalition after also being confronted with a multitude of Federal and State mandates to clean the Chesapeake Bay that adversely affect their local economy.

Mr. MacLeod said instead of concentrating on ways to improve the health and water quality of the Bay that are consistent with local policies and strategies and which are based on scientific data, State agencies have focused on imposing restrictions including limiting the use of septic systems on private property and the application of phosphorus on farm fields. He said they have also failed to take action to minimize the adverse impact the release of Conowingo Dam waters have on the Bay.

He explained that Jeff Blomquist, Legal Counsel, Funk and Bolton, will provide a power point presentation regarding “Coordination,” which is a federal government term for a process that has been effectively used on the western shore to restore land use authority to local jurisdictions. Mr. MacLeod said Fred Grant, an attorney from Boise, Idaho, has utilized this process and has made a commitment to assist local elected officials in Maryland in their endeavor to ensure that to ensure that the Federal and State regulations, including the Chesapeake Bay Total Maximum Daily Load allocations (TMDL) established by the Environmental Protection Agency (EPA) and Watershed Implementation Plan (WIP) requirements, are consistent with local policies and strategies.

Mr. Blomquist provided the power point presentation which is attached. He reiterated that Coordination is a term Congress has prescribed for a process through which Federal and State agencies (who are implementing a Federal program) are required to work with local governments to ensure that local policies are incorporated into Federal and State programs and implementing regulations, permits and actions. He further explained that in order to meet TMDL requirements, State officials are requiring local elected officials to develop and implement WIPs for their jurisdictions that require a significant financial investment. He noted that the cost for the implementation of the State WIP between 2013 and 2025 is projected to be in excess of \$14.4 billion.

Mr. MacLeod advised Council that he has drafted a resolution for the Council’s review and consideration to invoke the coordination process. Mr. Blomquist expressed his belief

that Dorchester County's draft WIP should be revised to include local policies and strategies.

Mr. Blomquist advised that there are four components of the coordination process that must be addressed when developing plans that affect the human environment and those are social, cultural, natural and economic impacts. He cited the promotion of the dredging and restoration of historic oyster beds as a policy which utilizes these components. Mr. Blomquist noted that State representatives' focus has been on developing policies and programs to improve the natural environment without taking into consideration economic, cultural and social impacts.

He explained that in 2009 the Chesapeake Bay Foundation filed a lawsuit against the EPA alleging that this agency failed to comply with the Clean Water Act with respect to restoring and preserving the Chesapeake Bay. He said as a result of a May 2010 settlement, the EPA was required to create TMDLs of pollutants to the Bay and its tributaries for restoration purposes. He explained that local governments and business owners were not included in this process and that by invoking coordination, they will be able to become involved in the process of identifying ways to clean the Bay.

Mr. Blomquist noted that some of the regulations the State of Maryland implemented in order to comply with the TMDL requirements include regulations relating to tier mapping, Best Available Technology septic system regulations and agriculture storm water regulations.

He explained that the State TMDL initiatives do not account of the impact the flow of sediments from the Conowingo Dam have on the Bay nor its impact on the economy including the decimation of the seafood industry. He noted that several farmers in Kent County provided Maryland Department of Agriculture representatives with alternatives to reduce runoff in fields; however, they said they were not approved methods. He suggested that the local farmers and watermen are more attuned to the environment than MDA representatives as they depend on the local waterways and land to provide for them and their families.

Mr. Blomquist said the first step in the Coordination process is for the County to partner with local businesses, including watermen and farmers, to determine how TMDL programs have impacted business and economic development and how they should be changed to promote the economic environment while protecting and or enhancing the natural environment.

Mr. MacLeod noted that although the Council has established a Right to Farm policy and a Right to Harvest Seafood policy, the Federal and State government, are developing regulations in conflict with those local laws.

In response to a question from Mr. Merryweather, Mr. MacLeod stated that although coordination has not been utilized on the East Coast, it has been effective on the West Coast. Based on another inquiry from Mr. Merryweather, Mr. Blomquist expressed his understanding that the initial reaction of federal government officials will not be very receptive; however, he believes it will be beneficial in the long term.

Mr. Macleod introduced Mr. Grant.

Mr. Grant said he first used the Coordination process in Idaho after the Secretary of Interior, based on the recommendation of the U.S. Fish and Wildlife Service, listed the Bruneau Hot Springs Snail, a microscopic animal, as an endangered animal. He noted that as a result of that declaration farmers were advised to cease all live stock grazing on public land and were prohibited from utilizing the aquifer that furnished water to these snails. He explained that he tried to issue the coordination process to no avail and as a result filed a lawsuit which referenced the failure of the Department of Interior to coordinate with the local government and as a result a Federal District Judge removed that animal from the endangered species list. He said that decision was upheld by the US Court of Appeals and the matter was remanded back to the U.S. Fish and Wildlife Service for resolution. He explained that no further action was taken. He noted that shortly thereafter a new Bureau of Land Management manual that included a five page summary of the coordination process was released.

Mr. Grant said he also utilized the Coordination process to halt the U.S. Forest Service's action to close all national forest trails and roads in the State of California without first coordinating with the local government and Sheriff.

He stated that the first time he utilized the coordination process to protect privately owned farm land from being destroyed was in Texas. He explained that the Texas Department of Transportation had planned to construct a quarter mile highway toll road in east central Texas through Bell County which would have destroyed 48,000 acres of farm land. He further explained that after initiating the coordination process, the Governor withdrew that project and accepted the alternative proposed by the local jurisdictions which was the widening of an existing interstate.

Mr. Grant said the coordination process has been implemented in 108 locations, including in Logan County in the State of Kansas as a result of the listing of a black footed ferret as an endangered species. He explained that each time the Federal or State agency worked with the local government to modify the regulations so they were consistent with local policy. He noted that it also has been tested seven times in court and each time the agencies were advised that they must coordinate with local governments.

Mr. Grant said he also sent three letters to the Department of Justice as a reminder that regulations should be consistent with local policies. He stressed that Federal and State agencies usually do not commence the coordination process willingly.

Mr. Blomquist said while the EPA set the TMDL requirements, the Maryland Department of Natural Resources (DRN), the Maryland Department of Environmental and (MDE) the Maryland Department of Agriculture (MDA) are the entities responsible for instituting polices without coordinating with local governments. Mr. Grant noted that coordination was used as a result of the implementation of TMDL requirements in Idaho and Oregon and was successful.

Mr. MacLeod explained that Maryland officials are the only State officials in the country passing on the TMDL requirements to local jurisdictions. He noted that those

representatives are focusing on regulations relating to septic, storm water, waste water and agriculture whereas the Council members can include in its WIP any policies they believe are important. He suggested that the dredging of the Conowingo Dam reservoir and power dredging of oysters be included in the County's WIP. Mr. MacLeod noted that the majority of the counties in Maryland have not adopted a WIP due to the cost associated with the implementation of that plan.

Mr. Blomquist said the next steps in the coordination process are: 1) the adoption of a resolution invoking coordinating; 2) sending the resolution to Federal and State agencies announcing the Council's intention to invoke coordination; 3) setting up meetings with the EPA, MDE, DNR and MDE; and 4) appointing an advisory committee to be comprised of business owners, watermen, farmers, community member, municipal and local government agency officials with the goal of finalizing a WIP based on local policies and strategies.

Mr. Blomquist said the Council should then schedule a regional hearing on the impacts of regulatory and permitting actions of or proposed by the EPA and State regulatory agencies on the human environment. He suggested that the Council also extend an invitation to local watermen to discuss their belief that power dredging will bolster the oyster population. He explained that Mr. Grant will develop an administrative record and findings and create a scientific record to counter the reasons Federal and State regulatory agencies are establishing mandates and regulations. Mr. Blomquist explained that at the end of the public hearing process the Council can then make an attempt to invite Federal and State agency representatives to participate in the coordination process with them and if they do not accept the invitation, can elect to file a lawsuit to institute this process. Mr. Grant said the Council's commitment will be tested by Federal and State agency representatives and encouraged them to stay the course since the law supports this process.

Mr. Blomquist encouraged the Council to introduce and adopt the resolution to commence the coordination process after a public hearing has been held.

Mr. MacLeod noted that over the last several years the trend has been the centralizing of plans at a State level which has usurped local land use authority. He said he will provide Council and Mr. Merryweather a more detailed list outlining the steps to be taken once coordination is invoked.

In response to a question posed by Councilman Bradshaw, Mr. MacLeod explained that although the Kent County Commissioners were supportive of invoking the coordination process, he did not provide them a final resolution for their acceptance. He said the Carroll County Commissioners have also expressed their willingness to invoke coordination.

Mr. Blomquist referenced the restoration of the oyster population by local watermen through the use of power dredging at no cost to the local or State government. Councilman Newcomb noted that Council recently received correspondence from DNR refuting that power dredging bolstered the oyster population.

Larry Powley, a local waterman, said there was a poor summer crab harvest which DNR officials mistakenly attributed to crab cannibalism. He noted that this year's oyster season was very successful and expressed his belief that the power dredging increased the amount and quality of the oysters. He explained that local watermen are seeking the assistance of their local elected officials to protect the economic viability of commercial fishing instead of DNR officials who are instituting regulations that are adversely impacting their livelihood. He stressed the need for the reopening of the Little Choptank and Choptank River for shellfish harvesting.

Mr. MacLeod said the oyster restoration strategy currently in place is being driven by the U.S. Army Corps of Engineers (Army Corps) who are focusing on restoring the oyster population in the tributaries and not the main or upper part of the Bay. He noted that this strategy is being implemented by the State and is in direct conflict with the Council's policy to restore natural oyster beds.

Councilman Bradshaw noted that in the 1940s and 1950s farmers were encouraged by the Army Corps and the United States Department of Agriculture to spread fertilizer on fields and as a result phosphorus levels have increased substantially. He expressed his belief that instead of relying on Federal and State mandates, local farmers should be charged with developing best management practices to prevent storm water runoff into the Bay.

Councilman Newcomb noted that in the past several years the State Critical Area Commission members have implemented critical area regulations that have severely limited a private property owners rights and questioned whether the coordination process can be initiated so that these regulations are consistent with local policies. Mr. MacLeod explained that the coordination process can only be utilized when federal funds are being used by the State to implement regulations or a federal permit is being issued.

Councilman Price said he has the following concerns: the intrusion by State officials on local practices followed by watermen and farmers, the accelerated timeline for the adoption of a WIP and the excessive WIP implementation cost for Dorchester County of \$87 million. In response to a question from Councilman Price, Mr. MacLeod said the proposed resolution addresses those items. Mr. MacLeod stressed that the Council should ask County staff to revise the draft WIP for Dorchester County to mimic its local policies and to include cost controls.

Councilman Newcomb expressed his belief that the Council should continue its participation in the Clean Chesapeake Coalition and proceed with the acceptance of the resolution. Councilman Bradshaw said he is a proud member of the Executive Committee of that coalition and said he also believes that the Council should continue its participation. He stressed that the Council members, as stewards of the taxpayers, are committed to identifying ways to improve the Chesapeake Bay in a fiscally prudent manner.

Councilman Newcomb noted that the release of the Conowingo Dam caused the loss of oyster habitat which was patiently restored by local watermen.

Mr. MacLeod referenced a recent announcement on a local news channel that the State is spending \$6.2 million to haul fossilized oyster shells from a Florida quarry to create oyster bar sanctuaries in Harris Creek and the Little Choptank River. Councilman Bradshaw said it was reported that 102,000 tons are being transported via train. Councilman Newcomb expressed his understanding that there was no public announcement made by DNR representatives of this endeavor prior to it being announced on television.

Councilman Price questioned what actions elected officials in the other states that border the Chesapeake Bay are taking to improve its water quality.

Councilman Bradshaw noted that DNR utilized small granite rock to construct a reef for oysters in Harris Creek in lieu of dredging natural shell which granite sunk. He said in the State of Virginia natural oyster shell was dredged and cleaned and returned back into the James River.

Mr. MacLeod introduced Robert T. Brown, President of the Maryland Watermen's Association. Mr. Brown said he was aware of that oyster shell was being hauled from Florida; however, he was originally advised that shell was being transported at no cost. He stressed the need for more power dredging of the bottom of the Bay on both sides, noting that DNR officials will not open up more bottom. Councilman Bradshaw explained that the Council members spoke with Joseph Gill, DNR Secretary, and Frank Dawson, Assistant Secretary, a month ago regarding the benefits of power dredging to no avail.

Mr. Brown explained that although a State law was passed which authorized permits for the dredging of shells at the head of the Chesapeake Bay no action was taken by DNR to relating to this authorization.

Councilman Bradshaw referenced an Army Corps study that was conducted from the head of the Chesapeake Bay to Virginia which concluded that prime oyster bottom is in Rock Hall at the head of the Bay.

Mr. Brown explained that attempts to obtain authorization to power dredge a large area of the bottom above the Bay Bridge failed, noting that DNR staff were only willing to allow 39 acres to be dredged. He said although this year's crab harvest season was poor due to the rebound of the oyster population, the harvest season for this type of shellfish was very successful. He credited the power dredging conducted by watermen as the reason for the substantial increase in the oyster population. Mr. Brown expressed dismay that the Atlantic States Marine Fisheries Commission members severely limited catch limits for puppy drum, despite there being an influx of this game fish from Texas to Florida and on the East Coast. He cited the overabundance of the puppy drum and rockfish as reasons for the poor crab season, since their main diet is crab. Mr. Brown expressed his belief that the Commission members should consider the ramifications of how each decision they make will affect fish species as a whole.

Councilman Bradshaw expressed concern about the potential erosion of the seafood industry in the County as a result of increased State restrictions.

Mr. Brown said it is has been his experience that the oyster population fluctuates in a cyclic manner, noting that different diseases took a toll on the oyster harvest industry several years ago. He again stressed that the recent oyster harvest season was very successful, citing his belief that there was also an abundance of spat.

Mr. MacLeod introduced Captain Rob Newberry, Harvesters Land and Sea Coalition. Captain Newberry noted that the coalition members are supporting a lawsuit that was filed against the actions taken by DNR to severely limit menhaden catch limits. He explained that DNR staff has missed a Circuit Court deadline to reply to written questions including a request for the scientific data relied on to establish these regulations. Captain Newberry said he is from Kent/Queen Anne area and has been a waterman in the waters of Dorchester and Talbot counties for the majority of his life. He commended the Council for taking the lead in establishing the Clean Chesapeake Coalition. He expressed his belief that invoking the coordination process will be helpful to Council based on his own experiences with working Mr. Grant in reference to DNR. Captain Newberry said it is his understanding that in Talbot County DNR staff has openly admitted there is an 1800% increase in dredge bottom production of oysters at the Great Bar and in front of Tilghman Island; however, they will not formally publicize this fact. He noted that DNR staff failed to note that there are more oysters being harvested this year than there were last year. He expressed his understanding that watermen have shipped out of state more oysters this year than in the last 25 years, noting that oysters have been shipped to North Carolina, Florida, Louisiana, Mississippi and Texas. He opined that the oyster population has rebounded due to power dredging, noting that five years ago the oyster harvest was very poor. He refuted the statements made in the letter the Council received from DNR that power dredging was harmful. He noted that oysters are natural filters and that due to power dredging the bottom of the Honga River, the water is pristine in that area.

Councilman Price noted that DNR staff test the Choptank River and the Bay and its tributaries regularly but do not consistently publicize the results. Captain Newberry said it is his understanding that the waters in Dorchester and Talbot counties have the best dissolved oxygen and homogenous levels in the State. He applauded the Council for its efforts in supporting the watermen and seafood industry in the County.

Roy Meredith, resident, said, in his opinion, an injunction should be issued to halt the placement of oyster shells from Florida in local waterways. Captain Newberry expressed his understanding that oyster shell is located on a property in Queen Anne's County that can be utilized in lieu of foreign shell.

Adrian Hansen, watermen, stressed the need to open the Little Choptank River for oyster dredging.

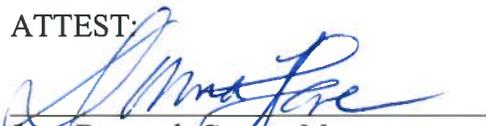
The Council agreed to send correspondence to Secretary Gill, Department of Natural Resources, expressing concern that the utilization of fossilized oyster shells from a quarry in the State of Florida to create additional oyster bar sanctuaries in Harris Creek and the Little Choptank River, which may adversely impact those local waters and native oysters.

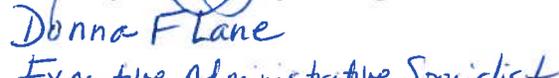
The Council agreed to schedule a public hearing on a resolution to invoke its authority to engage Federal and State agencies in the Coordination process established and mandated by Federal and State standards. The Council stressed the need to protect the economic viability of commercial fishing and agriculture and other economic interests in the County and to ensure that Federal and State regulations, guidelines and practices, including TMDL and WIP regulations, do not conflict with its current policies and strategies in order to maintain a desirable human environment for its citizens. The Council acknowledged that certain items need to be completed on this resolution; and, therefore, asks that legal counsel provide a final version to the Council's Office as soon as possible so that staff may advertise a public hearing.

ADJOURNMENT

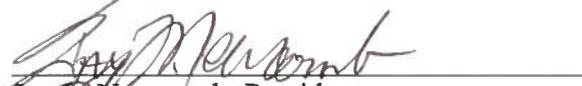
With no further business to discuss, the Council adjourned.

ATTEST:


Jane Baynard, County Manager


Donna Flane
Executive Administrative Specialist

DORCHESTER COUNTY COUNCIL:


Jay L. Newcomb, President


William V. Nichols, Vice President


Ricky Travers


Rick Price


Tom Bradshaw

Approved the 7th day of January, 2014.