

**County Council of Dorchester County
Regular Meeting Minutes
September 16, 2014**

The County Council of Dorchester County met in regular session on September 16, 2014 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; 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 Travers 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: the submission of a FY16 State Aid for Police Protection grant application for the Sheriff's Office; a request to advertise an investigator position in the State's Attorney Office; a request to place a roadway improvement on the County's priority list for road improvements; and a presentation from Special Legal Counsel.

APPROVAL OF MINUTES- SEPTEMBER 2, 2014

The Council approved the minutes of September 2, 2014.

APPROVAL OF DISBURSEMENTS

The Council agreed to hold the following payments: Taylors Island Fire Co-traffic control-triathlon, \$225.45; Sheriff's-Capital Fund-Brekfor International, 4,187; Sheriff's-Auto Expenses: General Sales Administration in amount of \$19,857.65; Grafex Shoppe,

Inc., \$1,878.32; Radiotronics, \$1,150.45; and Tactical Conversions, \$2,279.06. The Council approved the remaining payments with Councilman Travers abstaining for payments made to Simmons Center Market.

FINANCIAL REPORT: CASH AND INVESTMENTS

Councilman Newcomb reported total cash and investments as \$6,050,684.77.

EXECUTIVE SESSION SUMMARY

The County Council of Dorchester County convened in an Executive Session at 4:30 p.m. on September 16, 2014 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; 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 below.

Action taken at the closed session: 1) approved the request of Public Works Director to hire an individual to fill a vacant Motor Equipment Operator III position in the Landfill Division by a 5 to 0 vote (1 proxy vote); 2) deferred the request of Public Works Director to hire an individual to fill a vacant Motor Equipment Operator II position in the Highway Division by a 5 to 0 vote (1 proxy vote); 3) approved the request of the Public Works Director to advertise in-house a vacant Motor Equipment Operator III position in the Highway Division by a 5 to 0 vote (1 proxy vote); 4) approved the following requests of State's Attorney: a) to fill a vacant Criminal Investigator position by a 5 to 0 vote (1 proxy vote) and agreed to consider request to advertise in open session; b) to hire an individual to fill a vacant Assistant State's Attorney position by a 5 to 0 vote (1 proxy vote); and c) to increase the salary of an existing employee with realized savings by a 5 to 0 vote (1 proxy vote); 5) discussed the potential leasing of a County owned property; 6) discussed a matter relating to a County owned road; 7) discussed with legal counsel a proposed funding commitment/agreement for an event; 8) discussed with legal counsel the withdrawal of a proposed 911 Center Communications project; 9) discussed with legal counsel a matter relating to roadway improvements-agreed to discuss in open session; and 10) discussed with legal counsel a matter regarding a County owned vehicle.

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

CAPITAL IMPROVEMENT PLAN-BOARD OF EDUCATION

Dr. Henry Wagner, Superintendent of Schools, thanked the Council for its ongoing support of the County's public school system. He acknowledged that the following individuals are present: Philip Rice, Vice President, Dorchester County Board of Education; Glenn Bramble, Board Member; Glen Payne, Board Member; Dr. Lorenzo Hughes, Assistant Superintendent for Instruction; Chris Hauge, School Facilities Engineer; and Tim Brooke, Controller. He said Dwayne Abt, Assistant Superintendent for Administration; Phil Bramble, Board Vice President, and Lorraine Henry, Board Member, were unable to attend this meeting.

Dr. Wagner noted that a year ago the Board of Education returned over \$1.5 million in unused funds which had been encumbered for the Dorchester Career and Technology Center project in addition to \$800,000 in FY11. He said they are dedicated to using fiscal resources wisely and responsibly. He noted that there are significant ongoing facility needs in the public school system due to aging infrastructure, including the replacement or renovation of several schools, as well as regular ongoing maintenance needs. He said there are also maintenance issues that arise periodically which demand immediate attention.

He referenced a September 2, 2014 County Council executive session meeting Board Members and staff members attended at which they presented information regarding North Dorchester High School (NDHS). He said that information included the structural and environmental challenges of existing structures at this facility and feasibility study results which listed numerous educational deficiencies.

Dr. Wagner asked the Council for a letter of support for the Board of Education's FY16 Capital Improvement Plan that establishes the planning for the replacement of a new NDHS as the number one priority. He said it will be forwarded to the Interagency Committee on School Construction and then the Maryland Board of Public Works. He explained that the Board of Education is asking for approval of a scaled back allocation of funding for FY16 to plan for the replacement of NDHS, including written assurances that the Council will move forward to provide the necessary funding the first year of planning.

The Council approved the Board of Education's FY16 Capital Improvement Plan for planning purposes only contingent upon future County budget approvals and agreed to take the requested funds for maintenance and repair and computer replacements, minor capital projects and school technology projects under advisement during FY16 budget deliberations.

COMMENDATION-RETIREMENT-WILLIAM TRAVERS

The Council presented a Commendation congratulating William Travers on his retirement and recognizing his seven years of dedicated service to Dorchester County.

LEGISLATIVE SESSION

The Council adjourned into Legislative Session.

BILL NO. 2014-10 AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND PURSUANT TO SECTION 40-20 OF CHAPTER 40 OF THE DORCHESTER COUNTY CODE CLOSING AND ABANDONING A 6,274.98 FOOT PORTION OF PHILLIPS GUNNING CLUB ROAD, STRAITS ELECTION DISTRICT OF DORCHESTER COUNTY, MARYLAND.

E. Thomas Merryweather, County Attorney, noted that at its August 19, 2014 meeting, the Council extended public comment on Bill No. 2014-10, pursuant to Section 40-20 of Chapter 40 of the Dorchester County Code, which closes and abandons a 6,274.98 foot portion of Phillips Gunning Club Road and agreed to consider this legislation at this meeting.

He said the Council will not take any action on this legislation which will become void on September 18, 2014. He explained that the Council is partnering with Blackwater National Wildlife Refuge on a temporary solution to stabilize the road in order to provide additional time to consider a permanent solution. Councilman Newcomb credited Suzanne Baird, Refuge Manager, for her assistance in this matter.

INTRODUCTION

BILL NO. 2014-12 AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND PURSUANT TO SECTION 13-901, ET. SEQ., OF THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND TO AMEND CHAPTER 65, ARTICLE III, INTERNATIONAL BUILDING CODE, SECTION 65-4(B) OF THE DORCHESTER COUNTY CODE BY ADDING NEW SECTION .03 PROVIDING FOR THE EXEMPTION OF FARM BUILDINGS AND TO PROVIDE FOR THE DEFINITION OF FARM BUILDINGS.

Mr. Merryweather said Bill No. 2014-12 is to amend Chapter 65, Article III, International Building Code, Section 65-4(B) of the Dorchester County Code by adding new section .03 providing for the exemption of farm buildings from the International Building Code and to add the definition for those structures.

The Council agreed to proceed with publication of a public hearing on this matter.

REGULAR SESSION

The Council adjourned into Regular Session.

MANAGERS COMMENTS

ECONOMIC DEVELOPMENT ADVISORY COUNCIL MEMBER STATUS CHANGE REQUEST-ECONOMIC DEVELOPMENT

The Council approved the request of Keasha Haythe, Economic Development Director, to adopt a resolution amending the membership and the terms of the Economic Development Advisory Council by designating certain members as “Standing Non Voting Ex Officio Members” and “Standing Voting Ex Officio Members” with no term limits and other members as “Voting Members” with a two year term; to include a representative from the Dorchester County Health Department and Department of Social Services; and to allow for the selection of a Vice Chairman from the membership.

TRAVEL REQUEST-ECONOMIC DEVELOPMENT

The Council approved the request of Ms. Haythe to attend the Maryland Economic Development Association Fall Conference on October 27, 2014 in Cumberland, Maryland and to stay overnight at a local hotel at the estimated cost of \$564.20 which includes conference costs, \$80; one night of lodging, \$139; mileage, \$207.20 and meals, \$138. The Council acknowledged that funds are available in the Economic Development budget to cover these expenses.

FY15 COMMUNITY DEVELOPMENT BLOCK GRANT AWARDS

Chesapeake Grove Center-Delmarva Community Services

The Council approved the written request of Cindy Smith, Grant Monitor, to accept a FY15 Community Development Block Grant award under which Dorchester County is the grantee and Delmarva Community Services is the implementing agency for phase two of the infrastructure portion of the Chesapeake Grove Center project in the amount of \$600,000. The Council acknowledged that: 1) matching funds are from other grants, loans and private funding sources; 2) there is no County match; 3) grant administration will be provided by Ms. Smith; and 4) the grant period is June 30, 2014 to July 31, 2016.

Housing Study-Grant Monitor

The Council approved the written request of Ms. Smith to accept an FY15 Community Development Block Grant award in the amount of \$29,750, with no County match, to conduct a housing study of Dorchester County. The Council acknowledged that the grant period is June 30, 2014 to July 31, 2016. The Council agreed to waive bids and sole source with Salisbury University Center for Housing and Community Life to conduct this study.

CONFIRMATION OF SUBMISSION-FEDERAL AVIATION ADMINISTRATION GRANT APPLICATION-RUNWAY OBSTRUCTION PROJECT-AIRPORT

The Council confirmed the submission of a Federal Aviation Administration grant application for funds in the amount of \$118,800 to conduct an environmental assessment as part of the second phase of the Cambridge Dorchester Regional Airport runway obstruction project by Tom Moore, Public Works Director, in order to meet a September 10, 2014 deadline. The Council also accepted the grant award of \$118,800. The Council acknowledged that the State share of this project is \$6,600 and the County share is \$6,600, which is in the current Airport budget.

REQUEST TO ADVERTISE FOR PROPOSALS-ANNUAL FUEL OIL CONTRACT- PUBLIC WORKS

The Council approved the request of Mr. Moore to advertise for proposals for the supply of gasoline, diesel fuel, heating oil and propane to Dorchester County government and the Board of Education for a one year period beginning December 1, 2014 and ending November 30, 2015.

PAVING PROPOSAL-PUBLIC WORKS

Based on the recommendation of Mr. Moore, the Council agreed to waive bids and sole source with John Russell, President, Russell Paving Co., Inc., to provide hot mix asphalt, labor and equipment and to install approximately 500 tons of hot mix blacktop overlay per day at \$79 per ton. The Council acknowledged that the quantity is based on installation of 1.5" of asphalt overlay with an approximate estimate of 7,600 tons and that County staff will haul asphalt to job sites at cost of \$3.83 per ton, which includes equipment and fuel costs, for a total per ton cost of \$82.83. The Council also agreed that shorter lengths of roads and other work identified in the proposal Mr. Russell submitted will cost \$92.19 per ton if that company's staff hauls the material and \$88.36 per ton if County staff hauls material. The Council recognized that these costs include hot mix production, installation of asphalt, labor and equipment, overhead and profit and the County's royalty of \$2 per ton. The Council further recognized that the percentage of recycled asphalt product used will be 15%, if that product is available. The Council authorized Mr. Moore to execute the proposal which includes a 15 day termination clause.

In response to a question from Councilman Price, Mr. Moore explained that a road inventory is conducted each Spring which is used to develop the list of proposed roads to pave. He explained that due to lack of funding the list continues to grow.

CARDBOARD RECYCLING CONTAINERS-PUBLIC WORKS

The Council approved the request of Mr. Moore to place two cardboard containers at the County's recycling stations in the Town of Hurlock and at the Beulah Landfill. The Council acknowledged that two containers are already located at the Secretary Transfer

Station and are pulled once a week for a total of \$192.66. The Council recognized that, based on current billing from Waste Management, by placing two containers in each of those locations the cost for all locations will decrease from \$640 per month to \$577 per month. The Council further recognized that Waste Management will waive the delivery charge for second dumpster at Hurlock. Based on information provided by Councilman Price, Mr. Moore said he will coordinate with Town of Hurlock officials to move the recyclable containers to another location for the October 4, 2014 Fall Festival.

REQUEST TO WAIVE BIDS/SOLE SOURCE AND PURCHASE DRYER- DETENTION CENTER

The Council approved the request of Steve Mills, Warden, to waive bids and sole source with EASCO Laundry System to purchase a new commercial dryer at the cost of \$4,793.50, which includes installation, from the FY15 Detention Center Capital Budget.

FY16 STATE AID FOR POLICE PROTECTION PROGRAM GRANT APPLICATION-SHERIFF'S OFFICE

The Council agreed to submit a grant application to the Governor's Office of Crime Control & Prevention for funds under the FY16 State Aid for Police Protection Program for the Sheriff's Office to provide adequate police protection in subdivisions and qualifying municipalities. The Council acknowledged that this is a standard annual formulary grant and there are no matching funds.

REQUEST TO ADVERTISE-CRIMINAL INVESTIGATOR-STATES ATTORNEY

The Council agreed to advertise a Criminal Investigator position in the State's Attorney Office.

REQUEST TO ADD PROJECT TO COUNTY'S PRIORITY LIST FOR ROADWAY IMPROVEMENTS

The Council denied the written request from Edwin C. Kinnamon, Clerk/Treasurer, on behalf of the City Council, for the inclusion of a proposed roundabout on Route 343 (Washington Street) and the Westside By-Pass as a fundable project on the County's Priority list for roadway improvements. The Council acknowledged that the developer of a proposed active adult community to be located in this area advised Councilmen Newcomb and Travers that he, as developer, would pay for the round-a-bout. The Council further acknowledged its decision to suspend the County's excise tax to provide developers the flexibility to utilize the savings to pursue new developments in the County.

OTHER

Councilman Travers expressed his understanding that the IronClub Maryland organization has raised \$100,000 to cover the licensing fee the Council agreed to pay to World Triathlon Corporation for the September 20, 2014 Ironman Maryland event.

PRESENTATION – CHARLES MACLEOD SPECIAL LEGAL COUNSEL

Charles “Chip” MacLeod, Special Legal Counsel, Funk & Bolton, said he and Jeff Blomquist, Attorney, are present to discuss the Maryland Department of Natural Resources (DNR) Little Choptank River Oyster Restoration Project and the State of Maryland’s oyster restoration plan as a whole. He said they have prepared for Council’s consideration tonight correspondence to initiate coordination in this matter.

Mr. MacLeod acknowledged the presence of Fred Grant, an Attorney, noting that he provided the Council information regarding coordination on December 17, 2013 prior to its adoption of a comprehensive resolution re-establishing local policies with respect to the seafood and agricultural industries and stressed their importance to the County. He said that resolution laid out methods and practices that the seafood industry felt would bolster the oyster population. He explained that since Council’s adoption of that resolution, DNR, with the assistance of several Federal agencies, started and completed an oyster restoration project in Harris Creek and moved into the Little Choptank River. Mr. MacLeod noted that in March or April of this year he spoke to Council regarding its concerns about the Little Choptank River Oyster Restoration project and in particular the importation of non-indigenous material from Florida into that local waterway. He said they laid out a strategy to stop the project utilizing coordination, which is a term Congress has prescribed for a process through which Federal and State agencies 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.

Mr. MacLeod explained that since May of this year the Council and the Clean Chesapeake Coalition has sent correspondence to various agencies involved in the Little Choptank River Oyster Restoration project, including the Maryland Department of Environment (MDE), DNR, and the U.S. Army Corps of Engineers (Army Corps), raising concerns about the project and requesting information regarding the testing of the materials that were to be deposited in local waters without success. He referenced the latest correspondence the Council sent to Army Corps which included a comprehensive list of concerns including the composition and size of the alternative material being used. He said the Army Corps response was that DNR was in compliance with the permit issued and that without public input or notice the permit was amended to allow the use of larger material. Mr. MacLeod explained that since efforts to work with the agencies involved in this project have failed and they have not been receptive to considering local input, a coordination demand letter to the following four agencies have been provided to the Council for its review and consideration: Army Corps, DNR, U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Association (NOAA).

Mr. MacLeod advised that Mr. Blomquist reviewed the permit, the modifications to the permit and an environmental impact study that was performed in 2009 for this project prior to preparing the correspondence to initiate coordination. He said the study does not include the use of the material from a quarry in Florida that was dumped into the Little Choptank River.

Mr. Blomquist said the concerns of local waterman and the Council regarding DNR's oyster restoration project in the Little Choptank River and the impact the use of non-indigenous material may have on the oyster and crab population and habitat were relayed to the Army Corps via written correspondence on several occasions. He explained that included in the correspondence was their concerns that the material was not in compliance with the plans and specifications DNR established nor with the original Army Corps permit for substrate to be placed in the Little Choptank River. Mr. Blomquist clarified that the correspondence was sent to Army Corps because it is the permitting and enforcement agency for the project. He stated that the Council did not know that the Army Corps had modified the permit to allow larger material to be used until two weeks ago, noting that there was no public notice or input prior to that modification.

Mr. Blomquist stated that certain individuals have questioned why the Council has not sought an injunction to halt the project. He explained that a legal basis needs to be developed before seeking the injunction.

He said prior to preparing the coordination demand letter he reviewed the 2009 environmental assessment and the 2012 oyster management plan prepared by the Army Corps. He explained that the studies and reports referenced in those documents indicate that by establishing and restoring the oyster beds in the Little Choptank River sediment loading for the County will be addressed and the State requirements for the 2010 Total Maximum Daily Loads established by the Environmental Protection Agency (EPA) will be met. Mr. Blomquist advised that the Army Corps documents detail how oysters are important to the County's economic, social and cultural environment. He cited several other references in those documents to utilizing oyster restoration to remove sediments, nitrates, phosphates and carbon dioxide to restore the Chesapeake Bay and its tributaries. He said watermen can turn over the oyster bottom to prevent the silting of oysters and power dredge to bolster the oyster population, as they have done in the Honga River, Fishing Bay and Tangier Sound, in lieu of the State undertaking alternative measures, such as depositing foreign material into local waterways, which will harm the human and natural environment. Mr. Blomquist expressed his understanding that J.M. Claytons is going to shuck oysters for the first time in approximately 30 years due to the increased oyster harvest. He said this will create a natural source of shell that can be returned to the local waterways by watermen.

Mr. Blomquist explained that the correspondence that has been provided to the Council references the failure of the agencies involved in DNR's oyster restoration project to coordinate with local governments pursuant to the National Environmental Policy Act (NEPA) and invites them to attend a coordination meeting to begin this process.

Mr. MacLeod said Mr. Grant has utilized the coordination process and has made a commitment to assist local elected officials in Maryland in their endeavor to ensure that Federal and State regulations are consistent with local policies and strategies.

Mr. Grant explained that in 1969 Congress ordered that every agency must coordinate with local government. He said "coordination" is defined by Congress as ensuring that all efforts are taken to ensure that their policies are consistent with local policies. He noted that every statute passed in Congress relating to the environment has included this requirement. He stated that even the Homeland Security Act, which contains condemnation processes, requires coordination. He said it has been effectively used on the Western Shore to restore land use authority to local jurisdictions. He noted that coordination was originally used in the Western U.S. to prevent ranchers, miners and loggers from losing their livelihood.

Mr. Grant said the first time he utilized the coordination process to protect privately owned productive 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. 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.

He noted that the Army Corps environmental assessment references which entities they coordinated with and the only reference to Dorchester is that a public notice was sent to the County in 2009 by the State Clearinghouse of Planning. He said a one page notice is not a sufficient means of coordination.

Mr. Grant referenced several coordination cases relating to measure to clean water and air quality in other states including California, Wisconsin, Pennsylvania, Kansas and Colorado. He said Presidents Ronald Reagan, Bill Clinton, George Bush and Barack Obama executed executive orders requiring all Federal agencies to coordinate. He noted that President Obama referenced in his executive order that the strengths of local government must be used with regard to the Chesapeake Bay.

Mr. Grant cited examples of how he successfully used the Quality Data Act as part of the coordination process to halt efforts by the U.S. Bureau of Land Management, including a proposed ban on grazing on federal land. He said Federal and State agencies often show resistance in the beginning when coordination is initiated despite the fact each agency has its own policies relating to coordinating with local governments.

He said the first step in the coordination process is to send correspondence to Federal and State agencies setting forth the issues and the law, and extending an invitation for them to attend a coordination meeting. Mr. Grant explained that if the agencies do not coordinate or only agreed to participate in one meeting a hearing on the impacts of the regulatory and permitting actions relating to the oyster restoration plan should be held. He said an administrative record and findings as well as scientific record will then be established to counter the reasons the Federal and State regulatory agencies set forth for the oyster

restoration project which can be used to demand that these agencies make the policy consistent with local policies.

Mr. Grant said local officials in Fremont County, Wyoming used coordination successfully to stop the Forest Service from closing down campgrounds due to diseased trees. He explained that the main commercial industry in that county is tourism and the closure of these facilities would have adversely impacted the local economy. He noted that although the Forest Service participated in the coordination process he had to send correspondence to the Department of Justice threatening a lawsuit for failure to coordinate in order for the Forest Service to show their plan to the county officials prior to submitting it for approval.

He referenced his 51 years of practicing law, noting his understanding that an injunction has never been granted by a court against the Army Corps for a permit or the modification of a permit because that entity cites a United States Supreme Court involving Chevron which states that a court must give great deference to the opinion of a permitting agency. He explained that no deference can be made to any agency during the coordination process.

Mr. MacLeod explained that since oyster restoration is being viewed as a best management practice, the Kent County Commissioners have expressed their interest in sending the same coordination demand letter provided to the County Council. He said he expects other member counties in the Clean Chesapeake Coalition to follow suit.

Mr. Grant expressed his belief that the most effective tool the Council may have is the Data Quality Act which provides the opportunity to request verification of all of the data that justifies the actions taken by the agencies in relation to the Little Choptank River Oyster Restoration project. He provided examples, including actions taken by Federal agencies despite sufficient evidence of the presence of endangered species.

Mr. MacLeod said the Data Quality Act is cited in the proposed correspondence. He explained that it is ready for Council's signature; however, page two will have to be amended to include dates for coordination meetings. He said he will work with Council's Office staff to pick those dates. He advised Council that it is his intention to use the same hearing dates for Kent County if the Commissioners agree to send the same or similar correspondence. He explained that the local jurisdictions can combine their hearings.

The Council agreed to send correspondence to the United States Army Corp of Engineers, U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Association, the Maryland Department of Natural Resources and other federal and state agencies seeking coordination under the National Environmental Policy Act.

In response to an inquiry from Councilman Bradshaw, Mr. MacLeod confirmed that he read the article in today's edition of The Star Democrat regarding mapping and survey work being performed by scientists at NOAA on oyster restoration and habitat. Mr. MacLeod noted with dismay that oyster restoration projects in both Harris Creek and the

Little Choptank River were completed prior to this work. He expressed his understanding that they are mapping of the bottom of the tributaries to analyze the effects of oyster restoration in sanctuaries. He opined that they should focus on allowing waterman to work the bottom which will remove silt from oysters, particularly in the upper Chesapeake Bay, in which the most productive natural oyster bars remain untouched and covered by sediment.

Councilman Bradshaw questioned whether pursuing coordination on oyster restoration will enhance efforts in seeking the dredging of the Conowingo Dam. Mr. MacLeod expressed his belief that sedimentation from the Dam and the Susquehanna River must be addressed in conjunction with oyster restoration.

Councilman Bradshaw said instead of placing additional regulations on farmers and watermen the State and Federal agencies should focus their attention on improving waste water treatment plants and replacing aging storm water infrastructure.

Councilman Travers expressed concern that the State is depositing foreign material into the tributaries of the Bay, noting his understanding from speaking with local watermen, it has adversely impacted the crab harvest in the Little Choptank River.

Mr. MacLeod noted that shortly after the County Council raised legitimate questions and concerns about the use of this material and its impact to waterways DNR redoubled its efforts by using two barges to dump this non-indigenous material. He said although DNR's oyster restoration projects in the Harris Creek and the Little Choptank River have been completed, initiating coordination will delay projects proposed for other areas.

Mr. Grant expressed his understanding that under the Data Quality Act once agencies receive a request for coordination they are required to stop disseminating data and pursuing any actions until the information is verified.

Mr. MacLeod said the proposed correspondence demands that funding be withheld and the State's oyster restoration project be halted until the agencies coordinate with local governments. He said it will be widely disseminated.

In response to a question from Councilman Travers, Scott Todd, President, Dorchester County Seafood Harvesters Association, said it is his understanding that DNR has sufficient funds to pursue oyster restoration projects until 2025. He explained that they are still transporting material from Florida to Maryland by rail car. He expressed dismay that DNR is still pursuing this project and using foreign material which he believes will only cover the bottom of the Bay and its tributaries and further decrease the oyster population.

Mr. Todd said it is his understanding that an oyster restoration project may be conducted in Florida and questioned why the material from a quarry in that state is still being transported to Maryland instead of being saved for that project. He advised Council that

earlier in the day he attended the Talbot County Council meeting and encouraged the Talbot Council members to join the Clean Chesapeake Coalition. He said although they extended an invitation to DNR to also attend that meeting, they failed to show.

Councilman Travers referenced the negative impact the poor crab harvest has had on citizens and the local economy. He expressed concern that the dumping of foreign material in the Little Choptank River has adversely impacted the crab population.

Mr. Grant said initiating the coordination process may delay the oyster restoration project and if so, because State funding is allocated in cycles, DNR may not be able to utilize all of the funding designated for this project during the current cycle.

Councilman Travers said the unused funds can be utilized for dredging so waterman can access local waterways to harvest oysters.

Councilman Newcomb noted that Lindy's Seafood is also start shucking oysters this year.

Donald Gray, resident, expressed dismay that DNR will not allow individuals to purchase shell from that entity or other seafood businesses. He said he obtained oyster shell from another source and had to give that material to the University of Maryland Horn Point facility staff and purchase shell from that facility instead. He explained that he was advised that the shell must stay at that facility for one year. Mr. MacLeod said he expects that JM Clayton's staff will be advised by DNR that they cannot return shell to local waterways after shucking oysters. He noted that the local policy to shuck oysters and return those shells back to the water will be discussed during the coordination process.

Mr. Gray questioned how DNR is able to return shell into the Little Choptank River but not local residents or businesses. Mr. MacLeod explained that the Council questioned the use of the fossilized shell and was advised that it was stone.

OTHER

Councilman Newcomb said an announcement will be made on Friday, September 19, 2014 that the Delmarva Fox Squirrel is being removed from the Federal Endangered Species List.

IRONMAN MARYLAND AGREEMENT

The Council acknowledged the receipt of an agreement from World Triathlon Corporation regarding the future hosting of Ironman Maryland events in Dorchester County. The Council agreed to set up a committee consisting of Mr. Merryweather and County staff to negotiate that long term agreement.

PUBLIC COMMENTS

Mr. Gray expressed concern about the overflow of “ole ditch” on a turn on Elliott’s Island Road that has resulted in the flooding of that roadway on multiple occasions. He said it is his understanding that out-of-county individuals are utilizing that road to access fishing areas and may not be aware of the flood risk. He questioned whether warning posts with lights can be installed on that road to alert motorists. Councilman Bradshaw explained that he also expressed his concerns about the “ole ditch” to Mr. Moore after speaking with a bus driver who travels that area daily regarding his concerns about flooding. Based on a suggestion made by Councilman Newcomb, Mr. Moore said he will add this item to the Traffic Safety Committee’s September 19, 2014 agenda.

Pat Lanahan, on behalf of the North Dorchester High School cross country team, asked the Council to consider allowing the team members the use the Beulah Landfill for practice. He explained that there are upcoming races in counties that have courses that include hills and running at the landfill will assist them in preparing for those events. The Council requested that Mr. Moore met with Mr. Lanahan and Sheriff James Phillips regarding this potential use.

COUNCIL’S COMMENTS/ADJOURNMENT

Councilman Price inquired as to whether Michael Spears, Finance Director, has any projections for FY16 based on questions he received from constituents. Mr. Spears said he does not have any projections; however, he will email the Council the estimated figures for FY16 property assessments tomorrow.

Councilman Price recognized that the Town of Hurlock Fall Festival and Parade and East New Market Heritage Day will be held on October 4, 2014. He encouraged the public to attend these events.

Councilman Bradshaw explained that the Department of Navy recently received additional funds to purchase preservation easements in the County. He expressed his belief that in addition to acquiring these easements, the Department should be able to pursue mitigation projects such as shoreline erosion control in the County. He noted that there is substantial shoreline erosion along Nanticoke River. He said it is his understanding these projects can only be conducted within a certain range from the Patuxent River Naval Air Station facility (Patuxent River). Based on a motion made by Councilman Bradshaw, the Council agreed to send correspondence to Senators Barbara Mikulski and Benjamin Cardin and Congressman Andy Harris seeking the amendment of language to allow Patuxent River to pursue mitigation projects in Dorchester County.

Councilman Bradshaw commended the Council for initiating a demand for coordination with Federal and State Agencies regarding oyster restoration. He said local watermen and farmers have advised him that they support Council’s efforts. He explained that even though the Army Corps permit issued to DNR specified that the oyster restoration efforts should not impede on the crab or oyster harvest of recreational or commercial fishermen,

two watermen were forced to abandon areas they were harvesting. He explained that once they left the area DNR staff placed a barge at that location and began unloading the foreign material into the water.

Based on information provided by Councilmen Newcomb and Price, the Council agreed to reappoint James Bell and Susan Wingate to the Social Services Board.

Councilman Travers reminded the public that the Ironman Maryland event is being held this weekend.

Based on a motion made by Councilman Newcomb, the Council agreed to send correspondence to DNR seeking an extension of the 2014-2015 Maryland deer hunting season due to a substantial rise in this population in the County. Councilman Newcomb explained that citizens have expressed concern that these animals are causing extensive damage to yards, trees and plantings. He said there has also been an increase in motor vehicle collisions.

Councilman Newcomb referenced the City Council members' decision to instruct the Sailwinds Park Board of Directors to stop booking events for Governor's Hall as of January 2, 2015. Based on a motion made by Councilman Newcomb, the Council agreed to send correspondence to them asking for an extension of this deadline and for the Council members to consider constructing a new Governor's Hall on the existing property.

Councilman Newcomb announced that the next County Council meeting is scheduled for October 7, 2014.

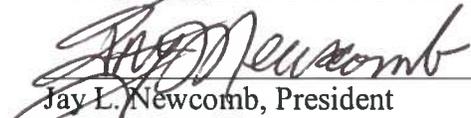
With no further business to discuss, the Council adjourned.

ATTEST:



Donna F. Lane
Executive Administrative Specialist

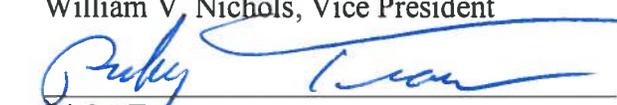
DORCHESTER COUNTY COUNCIL:



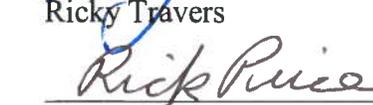
Jay L. Newcomb, President



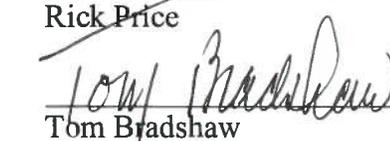
William V. Nichols, Vice President



Ricky Travers



Rick Price



Tom Bradshaw

Approved the 7th day of October, 2014.