

Open Work Session

Legislative Bill 2021-02 – Proposed Hotel or Multifamily Residential Development Property Tax Credit August 3, 2021

Mr. Dodd asked Mr. Andrew Mitchell, Council Attorney, to discuss his position on this, to which Mr. Mitchell responded, actually, he does not have a position so much as he was responding to some questions. He said, as he sees it, the use of appraisals to set the price is not permitted under the Enabling Act from the State Government. He said he thought from the way the amendment had been offered that it was an attempt to respond to some questions that had been raised by Mr. McCain and also during Public Comments by Mr. Brett Davis about the situation where they come in thinking they are going to build a \$10-\$11 million dollar project, but after they are finished it is assessed at something less. He said assessments are frequently below fair market value, which is pretty well known. He said he has suggested a way it could be done, and it is a little convoluted, but the idea was to set the threshold at \$9 million instead of at \$10 million, and he is just picking that as an example, but set the criteria to qualify that they had to have either \$10 million dollar assessment or a \$10 million dollar appraisal, it would let a developer know somewhat in advance from a preconstruction appraisal that the project probably will qualify. He said that way it would not catch them short when all their financing may be based upon the idea that they are going to get the tax credit, but then come up a little bit short. He clarified, of course that is only if the County is willing to take a project that has a lower assessment. He said, to the extent that they are getting the credit upfront, the first few years do not make a big difference to the County because they are not collecting that money anyway, but it is totally up to the Council whether they think it is appropriate to drop that down to a smaller threshold or not, or whether they even want to address even smaller projects that they think are going to be successful, but that is not his call. He clarified, he is just saying they cannot use the appraisal in place of the assessment.

Mr. McCain said because the State Enabling Legislation used the term the increase in value has to be based on the assessment, Mr. Mitchell is saying that it does not matter if they were trying to add an appraisal option or whether they were trying to add a cost investment option, any other option at this point in time they would not be able to do because of the way the language is crafted in the State Enabling Legislation because it references the increase has to be based on the assessment.

Mr. Mitchell responded, that is correct, it does not give them any other option. He clarified, it does not, however, set it at \$10 million, it just says it has to be a substantial increase in the assessed value, so it depends on what the Council sets as a substantial increase, and he knows that has been discussed quite a bit.

Mr. Holloway said, once this project gets approved, if it gets approved, it will have plenty of opportunities for people in the future coming in wanting tax abatements for a lot less than \$10 million dollars, and it will be up to the Council at that time as to whether they want to do that. He said this one project will set the tone and set a precedent for what happens in the future, so he thinks the Council, if they approve this, will get plenty of opportunity to change the amounts to any figure that they want to.

Mr. Mitchell pointed out that the Legislation as introduced requires a review in three years.

Mr. McCain said it sounds to him that at the meeting on the 17th they will just need to rescind the amendment that was made because, essentially, they cannot do it, which leaves them with the

Legislation as introduced. Mrs. Hurley clarified, it was introduced with the amendment, but once Mr. McCain rescinds that amendment, then it goes back to the original form of the Bill as presented.

Mr. Dodd asked what they have to do during this Work Session with it, to which Mrs. Hurley responded, they can discuss any amendments they would like to make and they can discuss the Bill in general, but they cannot do any formal motions in a Work Session.

Mr. Cannon thanked Mr. Mitchell for picking up on this and helping the Council with it.

Mr. Holloway said he has a couple of things to discuss that they could possibly put into amendments at the next meeting, and this will give Mr. Mitchell a chance to check into it. He said they kind of jumped the gun on the last one not realizing they were not allowed to do that.

Mr. Holloway said he knows they keep saying this is for student housing and he keeps hearing concerns from citizens that, if it does not work out for student housing, what is it going to be. He said it could be housing for anybody, and he knows they keep saying there is not going to be any impact on the schools with this project because it is going to be college students, not high school students. He said he thinks one amendment they could put in that would probably make sense is that this tax credit, if passed, would only be for college students to be the only people who could live in that building as long as the tax break was being given.

Mrs. Acle asked if that would conflict with the Fair Housing Act, to which Mr. McCain responded, that is something Mr. Mitchell is going to have to look into. He said, from a real estate perspective, he is not sure the County Council can say who can live where. Mr. Holloway said he does not think it will conflict because they cannot tell them who can live there, but they can say who gets the tax abatement, and anybody can live there, but if it is not students, they would not get the tax abatement.

Mr. Dodd then asked Mr. Psota and Mr. Wilber to join the Council in case the Council has any questions, or if they have any input. Mr. Paul Wilber, County Attorney, and Mr. John Psota, Acting County Executive, then came before Council.

Mr. Dodd said Mayor Day was at their meeting the last time this was discussed, and he thinks he asked the question of whether it was going to be college students, but they did not really get an answer of who is going to be residing there. He said he remembers at first they said the project was going to be luxury apartments, but then not long after that they said it was going to be student housing, so he is not sure what it is going to be at this point.

Mr. Wilber said the Legislation as it is drawn right now references hotel and multifamily residential, which certainly is a lot broader than students. He said, if Council is going to narrow it down, they will need to change up their definitions.

Mr. Holloway said this is their Legislation, so they can amend it to make it only available for college students because they have been touting that it is only going to be college students living there.

Mr. Wilber said, if they knock that out, then hotels would probably go out of it completely, and multifamily, so they would be limiting it to just student residential development.

Mr. Dodd asked if that would be just for that one project, to which Mr. Wilber responded, that would be for all projects. He explained, this is Legislation that applies to all properties inside the HORIZON Zone.

Mrs. Acle said it says multifamily, which means it is family units, and that this would not apply to student housing, to which Mr. Wilber responded, it could because he thinks students would fit within the multifamily definition.

Mrs. Acle asked if they know who is going to administer, oversee, and process this, to which Mr. Wilber responded, Finance. Mrs. Acle said theirs is different than the City's, so it is not like they can just piggyback off what the City does. Mr. Psota clarified, the Finance Department would do it, just like they do other tax credits. Mrs. Acle asked if they will have to add any additional staff, or is that something they can currently manage, to which Mr. Psota responded, no additional staff will be needed.

Mr. Holloway asked if Mr. Mitchell will look into that to see if that is viable, to which Mr. Mitchell responded, yes, he will.

Mr. Holloway said the other thing he has heard a lot of concerns about who is involved in this, and he thinks that they need to make an amendment to put into the Bill, if it is passed, that any investors, owners, or lenders will be made public as long as the tax credit is given.

Mr. Dodd asked if they know whether any of the proposed projects are LLCs, to which Mr. Wilber responded, he does not know for certain, but typically a project would be put into an LLC or a corporation. Mr. Dodd said usually they do not know who they are if it is an LLC. Mr. Wilber said they could find out from who the members are. Mr. McCain said they have to have a registered agent as an LLC. Mr. Holloway said a lot of times that does not involve who the actual players are. Mr. Wilber said they could put that in the application.

Mr. Holloway said they said they needed this to get off the ground and get it going, but he thinks if the building is sold that the tax credit should end. Mr. Dodd asked if the current Legislation includes anything if it is sold, to which Mr. Wilber responded, yes. He said paragraph F states that property tax credit granted may be transferred to a purchaser of the property.

Mr. Mitchell said the question would be what is meant by sold. He clarified, if it is an LLC, they could sell all the memberships in the LLC without touching the deed, to which Mr. Holloway responded, he will let Mr. Mitchell take care of that. He said that is why they have Mr. Mitchell at the end of the table.

Mrs. Acle asked Mr. Dave Ryan, Executive Director of Salisbury-Wicomico Economic Development (SWED), to talk about the economic impact they will have in the County. She said they spoke previously about the public school system and how that would look and if this will have any impact on local funding, such as the State's Attorney's Office. She then asked if Mr. Ryan has had a chance to look into any of those things, to which Mr. Ryan responded, no.

Mr. Ryan then came to the podium and said he has not looked into the economic impact, but of course if people end up living there, there will be two types of taxes. He clarified, there will be real property taxes, but then the other side of the coin is income taxes depending on their residency. He said, whether that will wash each other out he does not know because it would depend on who lives there and those tax rates.

Mr. Mitchell said, if they are students there will probably not be much income tax, to which Mr. Ryan responded, there are grad students who might work.

Mr. Holloway asked if there has been any research done on the impact on services? He said they have this little website called Eastern Shore Undercover and it just seems like Downtown Salisbury is overrun with fights on the weekends, and he is sure the Sheriff's Department has to come in and help Salisbury all the time because he understands that Salisbury is really down in manpower, as is the Sheriff's Department. He said he keeps hearing all the good things about this, and they know it is a good thing if the buildings are built, but do the taxpayers need to subsidize this, especially when it is going to be taking their services. He said it will take services, and to think it is not going to take services is ludicrous. He said they cannot build multimillion dollar buildings that do not take services, and that has been proved already because the City gave them \$300,000 in free sewer hookups while they raise water and sewer on the rest of the citizens in Salisbury. He clarified, that is their business, not this Council's business what the City does, and they can give it all away if they want to, but he looks out for the citizens of all of Wicomico County just because he is from District 5. He said, if they are going to put up a building with 300 people and they do not address what the economic impact is going to have in reverse, they can say all the good things about it, and he knows that is Mr. Ryan's job to say all the good things that come to town, but they also have to address what this is going to cost the County. He said he knows people have said it is not going to cost the County anything because of the revenue cap, but three years ago the Greater Salisbury Committee and the Chamber of Commerce were trying to talk the Council into altering the revenue cap so they could charge the citizens of Wicomico County more property taxes, but now they are trying to give free property taxes to a certain group of people.

Mr. McCain said he will just correct the last statement because he sat on the committee that did the study on the effects of the revenue cap every 20 years. He clarified, they were not trying to alter the revenue cap to increase taxes to the citizens, they were addressing the lack of resources. He said the study that was done by Beacon was simply where they had been with the revenue cap, period.

Mr. Holloway said he was at the meeting where they very clearly said they needed to alter the revenue cap in case they needed to raise taxes, and he thinks that statement was made in case there is a natural disaster that they would need the ability to raise property taxes on the people of Wicomico County. He said his answer to that was that people's houses would be blown down and they want to raise their property taxes. Mr. McCain said they could go through the whole revenue cap argument for the next hour if Mr. Holloway wants, which does not protect the tax rate, by the way.

Mrs. Acle asked Mr. Ryan if he would pull some data on other Counties or Cities that have done this on how it has impacted them or how they had to plan accordingly for the next budget, to which Mr. Ryan responded, sure. Mrs. Acle said she knows Mr. Ryan is in economic development so he wants it to sound good, but something a little bit more objective than the developer's economic impact and something more towards the County services.

Mr. Cannon said, looking at some of the numbers that are projected, right now the properties are bringing in around \$25,000, and even with the 80 percent tax credit for the very first year the estimation could be as much as \$215,000, so they can figure out what that would pay towards services. Mrs. Acle asked if that is from the developers, to which Mr. Cannon responded, that is from the projections that were requested of the developers, and that is based on the assessed values of the properties. Mrs. Acle clarified, the developers did this economic impact, to which Mr. Cannon responded, no, it is taking the values of the properties being proposed and taking what the assessed value is and what the 20 percent

would be, and that is how they come up with that number. He said that number is \$215,000 as opposed to what they are paying now, which is only \$25,000 a year. Mr. McCain added, it is just the math.

Mrs. Acle asked, so if each unit has three children, how is that going to impact their public school system if they are not collecting 80 percent of the property taxes, to which Mr. Cannon responded, there are a minutia of scenarios they could go through, but he thinks the bottom line is that they are looking at whether they want to bring in \$25,000 a year in perpetuity, or do they want to try to create an incentive for developers who are going to be bringing a minimum of \$10 million dollars into this community. He said, if they look at what the assessments will be by the time they are done, the whole buildout is going to be \$913,000 a year that the County finally could receive. He said, if it does not work out like it is supposed to, they could still take half of that number and no one can tell him that the County could not afford services with \$400,000 dollars as opposed to \$25,000 the County is getting right now because \$400,000 is a pretty large number.

Mrs. Acle said she gets what Mr. Cannon is saying, but please understand that she wants to make sure they are not overcrowding their schools and not come back in five years and have a school that cannot hold the students, or does not have enough building maintenance. She said she just wants to know what the plan is, to which Mr. McCain responded, that was addressed when Mayor Day was here. He said these are not single family homes, these are multifamily projects, and some of the projects proposed are student housing projects, and some are apartments. He said most apartment dwellers in the City are the younger population, and, in fact, it was stated that there was not one single rental apartment in Downtown Salisbury right now that actually has school-aged children, so these are not single family home developments. Mrs. Acle said they really cannot say that, to which Mr. McCain responded, well the fact is that they do not have any now and they can say that apartments are not typically occupied by families with school-aged children.

Mr. Holloway then asked Mr. McCain if he has ever been to Moss Hill or any of those places lately and seen how many kids are waiting for the school bus, to which Mr. McCain responded, once again, they do not have a single occupied rental unit in any of the Downtown apartments that have school-aged children. Mr. Holloway asked how many Downtown apartments they have, to which Mr. McCain responded, someone from the City would have to answer that. Mr. Holloway said Mayor Day also said they are playing with monopoly money during his statement.

Mr. Holloway said, going back to Mr. Cannon's statement about getting tax dollars and it not really costing them, he has heard Mr. Cannon say before that it is actually going to help. He said, if that was the case, why have they not been giving large tax breaks to buildings or businesses that are already in Wicomico County and help them out, to which Mr. McCain responded, they do, they have the Enterprise Zone. Mr. Holloway said that is the Enterprise Zone, not this, and the Enterprise Zone is different. Mr. McCain said they do that routinely, to which Mr. Holloway responded, not Countywide, it is a Zone.

Mr. Cannon said this Council has approved Enterprise Zone tax breaks for 20 years, and Mr. Holloway approved every single one of them, to which Mr. Holloway responded, he understands that he has, but this is not the same. He said, with the Enterprise Zone they have to guarantee employment, to which Mr. Cannon responded, it is that they have to provide two jobs or invest \$50,000. Mr. Holloway said they also get half of that money back from the State, to which Mr. Cannon responded, right, but they are still giving tax credits. Mr. Holloway said they are still giving tax credits to other people too.

Mr. Cannon said this is not that much different, it is just that at this point in time the City has recommended and come up with a project that is for hotels and multifamily properties because they felt there was a need, and there could be a real return on investment for that, and he agrees with that and thinks it is a very good thing. He said, if they want to see the Downtown area still bringing in the same returns for the next 20 years, they would be bringing in the same property taxes forever; but if somebody says, if they will give them an incentive on investments, here is what their average estimated return on that investment will be and it is 10 times or 32 times what they are getting now, he thinks it is worth taking.

Mr. Holloway asked if they will be satisfied with 10 times on the investment, to which Mr. Cannon responded, he thinks anybody on the planet would like 10 percent return on investment. Mr. Holloway said on the Ross they are guaranteeing a 15 percent return on their investment, to which Mr. Cannon responded, he is just telling Mr. Holloway that what revenue they are collecting now would be tenfold on just the Ross project, but would be 32-fold on the entire Zone.

Mr. Holloway said, if these are viable projects they should be able to stand on their own without tax breaks. He said he is offering a 15 percent return to his investors, but is saying he has to have this tax break to do that. He then asked why the taxpayers should foot that bill, to which Mr. Cannon responded, the taxpayers are not footing that bill, and that is the biggest misperception he has seen coming from this table. He clarified, the taxpayers are not footing the bill, these are incentives being offered on values of property they have not even seen yet, and is only on the improved value of the property. He said the current tax rate that every property is being taxed stays the same, the base rate does not change, so they will be collecting that forever, and the only forgiveness is on the increased values. He said, if a project goes from \$1 million to \$10 million, they are only giving an incentive on that additional \$9 million and they are only doing it for ten years. He said, if they look at the long-term and see what the return is, that is what their benefit is, to which Mr. Holloway responded, the benefit would be greater if they charged the normal amount of taxes too, and if they were viable projects he would not need to have tax abatements. He said the City has already given him plenty of tax abatements, and if that is what they want to do, that is fine and that is their business, to which Mr. Cannon responded, well that is kind of like the mentality in Washington where they want to just tax every business for every dollar they can squeeze out. Mr. Holloway asked that Mr. Cannon not compare them to Washington, to which Mr. Cannon responded, he is just saying that Mr. Holloway is trying to get every tax dollar he can possibly get out of everyone. He said incentives are created to possibly create economic development for what they see is in the best interest for the public as a whole, and that is what they are trying to do here, to which Mr. Holloway responded, and he is trying to be fair to all the citizens in Wicomico County who have been footing the bill to run this County all these years. He said, when they all walk in there and pay their property taxes, they are paying the full amount, to which Mr. Cannon responded, and if these projects come to fruition, all those people with their property taxes will be reduced, and Mr. Holloway knows that and he himself knows that because they have a revenue cap. Mr. Holloway said, if that is the case, they should reduce taxes on a lot of other buildings and everybody's taxes will go down, to which Mr. Cannon responded, he is talking about this project. Mr. Holloway said he is talking about all of them. Mr. Cannon said all the people coming in to pay their taxes will have their taxes reduced, and Mr. Holloway knows that, to which Mr. Holloway responded, no, he does not.

Mrs. Hurley said the Enterprise Zone was established and applications get approved by the City as well as the County Council. She said this Bill is written where the applications are processed through the

Finance Department. She then asked if they would then come before the County Council for approval for the individual applications? She clarified, she understands the Legislation is to create the Zone, but should they then come before the County Council, to which Mr. Wilber responded, they could put that in if that is what the Council wishes. He said he thinks the concept right now is that the application would be approved at the Finance Department level and then up to the Council.

Mrs. Acle said, when they talk about hotels, that is going to bring jobs, but is there a way they could ask, similar to the Enterprise Zone application, how many jobs they expect the project to bring, to which Mr. Wilber responded, sure. Mr. Dodd said that would not guarantee anything, to which Mr. Wilber agreed, it absolutely does not guarantee anything.

Mr. Hastings said he thinks a lot of folks have a misunderstanding about what this is, and he thinks it is important to understand that this is not a unit of government writing a check to somebody who is a rich developer, this is the County opening the door for a process for a company to do what they do best. He said the County only wins if they win, and they only would get more money into the County. He clarified, this is mostly a City of Salisbury situation, and they could extend it out, but above all else this is about heads and beds and getting folks into Downtown redevelopment. He said the amount of money that will come into the County is likely to be at least north of \$10 million dollars, which is a math equation on those individual properties and does not include the likely multiplier effect of which the surrounding property value will then rise also. He said, on top of that, he thinks it is important to talk about the jobs component of this. He said this will bring significant development Downtown, which he has been hearing his entire life that they need to get the Downtown back, so this would be an opportunity for Wicomico County residents who have skills and trades. He said the college has specifically said they want to be a part of this and have intentionally developed Downtown. He said he wants to be clear that this is something that does not go across the entire County as the way this map is set it would be in the City of Salisbury, so this is something to support what the City of Salisbury is doing to address their Downtown redevelopment. He said these properties have not been developed in most of his entire life, so he just thinks it is important to bring it back. He said they do not know the full understanding of how much money will come in, but if it is a net benefit of even \$10 million, that is pretty huge.

Mr. Hastings said HORIZON is the program the City of Salisbury set up for hotel and residential development, but obviously they do not have to worry about people coming to hotels who have kids who are going to be in the school system. He said this is intentionally about heads and beds and getting people Downtown so that area can blossom, and when it does it will raise the property values and benefits for residents across the entire County.

Mr. Dodd said it should be noted that these construction jobs are only temporary jobs, so will only last as long as the construction is going on.

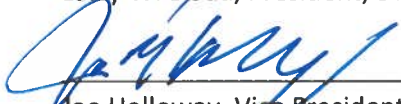
Mr. Holloway said Mr. Hastings stated at the Fire Association meeting that the gentleman already has borrowed his money. He then asked if that is correct, to which Mr. Hastings responded, he thinks Mr. Holloway misunderstood what he was saying. He clarified, what he stated was that Mayor Day mentioned that it is not Hebron Savings Bank that is going to have the ability to do the financing for a project like this, they have to go out of town. He said they have been going after this for a couple of years now to try to figure out how to get the financing, so he thinks that is where the conversation was. Mr. Holloway said the conversation at the Fire Association meeting is that Mr. Hastings said he already

had his money borrowed, so he did not need to borrow anything, to which Mr. Hastings responded, Mr. Holloway misunderstood what he was saying.

There was no further discussion.



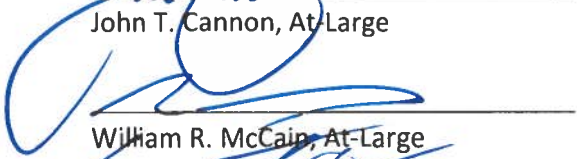
Larry W. Dodd, President, District 3



Joe Holloway, Vice President, District 5



John T. Cannon, At-Large



William R. McCain, At-Large



Ernest F. Davis, District 1



Nicole Agle, District 2



Josh Hastings, District 4



Laura Hurley, Council Administrator