

Wicomico County Council
Open Work Session
July 15, 2014

Work sessions require written minutes that reflect each item that the public body considered, the action that the public body took on each item and each vote that was recorded. **It should be noted that at work sessions, the Wicomico County Council does not take formal action, nor is a vote taken on any item discussed.**

In attendance: All Council members, Wayne Strausburg, Director of Administration; Jack Lenox, Director of Planning and Zoning, Keith Hall, Long Range Planner; Andrew Mackel, Director of Finance; Matthew E. Creamer, Council Administrator; Edgar A. Baker, Jr., County Attorney; Maureen Howarth, Deputy County Attorney and Melissa Holland, Recording Secretary.

Comprehensive Plan :

Mr. Keith Hall said updating the comprehensive plan process began five years ago. He said there are five major components which the Planning Commission and planning staff considered. He said they reviewed the 1998 plan and compiled the data and reports and said they came up with a public participation plan. Mr. Keith Hall said there have been 13 public meetings which were held on the Water Resources Elements as well as the Comprehensive Plan. He said there were 40 Planning and Zoning Commission work sessions which were open to the public and included public participation. He said they had a survey form as well to see what the citizens wanted to see over the next thirty years. Mr. Keith Hall said they did newsletters as well to keep everyone informed and to make comment. He said the department met with anyone that wanted to meet with Planning and Zoning staff to discuss planning issues. Mr. Matt Holloway asked how public turnout was at the meetings to which Mr. Keith Hall said there was a very good turnout. He said the goals are similar to the 1998 plan, to preserve agricultural integrity of the area; preserve natural resources and direct growth to the metro core and developed growth areas. Mr. Keith Hall said they worked with the Planning and Zoning Commission to prepare a draft. He said they looked at their resource documents to see what the county has done in the past. He said that all municipal growth elements were included from the municipalities. Mr. Keith Hall said there are fourteen elements in this plan including three new elements. He said this is an overhaul of the 1998 plan. He said the three new chapters added were: Water Resources Element; Agricultural elements and economic development sustainability element. He said the document was placed at the Library, on the website and copies are available at the office.

Mrs. Prettyman asked how many elements were in 1998 plan to which Mr. Keith Hall said nine. Mrs. Prettyman asked if the comments received were from a diverse group to which Mr. Keith Hall said the comments received are diverse in both content and their origin. Mr. Joe Holloway asked who the people were that had comments. Mr. Keith Hall said there were various people from all over Wicomico County and the Greater Salisbury Committee had concerns regarding water and sewer for the county. Mr. Lenox said a lot of business people were concerned about fiscal sustainability. Mr. Keith Hall said the plan has been through the sixty day review process and comments

were received from the Maryland Department of Transportation, Maryland Historic Trust, Maryland Department of Environment and Maryland Department of Planning. Mr. Keith Hall said on March 20th the Planning and Zoning Commission made a decision to move the plan forward to the Executive and County Council.

Mrs. Bartkovich said the addendum was not presented at a public hearing for comments. Mr. Keith Hall said it is a minor amendment to the agricultural chapter. He said the only addition was the map and tabulations.

Mr. Matt Holloway asked what the Council's role is in this process. Mr. Keith Hall said the Planning and Zoning Commission is the body responsible for providing the update and the County Council is responsible for the adoption of the document. He said there is a now a ten year review process period. He said the Council will have to hold at least one public hearing.

Mr. Lenox said the Planning Commission made a lot of decisions and one of the most significant decisions was to hold this plan as closely advisable to the 2004 zoning map. Mr. Keith Hall said any areas previously designated as growth areas per 2004 zoning, if the city or town didn't pick them up as municipal growth elements through annexation they remain county designated growth areas. He also said there was no down zoning and the housekeeping that took place tweaked up zoning to get rid of nonconforming uses. Mrs. Prettyman asked if the 2004 map had two floating zones to which Mr. Lenox said they are still in the code but Council could take them out with the zoning code. Mrs. Bartkovich said the zoning code will need to be updated.

Mrs. Prettyman asked since the County has not adopted a tier map how will that fit into this plan. Mr. Lenox said it is the County's option to adopt or not adopt a tier map. He said the tier map is not incorporated in this plan. He said the county will remain at a maximum of seven lots until a tier map is adopted. Mrs. Sample-Hughes said if a citizen were to start building then there is a maximum of lots they can develop then the county contradicted themselves with the economic grant. Mrs. Bartkovich feels that if this Council started with the tier maps this Council should adopt the tier map. Mr. Lenox asked the Council to move forward with the Comprehensive plan at this time.

Mr. Culver said if the recommendation is taken that the county is going to move preservation 80% of undeveloped land in the PPA and make it reserved he has a problem with that. He said if most of the county is preserved he doesn't see a reason to adopt the tier map. He would like to adopt the tier map first and the metro core will no longer exist once the tier map is finished. Mr. Lenox said there is an area designated for development in the Delmar/Fruitland/Salisbury area and if the county doesn't adopt a tier map the county growth areas will be subject to the seven lot limitation. Mr. Culver said he feels if the comprehensive plan is adopted first the Council will have to start over. He said that he is fine with preserving land but not putting a percentage of land being preserved in the plan. He asked if the county is growing in farm land or losing farm land. Mr. Keith Hall said he will have to look at the numbers. He said the statistics can vary. Mrs. Prettyman said it looks as if the county has four growth areas in the comprehensive plan and other than that there is no growth in the county. Mr. Keith Hall

said this is based off the land use plan and the priority preservation area being presented is the entirety of the A-1 land except for the ones that were re-zoned or a different land use was done. Mrs. Prettyman said this is exactly like the first tier map was. Mr. Keith Hall said the tier map and comprehensive plan are consistent in the A-1 area. He said if this is adopted it will still be the same that the limit is seven lots in any unincorporated areas in Wicomico County that have no sewer. Mr. Keith Hall said that in Cecil County they didn't follow their comprehensive plan and went against their zoning map and now Cecil County subdivision review goes directly through MDE and the Health Department has been removed from approving the lots.

Mr. Matt Holloway said if a tier map was passed then in Tier 4 a person would be allowed up to 15 lots per parcel using Transfer Development Rights. Mr. Keith Hall said the economy didn't support the TDR program which is why the program didn't work. He said the TDR program is going to have more ability to work in the A-1 zoning area because people are going to want to build 15 lots instead of 7. Mr. Culver said then a tier map should be adopted first. He said he does not believe in down zoning.

Mrs. Prettyman asked Mr. Keith Hall for a copy of the TDR at the next meeting. Mr. Matt Holloway said the state has made a TDR program in the A-1 district. Mrs. Prettyman would like the language in the state law. Mr. Keith Hall said the County program is still effective but the state law limits the county to how much can be transferred and where it can be transferred. Mr. Culver would like to see a zoning map.

Mr. Matt Holloway asked if the Council wants to work on the comprehensive plan, or work on the tier map. Mr. Culver said two chapters could be done at each meeting. He said this Council should make a decision on the tier map. Mrs. Sample-Hughes asked what the timeframe is to hear comments from the state. Mr. Keith Hall said the tier map could be a stand alone administrative map and the state is encouraging counties to incorporate the map into the comprehensive plan. He said a public hearing will need to be held. The tier map and comprehensive plan will be adopted by resolution. Mrs. Bartkovich is disappointed that the Council has not had the tier map on the agenda as there is not much time for Council to adopt a tier map.

Mr. Keith Hall asked what he should bring to the next meeting which Mr. Matt Holloway said tier maps and zoning maps.

State Attorney's Office :

Matt Maciarelo, State's Attorney; Katie Rodriguez, Intern; and David Martz, Senior State's Attorney and District Court Supervisor came before Council. Mr. Maciarelo said the Richmond vs. DeWolf decision is in the packet. He said that that at a commissioner's hearing after someone is arrested and brought before a commissioner, which, is a crucial stage of the proceeding and based upon a law, an indigent defendant who would qualify for public defender service is entitled to a lawyer at that stage. At that point counties are responsible for 24 hour bond reviews where a State's Attorney, Public Defender and a Commissioner are present. He said that Baltimore City was already doing this as were some other counties. Mr. Maciarelo said that he prepared legislation for Delegate Michael McDermott which Mr. McDermott presented to delay its

implementation and this law was not implemented for two years. He said a compromise was reached with the court revisiting the matter and the court ruled it is constitutional. Mr. Maciarelo said the state provided judges with \$10 million across the state to handle the cost of having attorneys present at hearings. He said there are hearings seven days a week and an attorney is paid by the judges to sit there from 8:00 a.m. until 4:00 p.m. and the attorney is being paid by the judges. He said that at some point probable cause arguments will be made. Mr. Maciarelo said one of the major concerns is domestic violence cases and they can provide more information which is important. He said if a person is arrested Monday night at 8:00 p.m. and if the person is arrested for second degree assault they are carried before the commissioner and the commissioner asks the defendant if he wants an attorney. If the defendant wants an attorney the meeting is over and they are detained until the attorney is seen the next day. If the person says I don't want an attorney that person goes before the commissioner and bond is set or not set. If they don't bond out they are carried to the District Court the next day and the judge will determine if the bond was appropriate. He said commissioners have no legal training and they are not lawyers or judges. Mr. Maciarelo said another option is if the same person asked for a lawyer, the process stops and the person is detained and waits until 8:00 a.m. when the person is taken over to meet their lawyer. After meeting with the lawyer they are taken back to the commissioner and the State's Attorney comes over and both parties make their arguments. The person then goes back to Corrections and the next day they see a judge.

Mr. Maciarelo said in the District Court unit there are four attorneys and there are 25 dockets in District Court with another 25 in the afternoon. He said they don't have a lot of time to prepare the cases before court. He said that this law is cutting into the attorney's prep time as four hours a day minimum his staff is going over and making arguments on bonds. He feels the amount of time will increase in the future. Delegate Michael McDermott joined the conversation.

Mr. Martz said they are asking the commissioner's office to have a certain time where all the people that requested hearings can be seen at one time. Mr. Maciarelo said he does not feel that it will change and that he has been screamed at for making suggestions.

Mr. McDermott said he feels that something will change and the Governor did not include any money in his budget to fund this. He said that the unfunded mandate that the county has to provide an attorney he believes will always be an unfunded mandate. He said there was a strong move in the committee to eliminate the commissioner's office and issuing citations in some cases but that will be discussed during next legislative session. Mr. Maciarelo doesn't feel this will be fixed permanently in Wicomico County and suggests another attorney to help prepare the cases. He said that one prosecutor at \$56,000 and \$45,000 for overtime would help his office with this situation. He said that after the call the attorney has to be at Corrections in a suit and tie in 20 minutes after being called. He does not feel that a part time attorney is the answer and would lower the quality of the District Court unit. Mr. Maciarelo said the heroin problem in Wicomico County is very severe.

Mr. Strausburg said he would like to come back with a proposed budget solution for the Council. He said the need is there and he would like to see if there is a way to source the funds. Mr. Maciarelo said the new attorney would be placed in the District Court rotation and part of their off day would be trial prep and covering the Richmond hearings on the work days. He said on weekends it will be opened to all attorneys and they can sign up and earn their hourly wage for being on call Saturdays and Sundays. Mr. Maciarelo said the Public Defender is pushing for 24 hour bond reviews. The attorney that sits and waits for the reviews is paid \$50 per hour from the money from the District Court judges which was given to the judges. Mr. Strausburg said once the \$10 million is gone the county will be paying for the private attorney to sit at Central Booking on weekends.

Mr. McDermott asked for a letter to break down what it will cost and that this would be a great burden on Wicomico County.

Open Work Session adjourned.