

Open Work Session
Local Preference
April 2, 2018

Mr. Nick Rice, Purchasing Agent, came before Council. Mr. Cannon said he believes they have had a Work Session before touching on this topic to a certain degree. He then asked Mr. Rice if information was shared with him from other Counties as to what they are doing as far as local preference is concerned, to which Mr. Rice responded, yes, he did see that. Mr. Cannon asked what Mr. Rice's take on it was, in reference to some of the other Counties as far as how they were dealing with it, to which Mr. Rice responded, he thinks one of the biggest examples he saw was one County that stated they put a policy in place and implemented it in 2012, and then, in 2016, they removed it for various reasons, which he believes were brought up in the previous Work Session. Mr. Cannon said it was St. Mary's County. Mr. Rice said, just looking at local preference, it sounds like a great idea, but he just thinks, when they dig deeper into it, as Mr. Taylor discussed with the legal side of it, this could put the County at a little bit of a risk for protest. He said it starts to muddy the waters a little bit on how they do the bidding process, and he just thinks the disadvantages far outweigh the advantages of it. He said, with that said, there are ways they can definitely help the local business community, one of which is just educating local businesses on how to do business with Wicomico County.

Mr. Rice said there is another idea they have been kicking around locally with the City of Salisbury, as well as the Board of Education, Town of Ocean City, Wor-Wic, and Salisbury University. He said there is a group of local professionals who get together, and there is an idea of doing kind of a reverse tradeshow where all the purchasing professionals get together and allow the local business community to come in and talk with them, ask questions, and find out whatever information they need because they all have different policies and procedures. He said, for the most part, they are similar, but the bidding thresholds are going to be different, and the way they handle formal and informal bids might be different between the State, the Cities, and the Counties.

Mr. Rice said there is another way they are helping local business owners, which they have discussed before. He said, since he has been with the County, they have raised their formal bid threshold from \$5,000 to \$25,000. He said this allows them to do informal bids with everything that is under \$25,000, and, if there is a wide enough vendor base within Wicomico County, they can solicit only Wicomico County quotes. He said he believes when this topic originally came up it was regarding a vendor who had a complaint that it was a small threshold. He said the vendor was a local Wicomico County business, and the County ended up awarding the bid to a Delaware company. He said that contract was \$6,000, and, at that point in time, they had to do a formal bid, and the formal bid clearly stated the lowest bidder would be awarded no matter if they are in Wicomico County or Delaware. He said, since the County has now raised that threshold to \$25,000, those goods they were purchasing can now be purchased from only Wicomico County businesses if they choose. He said there are definitely ways they can go around and help out the local community without strictly putting in a local preference policy. He said he thinks it is proven, after talking to some people who have done a policy, or attempted to do it, that there is a major headache in attempting this. He said one issue raised was how to define local, and whether that means it is within the County, a business within the County, or if the business owner is within the County. He said there are a lot of gray areas there, and the government purchasing professionals prefer it to be as black and white as possible.

Mr. Cannon said St. Mary's County seemed to have trouble with this policy, but Queen Anne's County did not seem to have trouble with it. Mr. Rice responded, there are some Counties that have a policy implemented, but he has not actually spoken with those County procurement professionals to see what their exact take on it is. He said, within the Brief Book, there is a position paper by the National Institute for Government Purchasing, and their stance is pretty clear that they are against putting in any type of preference, whether it is local, or whatever it may be. He said, if there is a Federal grant associated with it, the Federal laws do not allow Counties to do a local preference. He said the State of Maryland actually has a reciprocal preference, which means, if a bid is coming from a State that has a local preference, the State of Maryland actually puts a negative preference on them, and they have to be 5 percent lower than anyone just to be considered, so there is that to consider too. He said, if Wicomico County ever decides to enact a local preference policy, they would then trigger any National reciprocal preference that other States may have in place that could eventually hurt the local business community rather than help the local business community. Mr. Cannon said he thinks a lot of this came about based on what was in Wicomico County, and it was probably State contracts where they sort of felt the County should intercede, maybe not recognizing they have some limitations. He then asked Mr. Rice, with what the County bids out, does he really see where there is that much of a difference where local companies are not having the advantages, to which Mr. Rice responded, no. He said especially if they consider construction projects, locally there would be an advantage just because they do not have to have the expenses of actually mobilizing. He said, for example, if it is a company that is over the Bridge, they have to do mobilization, they have hotel expenses, and they have a lot more expenses that the local business community would not have. He said, in his experience, he does not see where local companies have a disadvantage. He said one of the things he would fear if they put a local preference policy in place would be they may start to lose bidders who are not local, and, if they did that, they would really dwindle down their vendor pool on certain projects. He said especially when looking at construction, if construction companies are too booked up and they dwindle their vendor pool down to only a few vendors, they could potentially not find contractors to bid on their projects at all.

Mr. Kilmer said he thinks Mr. Rice makes good points, and he has made them in the past. He said he knows Council has talked about this topic a few times, and it keeps coming up. He said he does not know if there is any support for doing this or not, but, he would say, if there is not support for it, the topic may not need to come up again. He reiterated, he thinks Mr. Rice makes good points, and, while it may sound good on the surface, for the taxpayer, the best deal is lowest bid. Mr. Cannon said, honestly, since it was brought to his attention some time ago on more than one occasion, he has not really seen a huge push by the industry saying they are looking for something like this, but he wanted to revisit it one more time just to be sure. He said maybe they will take Mr. Kilmer's advice.

Mr. Rice said he actually was asked to do a presentation at the Maryland Association of Counties (MACO) Conference. He said there were three procurement professionals who were asked to speak, and they were asked to speak about whatever topic they would like. He said he chose local preference. He said, after he did the presentation there was actually a business owner, not from Wicomico County, and he forgets which County he was from, but he actually came up to him and said he is glad he is out there saying these things because, as a local business owner to his County, he would be against any preference for the reasons he spoke of. There was no further discussion.

Signatures on next page

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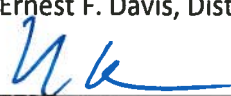
John T. Cannon, President



Larry W. Dodd, Vice President, District 3




Ernest F. Davis, District 1



Marc Kilmer, District 2

_____ absent _____
John B. Hall, District 4



Joe Holloway, District 5



Matt Holloway, At-Large



Laura Hurley, Council Administrator