

Open Work Session

Surplus Property – 9765 Barren Creek Road, Mardela Springs, MD

July 3, 2018

Mr. Strausburg, Director of Administration, Mr. Weston Young, Deputy Director of Administration, and Mr. Dallas Baker, Director of Public Works, came before Council. Mr. Strausburg said Council will recall when they first began to talk about the restoration of the road and the bridge, the Administration mentioned they would attempt to acquire the property, and, if acquired, they would then subdivide a homestead and would sell that homestead. He said they have reached that point now where they have designated the area they need to build the stormwater management that is going to be required. He said, having done that, they have been able to delineate a homestead and subdivide it. He said they have had that homestead appraised, and they are really now at the juncture where they should begin to market the property. He said the question really comes up that, while they have ostensibly given the public notice that this was their intention, he does not know that they have formally designated this as surplus property. He said, from an administrative standpoint, they are looking for guidance this evening as to what steps Council believes are appropriate for them to begin to actively market the property. He said one of the concerns they have is the length of time because they would prefer not to carry this property through the winter. He said the longer the property stays vacant, the more deterioration they have, and the potential loss of value. He said they have already had some vandalism on the home site, so, if they could find a way to expedite this, they would like to do that, but certainly they want to do it in the most transparent manner they can. Mr. Dodd asked if this is the house that is right on the edge of the road, to which Mr. Strausburg responded, yes. Mr. Hall asked if it is habitable now, to which Mr. Strausburg responded, yes. Mr. Kilmer said this is just the homestead, and he understands there may be some other parts of it that maybe later they may not need, to which Mr. Young responded, the short answer is yes. He said, when they bought the land required to restore the road, it involved this homestead site, a 16-acre pond, and, on the other side of the water from this homestead site a small little bit of land that is not accessible by foot directly from a public road, and it adjoins an existing property, and they will be looking at that as well. He said they do not need to subdivide it because it is already listed as a separate parcel in the original plat. He said they will be coming before Council at a later date with several properties they are looking to surplus, and that will be one of them.

Mr. Joe Holloway asked, whatever the County does with this, should there be some disclosure made to the purchasers that there is going to be work going on with that pond as far as restoration, and the road as far as that goes, so there is no dispute later on from the person who buys it, to which Mr. Strausburg responded, that is a very good idea. He said he thinks it is appropriate to disclose as best as they can what their intentions are for stormwater management, and the construction of the culvert. Mr. Joe Holloway said, after they buy this, the property right next to them may not remain the same, to which Mr. Strausburg responded, that is correct. Mr. Young said, if Council looks at the provided plat closely, on the pond side they have included a 40-foot easement for ingress, egress, and regress in case they have to go out there and maintain the pond so they will have access along that. He said it would still be the property owner's land, but they would have this as an ability to get out there if they need to at a later date.

Mr. Joe Holloway asked, in the event this happens, how do they plan on marketing this, and do they plan on listing it with an agency or real estate agent, to which Mr. Strausburg responded, he thinks that would be their preference rather than an auction because they can expose it to a much broader market, and probably get a better price. Mr. Kilmer asked if there was much stuff left behind when the house

was sold, what kind of condition it was in, and what the County has been doing with the property, to which Mr. Strausburg responded, General Services has been maintaining and inspecting the property, and he has not been inside, but Mr. Pate Matthews has told him it is in good condition.

Mr. Cannon said usually when somebody buys property like this they immediately think they have waterfront with a pond, and the first thing they want to be allowed to do is have access to it and use that pond, and a lot of times they consider it their property, but he knows full well that would have to be disclosed to them at the time. He then asked if there is a process they need to be concerned about as far as how they have oversight to make sure nobody goes out there, and that some tragic accident does not happen on the County's property. He asked if the County is obligated to create any type of restrictions to that area to avoid any liabilities, to which Mr. Strausburg responded, he thinks it would be appropriate to post that notice. He said, actually, he thinks MDE would impose some restrictions as to human access to that managed area, but, certainly, he thinks to limit that kind of liability, the County ought to post the site as wetlands, do not enter. He said he sees that a lot of times on golf courses where it says do not enter, and people hit their balls into the wetlands and go in there anyway. He said he thinks they should do that, but he does not think they are far enough along to really know what the restrictions are that the State will impose, but, certainly, when they transfer the property, they have an obligation to tell the owner that the County-owned portion of the land is going to change in terms of the landscape of the structure.

Mr. Kilmer asked what the status is on the road reconstruction, to which Mr. Baker responded, they are finishing up the first part of the design. He said they have been approached by Fish and Wildlife, and they have some money available for contributing to the project as far as fish passage goes, so they are pursuing that with them to try to figure out how much money they are willing to kick in for the improvements the County is making. He said, once that is done, they will be able to move forward with finalizing the design, and getting it out on the street. Mr. Kilmer asked if they have had any contact with the neighboring property, or the Historical Society, etc. to try to deal with downstream issues, or is it too early in the process, to which Mr. Baker responded, he has not had any personal contact with them. He said he thinks, once they get a set of plans they can show them, it would be a very good idea to reach out to them. Mr. Kilmer asked if it is still on track to be completed next year, to which Mr. Baker responded, yes. He said he would say by the next fiscal year they will probably be on track. Mr. Strausburg added, as long as they are not thrown any monkey wrenches in the State regulatory process, they should be able to stay on track. Mr. Young said there are a series of permits, and if they touch the channel, he will try to redirect that to make it less detrimental to the road in some format, and that would require additional permitting. He said so far the State and Federal agencies they have worked with have been great. Mr. Kilmer asked if the channel is considered where it goes now, and not where it used to go, to which Mr. Young responded, yes. Mr. Kilmer asked if the plan now is to leave it, and not where it used to go off to the side, to which Mr. Baker responded, that is what it is looking like right now. He said there was actually some discussion among the different State agencies, and the State was discussing amongst themselves whether the channel should be relocated, or left in place, and it actually started coming down to the fish passage to the wetland restrictions. He said it is looking right now like the best option is to leave it in place as far as what the State is thinking they will want their opinion to be. Mr. Cannon asked if there is going to be a culvert underneath the road, to which Mr. Baker responded, right now they are looking at a 19.5-foot box culvert going over the top of the stream. He said there is a very narrow window. He said, if they make it 20 feet or larger, it would be considered a bridge, which brings in a whole other set of regulations, inspections, and annual reports associated with it, so they have to keep it under 20 feet. He said the folks at Fish Passage want a minimum of 19 feet, so they have a 1-foot window, and they are settling at 19.5 feet for the size of the culvert. He said the

existing passage for the old mill would still remain in place. He said they had that structurally evaluated, and everything is fine there. He said there may need to be some work done on the downstream wing walls of the old structure, and there will also be some overflows on the hardware store side of the breach to make sure they do not overtop the road again. Mr. Matt Holloway said this also gets them away from the control of the dam, to which Mr. Young responded, it will be permanently removed from the State's inventory of dams.

Mr. Dodd asked if fishing will be allowed, to which Mr. Matt Holloway responded, no because it is going to be private property. Mr. Dodd said he was just wondering because sometimes when Fish and Game get involved, they want to open it to the public. Mr. Baker said the folks at Fish Passage were really excited because there is a certain type of shad that comes in all the way from the Atlantic, and that is already out there now. He said the dam has been gone for two years, and these fish have already found their way up there. He said these are bait and feed fish for rockfish out in the Bay, so the Fish and Wildlife folks were just ecstatic to see this species out there. He said he suspects they probably would be reluctant to allow fishing out there. Mr. Matt Holloway clarified, to be clear, the County is not going to allow fishing in this pond, to which Mr. Young responded, if they go out there, they will see it is a creek where wild fish are coming up to lay eggs, and it is going to be questionable if there is anything worth catching there. He said there is also not a lot of space, and no ability to park along the road there, let alone stand safely. He said they could handle that with signage as simple as the earlier suggestion by President Cannon about letting the property owner know that the former pond bottom is property of the County, and hopefully going to be part of a WIP process. He said they could also post "No parking, no fishing," and they have done that on some of their dams as well just for safety and liability purposes. Mr. Dodd said he hopes that is not going to be a headache for the new property owner, to which Mr. Cannon responded, it will be just the opposite as it will give them a pristine view.

Mr. Strausburg asked if Council has any thoughts on the Administration's ability to market the property, or if Council wants to go through a formal declaration of surplus process, which, as he understands, is going to take a couple of months. Mr. Cannon said he would defer to legal counsel on that because this, he believes, is really the first time the County purchased a property and sold a house as he does not think the County has done this before. He said he would definitely want to make sure they went through all the legal procedures that are necessary, to which Mr. Strausburg responded, that is the guidance they are looking for this evening. Mr. Kilmer said there is no Council objection to doing this, he does not think. Mr. Dodd said he would like to see as much money as they can get. Mr. Kilmer said he thinks the people in that area will appreciate this, from what he understands, and he definitely thanks Mr. Strausburg for moving forward with this. Mr. Hall asked if they need to do this by consensus so they can go ahead and move forward, to which Mr. Strausburg responded, he thinks what he is hearing Council say is they would be comfortable expediting this, assuming they have appropriate sanction from legal counsel. Mr. Joe Holloway said he does not think they want somebody questioning their actions a year from now, to which Mr. Strausburg responded, that is why they are here asking this evening. Mr. Cannon said he does not think there is any need for Council to be involved in any of the processes as far as how they sell it as the Administration will try to get the best value they can, just as Council would. Mr. Kilmer said there is a Council role for surplus property, and things like that, but, in terms of selling, that is an Executive Branch function, to which Mr. Cannon added, and the attorney's role. He said it looks to him as if they have a full consensus from Council to move forward. Mrs. Hurley said it does require a Public Hearing, and they can have that on August 7th. There was no further discussion.

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John T. Cannon, President



Larry W. Dodd, Vice President, District 3




Ernest F. Davis, District 1



Marc Kilmer, District 2

John B. Hall, District 4



Joe Holloway, District 5



Matt Holloway, At-Large



Laura Hurley, Council Administrator