

Open Work Session

Legislative Bill 2018-12 – An Act to provide in Chapter 77 titled “Roads and Improvements,” Article 1 titled “General Powers” that the Director of Public Works shall have the full authority to erect traffic control devices in accordance with the authority granted to the County by the State of Maryland.

December 18, 2018

Mr. Robert Taylor reported, this Bill originated when Mr. Kilmer called him wanting to know who is in charge of road signs, and Council decided to address that in the Code to make it very specific because, right now in the Code, it is not specific. He said there is a provision, generally speaking, giving the County very broad powers over the roads, and that is Item 1 in Section 77-1 Part A. He said Council was given a draft Bill suggested by the Executive Branch, and that Bill is in the Brief Book, which would add a Subsection C to that particular section, which, as proposed, would read “To the extent allowed by applicable law, the Director of Public Works is authorized to install and maintain traffic control devices.” He explained, that proposed Bill came before Council about six weeks ago, and at that time there was some interest on the part of Council of still being involved in that process with regard to traffic control devices and signs, which could also include traffic lights, but, primarily, he thinks they are talking about stop signs. He said that is really where they stand. He then asked what Council wants to do, and whether they want to be involved in that process or not. He said, when this discussion came up before, he had suggested a slightly different version of that wording that would, essentially, again, continue the administration of traffic control devices in the Public Works Department, and would have provided it be subject to review if exercised by the County Executive, so there would be some further oversight of that if somebody in the public were concerned or displeased with a decision on traffic control devices. He said, just by way of background on this, the State law is very specific that traffic control devices have to conform to a State manual on that subject, so, regardless of who is in charge of it and what review process they have, that still would apply. He said he believes, in some part, the State manual is to guard against proliferation of stop signs because a lot of people want a stop sign at the roads they use, and if there were a stop sign at every intersection, they can imagine what the situation would be like. He said, be that as it may, the County does have some control over this as long as they conform to the State regulations. He then asked what Council wants to do, and whether they want to turn this over to the Public Works Department and that will be the end of it, or whether they want to provide for some oversight by someone, either the County Executive, or the Council itself.

Mr. McCain said, to him, they are a Legislative Body, so he does not see where this has anything to do with the County Council. He said that is why they have Public Works, and any oversight of that should be an Executive function. He said, if somebody has an issue or a concern, they can express it to any of them as Council people, and he thinks their avenue is that they would make the Executive Branch aware because that is their function. Mr. Taylor said he does not disagree with that, but it is the Council’s decision, and that is why he proposed the other language because, after some discussion with Councilmembers, he was made to think maybe they wanted to be entirely done with it, and do just what Mr. McCain said, which is, essentially, assigning it to the Executive Branch lock, stock and barrel.

Mr. Holloway said he can agree with Mr. McCain partially on that, but he had a situation a few years ago over near Nottingham Woods where the neighborhood wanted the speed limit changed, and the prior County Executive just adamantly refused to do it. He said the sign was justified, and they got into a discussion here in Council Chambers. He said the Daily Times then got a hold of the story, and met with the gentleman who was the president of the homeowners’ association, and made some noise, and suddenly the speed limit was changed. He said Council is elected by the people of the County, and in

some situations the citizens feel more comfortable coming to one of the Councilmembers rather than to the Executive, or another Council person as far as that goes, or Public Works, and they ask for assistance. He said he thinks Council should have some input into whether it gets done or not, but only a certain level of input. He said, when one calls to talk to Public Works to say they need a sign, and they are told they cannot put a sign there because it is too close to the intersection, they have to be understanding of the rules and the laws that govern this. He said, to be elected in this County and have somebody call them and to just tell them they cannot do anything for them in that matter is putting their citizens off, so he thinks they need some input into what is done. He said he also understands what Mr. McCain is saying, which is talking about micromanaging, which is a word that Mr. John Hall liked to use, and Council does not need to be doing that, unless it comes to a point of a flat refusal for no reason, to which Mr. McCain responded, he does not think at all that they should refuse or not try to help them because they should try to help them, but he thinks that is how they help them, by directing them to the right person who can actually do something about it. Mr. Holloway said sometimes things can happen where that person does not want to do anything about it, to which Mr. McCain responded, that could happen with just about anything.

Mr. Kilmer said he is the one who brought this up, and the debate over this Legislation is turning out to be like the debate over the stop sign that prompted this Legislation, and their feelings on it depend on where they are coming from. He said, as far as the stop sign issue, certain people living on one road wanted a stop sign, but people on the road coming into that road did not want the stop sign, and they each have legitimate points of view as to why they need it or do not need it. He said, in talking to Lee Outen from Roads, who has a long history with sign management, he got an education on what stop signs are for, and there needs to be more of an objective standard to put up stop signs than just what certain people feel on a certain road because they may like it, but other people have equally valid views on another road. He said they are politicians, and people will say things they think sound good, but then other people say something they think sounds good too. He said leaving this up to an expert in Roads is almost abdicating their responsibility, but, with traffic control signs, he does not have a lot of expertise, and the idea that Council should be pressured into putting up signs because people want them is kind of the reason why he thought they needed to have more of a standard so Council could say, here is why signs are put up, and here is why they are not, and it is not just on a whim of a Councilmember responding to a neighbor who is upset. He said he thinks he would be okay with leaving the Bill as is written in the Brief Book. He said they are elected, and people contact them about stuff who deserve an answer, but this is a tough nut to crack. He said he kind of likes the idea that there are objective measures to put a stop sign or traffic control devices up. He clarified, this is specifically traffic control, and other sort of road signs he does not think are covered by this where Council would have more say, but with traffic control he thinks there is more of an objective standard, so he is okay with leaving that with Public Works.

Mr. Holloway said, before his time, and everybody else's here on Council, there may be a couple people in the room who remember the naming change of Nanticoke Road, and that was a pretty big deal, and, as he said, he thinks Council needs to be able have some input if needed.

Mr. Cannon addressed Mr. Taylor, and said there seems to be some inconsistencies. He then asked why it is that Council has the authority to approve or disapprove of parking signs along the streets, and yet this is being suggested that Council should not take a role in stop signs or stop lights, to which Mr. Taylor responded, to answer the question about the parking signs, that is just a matter of practice that has been done in the past. He said the way the Code reads now, he thinks by default, even though it does not say the Executive Branch is in charge of that exclusively, he thinks that would be the normal reading

of it. He said, as Mr. McCain pointed out, it is not a Legislative matter, but is an operational or an administrative matter, so he thinks probably if they just went with the way it reads now, that would be the default position, so he thinks it is worthwhile to clarify that because of the uncertainty that has existed. He clarified, they are not talking about parking signs right now, but when they get to parking signs, he thinks probably that would be the default. Mr. Cannon said Council has had Resolutions that came to their table where they had to approve a parking sign on a particular street, to which Mr. Taylor responded, he does not think there is anything in the Code that addresses that, and that has just been the practice, but he does not know because he was not involved in those matters. He said, when reading the Code, it says the County has the power to do these things, and it does not specify who, but he thinks the default would be the Executive Branch because of the nature of the matter.

Mr. Holloway said they continually run into things in the code that have never been changed from when the Executive came into being, and he guesses they have just found another one, to which Mr. Taylor responded, that is true. He said, bear in mind, before they had the Executive, the County Council had a broader scope.

Mr. Holloway said, other than that issue with the speed limit on Outten Road, there has always been full cooperation from Public Works anytime he has called them. He said, apparently, Mr. Kilmer had good cooperation that day, to which Mr. Kilmer responded, he does not dispute that, but it would be nice to know when they get a call who puts up the signs. He clarified, Council has put up some traffic signs, but, when they look in the Code, they did not need to do that, so they need to clarify. He said they need to have a clear answer so they can say either they can do something, or they cannot do something, and it would be good for Council to know so they are not out in limbo when people approach them, and they have to say they do not know.

Mr. Cannon said he thinks they are establishing this so there are some specific grounds people can follow. He then addressed Mr. Holloway, and said, if they find they have trouble with this in the future where they really feel Council needs to get involved in the process, they can always amend this later, to which Mr. Holloway responded, they always seem to have problems and have to bring things back up, but always work through it if they have a problem.

Mr. Taylor said they have a deadline on this, to which Mrs. Hurley responded, the drop-dead date is January 19, 2019, so they would need to vote or extend the deadline to vote at the January 15th meeting. Mr. Taylor said his suggestion, as far as how to proceed, if Council is all of the mind that this should be in the Executive Branch, is that there are two things he thinks should be changed in the proposed Bill, and one they have just been discussing. He clarified, he has language on that, and it does provide for oversight by the County Executive so there would be that mechanism to go beyond the Public Works Department if somebody in the public wanted to, if Council is so inclined to have that additional level of review. He said the other thing that is more of a housekeeping matter is going back to subpart A that begins "Anything in this article or in law to the contrary notwithstanding the County shall have full power and authority," and then it goes on and discusses the different matters involving Roads. He explained, that really is not correct, and it is misleading because it is subject to the State Law and regulations, so he would suggest striking that language and add in its place "Subject to applicable law and regulations thereunder." He said that is just a housekeeping matter, but he thinks it makes the language consistent with what, realistically, is the legal situation.

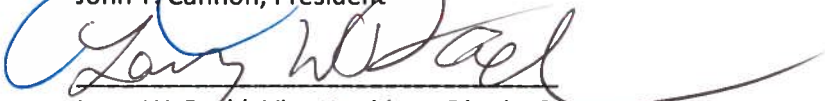
Mr. Holloway said Section 77-1, General Powers to be, reads "The County shall have a right to acquire property by condemnation which shall be exercised in accordance with the provisions of the annotated

Code of Maryland real property.” He then asked if that is, basically, giving the County Executive power to condemn property to acquire it, to which Mr. Taylor responded, it is giving the County power to do it, but there are other provisions of State Law that require that to come before Council. Mr. McCain said that is almost the language they could put in there in this situation, to which Mr. Taylor responded, that is more or less what they would have by changing it.

Mr. Cannon asked Mrs. Hurley if this would have to be changed during a meeting through an amendment, to which Mrs. Hurley responded, that is correct. Mr. Cannon said they are not here for edification purposes. Mr. Cannon then asked if Council agrees with Mr. Taylor’s recommendations on amendments, to which Mr. McCain responded, he thinks it is good. Mr. Taylor said, before the next meeting, he can send Council what he has, and, if anybody wants to discuss it, they can certainly discuss it at the January meeting, and make any changes Council would like to. Mr. Cannon said it sounds like there is the inclination to follow Mr. Taylor’s advice. He then asked Mr. Taylor to prepare that so they have the proper reading for the amendment. There was no further discussion.



John T. Cannon, President



Larry W. Dodd, Vice President, District 3



Ernest F. Davis, District 1



Marc Kilmer, District 2



Josh Hastings, District 4



Joe Holloway, District 5

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