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## **BOARD OF COUNTY COMMISSIONERS**

**September 18, 2018**

### **OPEN SESSION AGENDA**

- 08:30 A.M.    **INVOCATION AND PLEDGE OF ALLEGIANCE**  
CALL TO ORDER, *President Terry L. Baker*  
APPROVAL OF MINUTES – August 21, 2018
- 08:35 A.M.    **CLOSED SESSION**  
*(To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals; to consider the acquisition of real property for a public purpose and matters directly related thereto; to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; to consult with staff, consultants, or other individuals about pending or potential litigation; and to consult with counsel to obtain legal advice on a legal matter.)*
- 10:00 A.M.    **RECONVENE IN OPEN SESSION**
- 10:05 A.M.    **COMMISSIONERS' REPORTS AND COMMENTS**
- 10:15 A.M.    **REPORTS FROM COUNTY STAFF**
- 10:25 A.M.    **CITIZENS PARTICIPATION**
- 10:35 A.M.    **POLICY NO. PR-40 WEAPONS IN COUNTY FACILITIES** – *James B. Hovis, Chief Operations Officer, and Sheriff Douglas Mullendore, Washington County Sheriff's Office*
- 10:45 A.M.    **TRACY LYNNE MCCLEARY FARM RURAL LEGACY PROGRAM (RLP) EASEMENT** – *Eric Seifarth, Rural Preservation Administrator, Department of Planning & Zoning*
- 10:55 A.M.    **COMMUNITY DEVELOPMENT BLOCK GRANT PLANS FOR RENEWAL** – *Tina Wilson, Senior Grant Manager, Office of Grant Management*
- 11:00 A.M.    **RECESS**

## **EVENING MEETING AT THE TOWN OF SMITHSBURG**

*Location: 21 West Water Street, Smithsburg, MD*

- 07:00 P.M.    **INVOCATION AND PLEDGE OF ALLEGIANCE**  
CALL TO ORDER, *President Terry L. Baker*

- 07:05 P.M. TOWN OF SMITHSBURG LEADERS' REPORTS AND COMMENTS
- 07:10 P.M. COMMISSIONERS' REPORTS AND COMMENTS
- 07:20 P.M. REPORTS FROM COUNTY STAFF
- 07:25 P.M. CITIZENS PARTICIPATION
- 07:30 P.M. SMITHSBURG WASTEWATER TREATMENT PLANT UPGRADE – *Dan DiVito, Director, Division of Environmental Management, and Mark Bradshaw, PE, Deputy Director, Engineering Services*
- 07:40 P.M. ADJOURNMENT



Agenda Report Form

Open Session Item

**SUBJECT:** Policy No. PR-40 Weapons in County Facilities

**PRESENTATION DATE:** September 18, 2018

**PRESENTATION BY:** James B. Hovis, Chief Operations Officer; and Sheriff Douglas Mullendore, Washington County Sheriff's Office

**RECOMMENDATION:** Move to approve as County policy the presented Policy No. PR-40 Weapons in County Facilities and to revise Policy No. PR-21 Violence in the Workplace to coincide with new Policy No. PR-40.

**REPORT-IN-BRIEF:** The Board of County Commissioners is committed to providing a safe and secure environment for its employees and visitors. This policy will prohibit anyone from bringing into a County-owned facility or onto County-owned property a weapon of any kind, including a firearm. This policy will clearly identify those individuals who may be exempted from this policy. The policy also clearly defines several key components to allow for accurate interpretation and practical application.

**DISCUSSION:** This policy is applicable to employees, visitors, and others entering County-owned facilities or County-owned property, and prohibits such entry while possessing weapons or firearms, unless expressly exempted due to status as a certified police officer in the State of Maryland, a non-Maryland certified police officer acting in official capacity, or a LEOSA card-carrying retired police officer in the State of Maryland. This policy does not exempt any person who has been issued a concealed carry permit in Maryland or any other state.

The attached policy clearly defines prohibited weapons as well as items that shall be excluded as weapons.

Employees of Washington County Government who violate this policy will be subject to disciplinary action as well as criminal arrest if a violation of Maryland criminal law has occurred. Visitors and others who violate this policy may have contraband seized and may be asked to leave or may be removed from County-owned Facilities or property and may also be subject to criminal arrest if applicable.

The attached Policy No. PR-21 Violence in the Workplace contains necessary proposed revisions to ensure that the contents of the two policies are in accord.

**FISCAL IMPACT:** N/A

**CONCURRENCES:** County Administrator

**ALTERNATIVES:** Modify or deny the policy proposals as presented.

**ATTACHMENTS:** Draft Policy No. PR-40 and Draft Revised Policy No. PR-21

**AUDIO/VISUAL NEEDS:** N/A



**POLICY TITLE:**                    **Weapons in County Facilities**

**POLICY NO.:**                    **PR-40**

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**I.     POLICY STATEMENT**

The Board of County Commissioners of Washington County, Maryland, is committed to providing a safe and secure environment for employees and visitors. This Policy identifies prohibited weapons in County-owned facilities and on County-owned property and outlines procedures for reporting violations of this Policy.

**II.    AUTHORITY**

Board of County Commissioners of Washington County, Maryland

**III.   APPLICABILITY**

- A.     Scope – Except as otherwise exempted herein, this Policy applies to all Employees (as defined below), visitors, and others in any County-owned building or facility or on any County-owned real property.
- B.     Exemptions – This Policy exempts the following:
  - a.     Any current certified police officer in the State of Maryland;
  - b.     Any non-Maryland certified police officer in his or her official capacity; and
  - c.     Any retired police officer of the State of Maryland possessing a valid LEOSA (defined below) card from a Maryland law enforcement agency.
- C.     Concealed Carry Weapons Permits – This Policy does not exempt any person who has been issued a Concealed Carry Weapons permit within the State of Maryland or any other weapons permit issued by any other jurisdiction.

**IV.   DEFINITIONS**

- A.     “County-owned Facilities” means all property and facilities owned, leased, rented, or otherwise occupied by Washington County government, including grounds, buildings, parking structures and lots, parks, vehicles, and other equipment, and any other site where an Employee enters on behalf of the Employee’s employment with Washington County government or where a visitor enters such property or facility.

- B. “Employee” or “Employees” means elected and appointed officials, department heads, division directors, all full- and part-time employees, board and commission members, and unpaid volunteers
- C. “Firearm” means a weapon, by whatever name known, including Handgun as defined herein, which is designed to expel a projectile by the action of powder.
- D. “Handgun” means any pistol or revolver using a fixed cartridge containing a propellant charge, primer, and projectile, and designed to be aimed or fired otherwise than from the shoulder.
- E. “LEOSA” means the Law Enforcement Officers Safety Act, as amended. Enacted in 2004, this United States federal law allows retired or separated law enforcement officers to carry concealed firearms in any jurisdiction in the United States, regardless of state or local laws, as long as they have satisfied the conditions of LEOSA.
- F. “Weapon” means a weapon of any kind, or any destructive device, including, but not limited to, firearm, dirk, dagger, ice pick, slingshot, metal knuckles, knife, or any similar instrument; mace, tear gas, OC (oleoresin capsicum) spray, or any similar deleterious agent; stun gun or taser; and club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon, or any similar instrument. Weapon also includes any weapon, device, instrument, material, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury, or is specifically designed for and presently capable of causing death or serious physical injury.

## V. **POLICY**

- A. Prohibitions – Except as otherwise exempted or excluded herein, this Policy prohibits anyone from bringing any Weapon or Firearm into any County-owned Facilities or onto County-owned property.
- B. Exclusions – The following items possessed by any Employee are excluded from this Policy:
  - a. Serving utensils when used for eating, handling food, etc.;
  - b. Self-defense sprays carried for personal protection as long as such items are stored out of sight and in the Employee’s personal belongings, e.g., purse, briefcase, etc. The self-defense spray must be contained in a commercially manufactured, capped aerosol device containing no more than four (4) ounces of spray with less than ten percent (10%) concentration of capsicum.

- c. Sporting equipment stored in vehicles for personal use, i.e., baseball bats, martial arts equipment, golf clubs, etc. Firearms, biological or chemical Weapons, or any explosive devices are not considered sporting equipment for the purposes of this Policy;
- d. Small and ordinary pocket knives or multi-tool devices, letter openers, and other similar small, common, and ordinary items carried or possessed for utility purposes.

## **VI. VIOLATIONS**

- A. Any Employee of Washington County government who violates this Policy will be subject to disciplinary action pursuant to applicable County policy and may be subject to criminal arrest if a violation of Maryland criminal law has occurred.
- B. Any visitor or other person entering County-owned Facilities in violation of this Policy may have the violating contraband confiscated and may be immediately asked to leave or may be removed from the County-owned Facilities, and may be subject to criminal arrest if a violation of Maryland criminal law has occurred.





**POLICY TITLE:**                    **Violence in the Workplace**

**POLICY NO.:**                    **PR-21**

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**I.     GENERAL POLICY**

All employees have the right to work in an environment free from threats, intimidation, and violence. Such behavior, in any form, will not be tolerated in the County Workplace.

**II.    PURPOSE**

This Policy describes unacceptable behavior and establishes guidelines for reporting, investigating, and addressing situations in the Workplace which involve threatening acts, intimidation, or violence.

**III.   SCOPE**

This Policy applies to all Employees as defined herein.

**IV.   DEFINITIONS**

The following terms as used in this Policy are defined as follows:

- A.    “Employee” or “Employees” means elected and appointed officials, department heads, division directors, all full- and part-time employees, board and commission members, and unpaid volunteers.
- B.    “Law Enforcement Personnel” are as defined in the Annotated Code of Maryland, Article 27, Section 36F, as from time to time amended.
- C.    “Person” and “Persons” include one or more individuals, associations, corporations, partnerships, or unincorporated associations.
- D.    “Threat” means the implication or expression of intent to inflict physical harm or actions that a reasonable person would interpret as a threat to physical safety or property.
- E.    “Threaten” means to menace or to express, through oral, written, or any other means, an intention to inflict pain, injury, or harm upon a person or thing.
- F.    “Violence” and “Violent Act” mean physical force or verbal abuse exerted for the purpose of intimidation or for the purpose of harming, damaging, or causing injury to persons or property.

- G. “Weapon” ~~means guns, knives, or any other instruments which can be used to cause injury in an unlawful manner~~has the definition as set forth in Policy No. PR-40 Weapons in County Facilities.
- H. “Workplace” means any location, either permanent or temporary, where an employee performs any work-related duty. This includes, but is not limited to, the buildings and the surrounding perimeters, including the parking lots, field locations, alternate work locations, and travel to and from work assignments.

## V. **PROHIBITED ACTIVITIES**

- A. Employees are prohibited from engaging in the following activities during the course of employment with the County:
1. Threatening or committing any Violent Act against another Person or Employee in the Workplace;
  2. Intentionally and/or maliciously damaging or destroying the property of another person or Employee;
  3. Bringing a Weapons of any kind onto County property without written permission from both the County Administrator and the County Attorney, except that Law Enforcement Personnel may possess legally authorized Weapons into County-owned Facilities or onto County-owned property in violation of Policy No. PR-40 Weapons in County Facilities.

## VI. **PROCEDURE**

- A. Managing the Violent Situation
1. Contacting Law Enforcement Personnel
    - a. Employees are encouraged to seek the immediate assistance of Law Enforcement Personnel when confronted with situations which are Violent, or which have the potential of becoming Violent. If a telephone can be safely accessed, an employee should dial “9-1-1,” should describe the situation and location where the incident is occurring, and, if possible, should maintain telephone contact with the “9-1-1” dispatcher until the police arrive, or until the “9-1-1” dispatcher indicates the call may be ended.

## 2. Other Actions

- a. When confronted by a verbally abusive Person or Persons, an Employee should undertake the following actions if able to do so safely:
  - i. Attempt to restore calm by courteously asking the Person or Persons to cease their verbally abusive actions;
  - ii. Notify a supervisory Employee of the situation as soon as possible; and
  - iii. Request the assistance and aid of fellow Employees.
- b. When confronted by a Person or Persons Threatening bodily harm, an Employee should undertake the following actions if able to do so safely:
  - i. Leave the presence of the Threatening Person;
  - ii. Notify a supervisory Employee of the situation as soon as possible; or
  - iii. Contact law enforcement personnel if necessary.
- c. When an Employee observes a Person, other than Law Enforcement Personnel, possessing a Weapon while on County property, an Employee should immediately call Law Enforcement Personnel.

## C. Reporting the Violent or Threatening Act or Situation

1. An Employee who has witnessed a Violent Act or Threat of Violence in a County Workplace, or who has knowledge of facts causing the Employee to reasonably believe a Violent situation is present or is Threatened in the County Workplace, shall immediately report the act or situation to:
  - a. His or her immediate supervisor;
  - b. His or her department head or division director; or
  - c. The County Attorney.

2. A supervisor who has witnessed a Violent Act or Threat of Violence in a County Workplace, who has knowledge of facts reasonably causing him or her to believe a Violent situation is present or is Threatened in a County Workplace, or who has received a report from an Employee that a Violent Act or Threat occurred or exists in a County Workplace, shall immediately report the act or situation to:
    - a. The department head or division director; or
    - b. The County Attorney.
  3. After receiving a report that a Violent Act or Threat of Violence has occurred, or that a Violent situation or Threat occurred or exists in a County Workplace, the department head or division director and the County Attorney shall immediately report the matter to the County Administrator and the Director of Health and Human Services, orally and in writing.
  4. In making reports under this policy, an employee shall provide as much factual information and detail as possible and shall reduce such report to writing.
- D. Investigation of Violent or Threatening Acts of Situations
1. To the extent practicable, appropriate, and required by applicable law, confidentiality will be maintained throughout the investigatory process.
  2. The Director of Health and Human Services, with the assistance of the County Attorney or other legal counsel or other appropriate management employees, will conduct any investigations under this Policy unless the County Administrator determines otherwise.
  3. All Employees have a duty to cooperate in any investigation conducted under this Policy.

## **VII. DISCIPLINE**

### **A. Discipline for Employees Engaging in Prohibited Conduct**

An employee who has engaged in prohibited conduct under this Policy will be disciplined. Appropriate discipline will be determined by the County Administrator after consultation with the Employee's department head or division director, the Director of Health and Human Services, and the County Attorney, and may include reprimand, demotion, suspension without pay, and/or recommendation for termination.

B. Discipline for Other Violations of this Policy

An Employee who fails to report Violent or Threatening Acts or situations as required by this Policy, or who fails to cooperate with investigations conducted under this Policy, will be disciplined. Appropriate discipline will be determined by the County Administrator after consultation with the Employee's department head or division director, the Director of Health and Human Services, and the County Attorney, and may include reprimand, demotion, suspension without pay, and/or recommendation for termination.

**VIII. GENERAL PROVISIONS**

- A. The Employee Assistance Program (EAP) is available to all County Employees and includes counseling and referral services. Employees should use the services of the EAP to prevent and deal with Violent Acts and situations and Threats of Violence occurring in the Workplace.<sup>1</sup>
- B. Recommendations and suggestions from Employees for improving security and reducing the risk of Violence and Threats in the Workplace are encouraged and should be made in writing to the Employee's department head or division director, the Director of Health and Human Services, the County's Safety Administrator, or the County's Safety Committee.
- C. Because the County does not tolerate Threats, intimidation, or Violence in the Workplace, the County will, to the extent practicable, appropriate, and permitted by law, investigate any incident involving a non-employee and will take any action necessary to remove Threats posed by non-employees. The County encourages the reporting of all incidents covered by the terms of this Policy, regardless of the offender's identity, in accordance with the procedures established in this Policy.

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<sup>1</sup> See Policy No. EB-14 Employee Assistance Program (EAP) for information on available services.





## Agenda Report Form

### Open Session Item

**SUBJECT:** Tracy Lynne McCleary Farm Rural Legacy Program (RLP) Easement

**PRESENTATION DATE:** September 18, 2018

**PRESENTATION BY:** Eric Seifarth, Rural Preservation Administrator, Department of Planning & Zoning

**RECOMMENDED MOTION:** Move to approve the McCleary farm contract purchase RLP Easement project, in the amount of \$669,600.00 for 188 easement acres, paid for 100% by the Maryland Department of Natural Resources, and to adopt an ordinance approving the easement purchase and to authorize the execution of the necessary documentation to finalize the easement purchase.

**REPORT-IN-BRIEF:** The McCleary property is located at 7608 University Rd, Boonsboro. The Rural Legacy Easement will serve to permanently preserve a valuable scenic, environmental, agricultural and historic property in the County. The farm contains about 109 acres of cropland, 24 acres of pasture and about 50 acres of woodland. Located in the viewshed of Sharpsburg Pike, a main approach road for the Battle of Antietam, the parcel has borne witness to an important era of American history. In addition to the area being heavily trafficked during the Civil War, the property has also been reported to be the location of a school room “for the children of slaves” according to a September 3, 1995 Herald Mail article. Additionally, the farmstead is on the Maryland Inventory of Historic Places. The farm is in an area of the County adjacent to thousands of acres of preserved farmland near Antietam Battlefield and will serve to add to the current block of protected lands. Seven (7) development rights will be extinguished with this easement. Since 1998, Washington County has been awarded more than \$22 million to purchase Rural Legacy easements on more than 6,400 acres near Antietam Battlefield in the Rural Legacy Area. RLP is a sister program to the Maryland Agricultural Land Preservation Program (MALPP) and includes the protection of environmental and historic features in addition to agricultural parameters. RLP uses an easement valuation system (points) to establish easement value rather than appraisals used by MALPP.

**DISCUSSION:** For FY 2019, Washington County was awarded RLP grants totaling \$2,301,545. The McCleary RLP Easement uses part those funds, and a small portion of leftover FY 18 RLP funds. Easement applicants were previously ranked based on four main categories: the number of development rights available, the quality of the land/land management (agricultural component), natural resources (environmental), and the historic value.

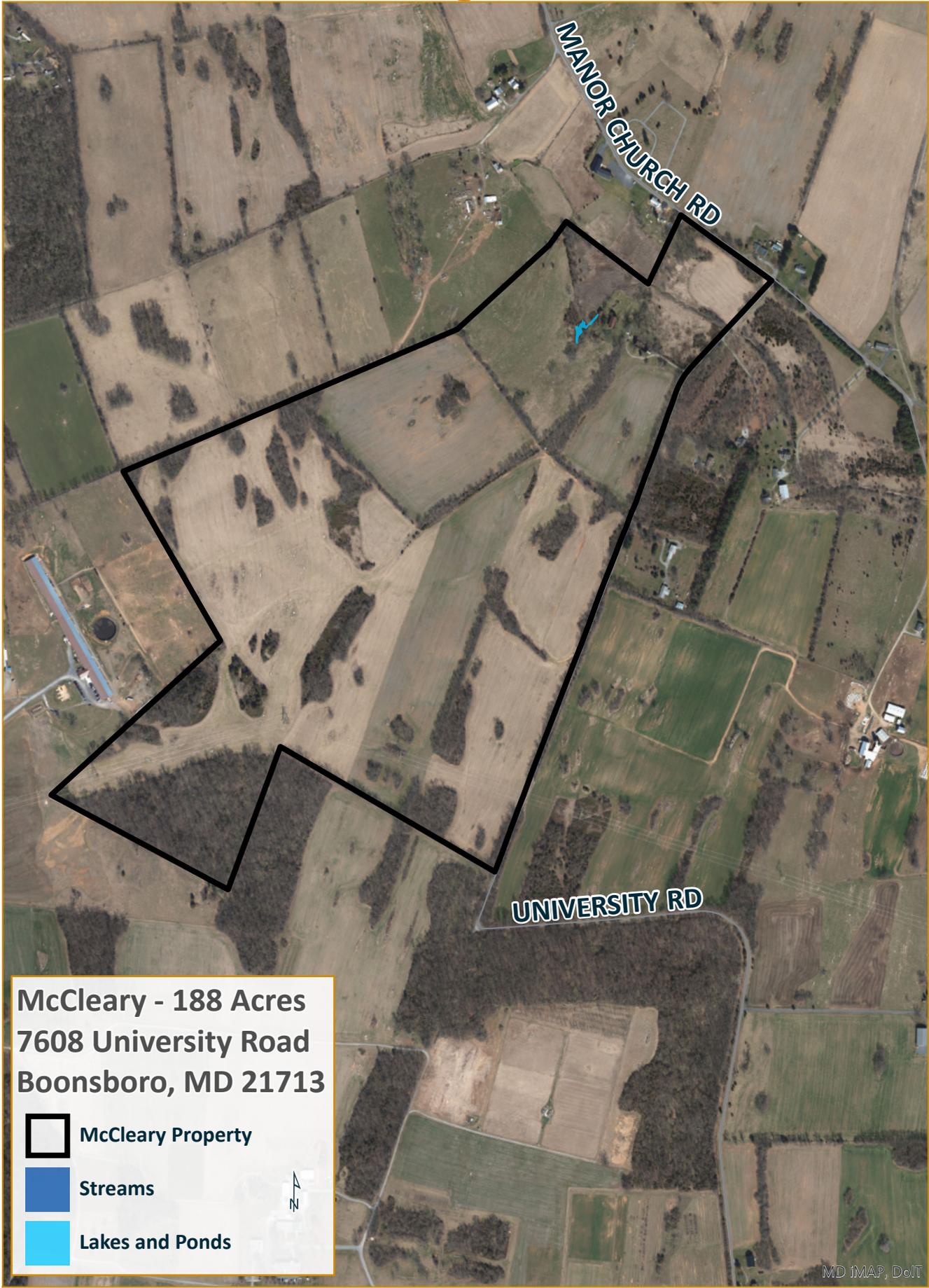
**FISCAL IMPACT:** RLP funds are 100% State dollars, mainly from DNR Open Space funds. In addition to the easement funds, we receive up to 3% of the easement value for administrative costs, a mandatory 1.5% for compliance/monitoring costs, and funds to cover all of our legal/settlement costs.

**CONCURRENCES:** Both the State RLP Board and the State Department of Natural Resources (DNR) staff have approved and support our program. A final money allocation will be approved by the State Board of Public Works.

**ALTERNATIVES:** If Washington County rejects State funds for RLP, the funds will be allocated to other counties in Maryland.

**ATTACHMENTS:** Aerial Map, Location Map, Ordinance

**AUDIO/VISUAL NEEDS:** N/A



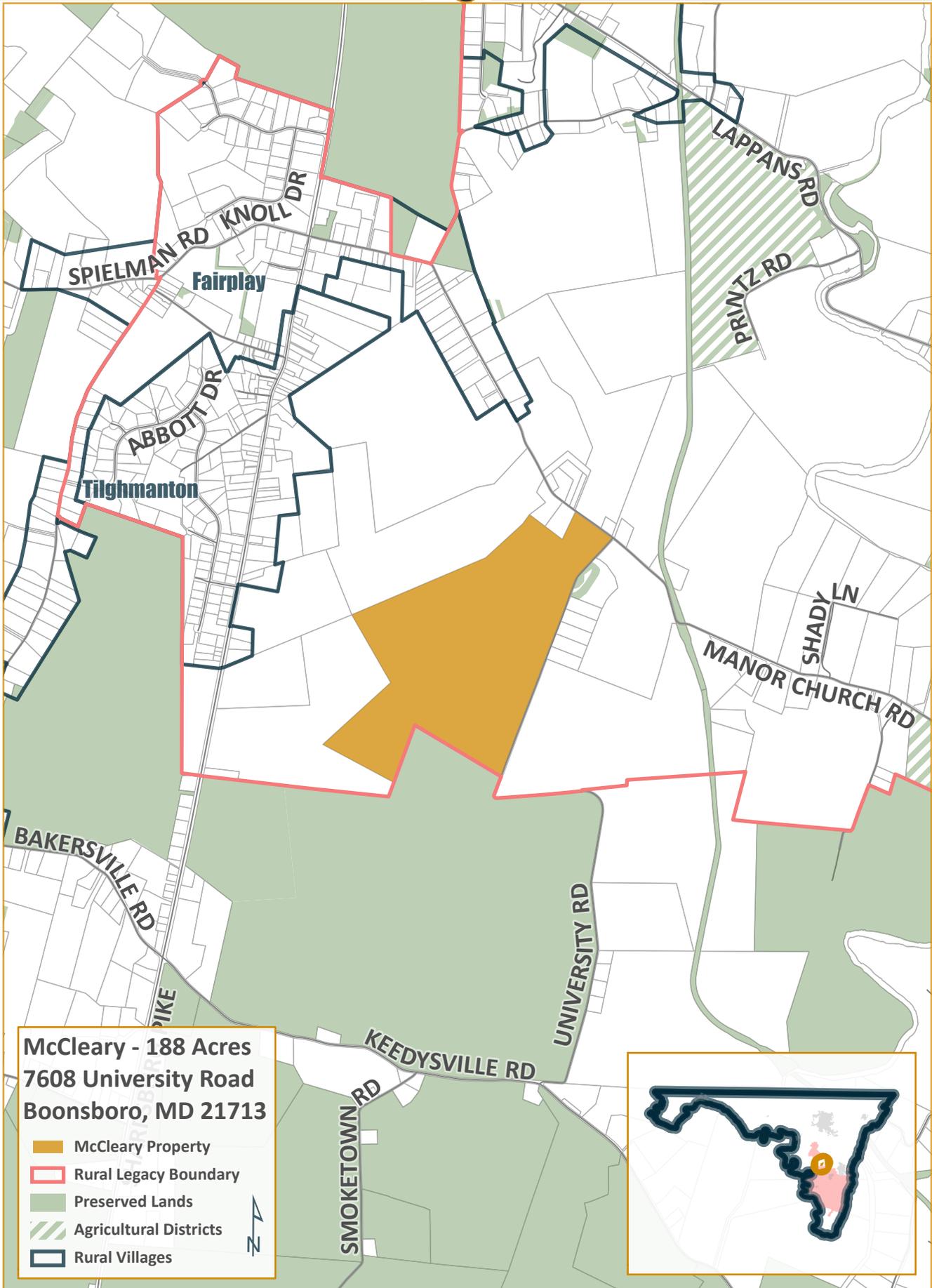
**McCleary - 188 Acres**  
**7608 University Road**  
**Boonsboro, MD 21713**

-  **McCleary Property**
-  **Streams**
-  **Lakes and Ponds**



MD iMAP, DoIT





ORDINANCE NO. ORD-2018-\_\_\_\_\_

**AN ORDINANCE TO APPROVE THE PURCHASE OF A CONSERVATION  
EASEMENT UNDER THE MARYLAND RURAL LEGACY PROGRAM**

*(Re: McCleary RLP Conservation Easement)*

RECITALS

1. The Maryland Rural Legacy Program ("RLP") provides the funding necessary to protect large, contiguous tracts of land and other strategic areas from sprawl development and to enhance natural resource, agricultural, forestry and environmental protection through cooperative efforts among State and local governments.

2. Protection is provided through the acquisition of easements and fee estates from willing landowners and the supporting activities of Rural Legacy Sponsors and local governments.

3. For FY 2018, Washington County (the "County") was awarded a RLP grant totaling \$1,359,000.00, and for FY 2019, the County was awarded a RLP grant totaling \$2,301,545.00 (the "RLP Funds").

4. The Estate of Warwick E. Browning is the owner (the "Property Owner") of certain real property located in Washington County, Maryland, consisting of approximately 188 acres of land, more or less, (the "Property"). The Property is more particularly described on Exhibit A attached hereto.

5. The Property Owner has agreed to sell the above-referenced property to Tracy Lynne McCleary (the "Contract Purchaser").

6. The County has agreed to pay the sum of approximately SIX HUNDRED SIXTY-NINE THOUSAND, SIX HUNDRED DOLLARS (\$669,600.00), which is a portion of the RLP Funds, to the Contract Purchaser for a Deed of Conservation Easement on the Property (the "McCleary RLP Conservation Easement").

THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Maryland that the purchase of a conservation easement on the Property be approved and that the President of the Board and the County Clerk be and are hereby authorized and directed to execute and attest, respectively, all such documents for and on behalf of the County relating to the purchase of the McCleary RLP Conservation Easement.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

\_\_\_\_\_  
Krista L. Hart, Clerk

BY: \_\_\_\_\_  
Terry L. Baker, President

Approved as to legal sufficiency:

\_\_\_\_\_  
John M. Martirano  
County Attorney

Mail to:  
Office of the County Attorney  
100 W. Washington Street, Suite 1101  
Hagerstown, MD 21740

## EXHIBIT A - DESCRIPTION OF EASEMENT PROPERTY

All that tract of land together with any of the improvements thereon and all rights, ways, privileges, waters, alleys and appurtenances thereunto belonging or in anywise appertaining, containing approximately 188 acres, more or less, situate in Election District No. 12, Washington County, Maryland, near the Manor Church, adjoining the lands of said Manor Church, and being part of a tract of land called "Re-survey on Three Springs" and beginning for a description of the same at a stone set at the beginning of part of said land conveyed by John Booth and Drusilla Booth, his wife, to Jacob Wolf by deed dated May 13, 1822, and running thence North  $54 \frac{1}{4}$  degrees West  $41 \frac{1}{2}$  perches to a stone; thence South 26 degrees West 28 perches to a stone planted on the South side of the bank; thence North 49 degrees West  $37 \frac{1}{2}$  perches to a stone at the end of the second line of the aforementioned deed and with it South 34 degrees West 26 perches to a stone; thence South 17 degrees East 6 perches to a stone; thence South 67 degrees West 160 perches to a stone; thence South  $30 \frac{1}{4}$  degrees East  $70 \frac{1}{2}$  perches to a stone; thence South  $47 \frac{1}{2}$  degrees West  $83 \frac{1}{4}$  perches to a stone; thence North  $83 \frac{1}{2}$  degrees West  $22 \frac{1}{4}$  perches to a stone; thence South  $47 \frac{1}{2}$  degrees West 56 perches to a stone standing in a line of Jacob Poffenberger's part of the aforementioned land; thence with said land South  $83 \frac{1}{2}$  degrees East  $120 \frac{1}{2}$  perches to a stone; thence North 21 degrees East 68 perches to a stone; thence South 59 degrees East  $90 \frac{1}{2}$  perches to a stone planted on the eleventh line of the aforementioned deed; thence with the said eleventh line North 21 degrees East  $191 \frac{1}{2}$  perches to a stone; thence by a straight line to the place of beginning; containing 198 acres of land, more or less.

SAVING AND EXCEPTING THEREFROM, the two parcels of land, conveyed by Daniel Wolf and wife to Jacob Warrenfeltz by the following Deeds dated and recorded among the Land Records of Washington County, Maryland: (i) Deed dated October 7, 1852 and recorded in Liber I.N. 11, Folio 78; and (ii) Deed dated February 4, 1856 and recorded in Liber I.N. 11, Folio 81.

The street address of the herein described property is currently known and designated as 7608 University Road, Boonsboro, Maryland.

BEING all of the same property which was conveyed from Samuel H. Lefever and Ruth L. Lefever, his wife, to Jean Preston Browning, an undivided one-half interest, and to Warwick E. Browning, an undivided one-half interest, by Deed dated January 11, 1965 and recorded in Liber 418, Folio 574 among the Land Records of Washington County, Maryland. Jean Preston Browning died on August 18, 2014. In accordance with the terms of her Last Will and Testament, Warwick E. Browning, Personal Representative of the Estate of Jean Preston Browning, conveyed her one-half interest to himself; title thereafter vested sole in Warwick E. Browning; and

BEING all of the same property which is intended to be conveyed from Jocelyn Browning Cerul, Personal Representative of the Estate of Warwick E. Browning, to Tracy McCleary by Deed to be recorded among the aforesaid Land Records.



Open Session Item

**SUBJECT:** Community Development Block Grant Plans for Renewal

**PRESENTATION DATE:** September 18, 2018

**PRESENTATION BY:** Tina Wilson, Senior Grant Manager, Office of Grant Management

**RECOMMENDED MOTION:** Move to renew the Fair Housing and Equal Opportunity (FHEO), Minority Business/Women Owned Business (MBE/WBE), and Section 3 Plans as presented.

**REPORT-IN-BRIEF:** The Department of Housing and Community Development (DHCD) is requiring recipients of Community Development Block Grants (CDBG) to renew three policies to maintain eligibility for receiving funding from DHCD.

**DISCUSSION:** The FHEO Plan ensures that the County complies with all statutes, regulations and Executive Orders relating to civil rights, fair housing, non-discrimination and equal opportunity. As part of this plan, the County will commit to further fair housing in our community.

The Minority Business Plan requires the County to make good faith efforts to contract with minority business enterprises (MBE) and women owned business enterprises (WBE) when contracting for goods and/or services for projects utilizing CDBG funding.

The Section 3 Plan requires the County to comply with Section 3 of the Housing and Urban Development Act of 1968 (as amended). Section 3 requires the Board to ensure, to the greatest extent possible and consistent with existing federal, state, and local laws and regulations, that employment and contracting opportunities are provided to low and very low-income persons. Section 3 applies to all contracts awarded for CDBG funded projects exceeding \$100,000.

These three policies will be effective for a three-year period and the County will continue to be eligible to receive funds throughout that time period.

**FISCAL IMPACT:** If the plans are not renewed, the County will not be eligible for Community Development Block Grant funding.

**CONCURRENCES:** John Martirano, County Attorney

**ALTERNATIVES:** N/A

**ATTACHMENTS:** FHEO Plan, MBE/WBE Plan, Section 3 Plan templates

**AUDIO/VISUAL NEEDS:** N/A

## FAIR HOUSING AND EQUAL OPPORTUNITY PLAN

As a recipient of federal Community Development Block Grant funds from the United States Department of Housing and Urban Development received through the State of Maryland, the Board of County Commissioners of Washington County, Maryland (the "Board") is required to comply with all federal statutes, regulations and Executive Orders relating to civil rights, fair housing, non-discrimination and equal opportunity. The Board's compliance is not specific to the federally funded project or activity. The Board must ensure that its administrative practices, policies and laws meet the intent of the statutes, regulations and Executive Orders.

Therefore, the Board commits to create an environment for its citizens where no one is excluded from participation or benefit due to their race, color, national origin, ethnicity, gender, disability, familial status, marital status, age or religion. The denial of rights based on any of these protected classes is detrimental to the health, safety and welfare of the citizens and constitutes an unjust denial or deprivation of such inalienable rights which is within the power and the proper responsibility of government to prevent.

### Fair Housing

In accordance with the federal Civil Rights Act of 1968 (as amended), the federal Housing and Community Development Act of 1974 (as amended), and the Fair Housing Act of 1988, the Board will promote through fair, orderly and lawful procedures, the opportunity for each person to obtain housing of such person's choice in this community without regard to race, color, national origin, ethnicity, gender, disability, familial status, marital status, age or religion.

To the best of our ability, the Board will promote and encourage fair housing choice for all its residents. The Board's administrative practices, policies and laws will attempt to prohibit:

- Discrimination in the Sale or Rental of Housing
- Discrimination in Housing Financing
- Discrimination in Providing Brokerage Services
- Unlawful Intimidation

The Board will accept complaints from any citizen that feels that they have been discriminated against related to their housing choice. The Board will make an initial investigation and refer the complaint to the state or the federal housing departments.

For housing projects developed or assisted with federal funds, the Board will ensure that its subrecipients and developers will comply with statutes, regulations and Executive Orders.

### Equal Opportunity

In accordance with the federal Civil Rights Act of 1964 (as amended), no person in Washington County shall be excluded from participation in, denied benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance.

The Board will ensure that it will not discriminate in its procurement practices. The County's procurement policies allow for open and competitive bidding concerning all procured goods and services. When applicable, the County will solicit bids from minority women owned businesses.

### Affirmative Action Strategy

It is the policy of the Board not to discriminate against any employee or any applicant for employment because of race, color, national origin, ethnicity, gender, disability, familial status, marital status, age or religion. The Board will take affirmative action to insure that this policy includes but is not limited to the

following: recruitment and employment, promotion, demotion, transfer, compensation, selection for training, layoff and termination. Additionally, the Board will ensure that our contractors and subcontractors will not discriminate against any employee or applicant for employment.

**Affirmatively Furthering Fair Housing**

The Board commits to affirmatively further fair housing in our community. Our programs will be administered in accordance with our efforts to provide a range of fair housing choices to our citizens.

The Board will adopt a Fair Housing Proclamation and celebrate the month of April as Fair Housing Month on an annual basis.

**Excessive Force**

The National Affordable Housing Act (NAHA) of 1990 (as amended) requires recipients of federal Community Development Block Grant funds through the United States Department of Housing and Urban Development to protect individuals engaging in non-violent civil rights demonstrations. To that end, the County is required to develop and maintain a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations.

The Board maintains a Sheriff’s Department for the safety of its citizens. The Board prohibits the use of excessive force by employees of the Washington County Sheriff’s Department against anyone engaged in non-violent civil rights demonstrations. This is more defined in the Washington County Sheriff’s Department’s “Use of Force” policy.

**Limited English Proficiency**

The Board recognizes that, as its population increases, its population now includes persons from other countries whose primary language is not English. To that end, the Board will make efforts to identify various populations and to provide information to them in a language they understand.

**Personnel Policies**

The Board’s personnel policies are in compliance with all federal and state equal opportunity requirements. They are updated as requirements change.

Specifically, employees are notified of their rights, responsibilities and requirements of their specific jobs and as a representative of this County. The personnel policies provide information on compensation, leave, termination, grievances, benefits, sexual harassment, and employee reviews. The personnel policy also provides information about conflict of interest provisions related to contracting and procurement.

A full copy of the personnel policies for Washington County may be obtained at the Health and Human Services office located in the County Administration Building during normal business hours.

ATTEST/WITNESS:

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

\_\_\_\_\_  
Krista L. Hart, Clerk

\_\_\_\_\_  
Terry L. Baker, President

This Fair Housing and Equal Opportunity Plan is hereby adopted by the Board of County Commissioners of Washington County, Maryland on \_\_\_\_\_, 2018. It is effective for a three (3) year period until \_\_\_\_\_.

**MINORITY BUSINESS PLAN**

As a recipient of federal Community Development Block Grant (CDBG) funds through the United States Department of Housing and Urban Development received through the State of Maryland, the Board of County Commissioners of Washington County, Maryland (the "Board") is required to make good faith efforts to contract with minority business enterprises (MBE) and women business enterprises (WBE) for goods and services.

A minority or women business enterprise is one that is at least 50% owned by a minority or a woman. For publicly-owned businesses, at least 51% of the stock must be owned by minority group members or women.

The Board will make efforts to solicit MBEs and WBEs for projects utilizing Community Development Block Grant funds. These efforts will include:

- Developing and maintaining a list of qualified MBEs and WBEs Assuring that small businesses and MBEs and WBEs are solicited for appropriate contract opportunities
- Establishing a delivery system which will encourage participation by MBEs and WBEs
- Encouraging contractors to subcontract with MBE and WBE businesses

The Board will document efforts undertaken during the procurement process and maintain them in the CDBG files.

ATTEST/WITNESS:

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

\_\_\_\_\_  
Krista L. Hart, Clerk

\_\_\_\_\_  
Terry L. Baker, President

This Minority Business Plan is hereby adopted by the Board of County Commissioners of Washington County, Maryland on \_\_\_\_\_, 2018. It is effective for a three (3) year period until \_\_\_\_\_.

## SECTION 3 PLAN

As a recipient of federal Community Development Block Grant (CDBG) funds through the United States Department of Housing and Urban Development (HUD) received through the State of Maryland, the Board of County Commissioners of Washington County, Maryland (the "Board") is required to comply with Section 3 of the Housing and Urban Development Act of 1968 (as amended). Section 3 requires the Board to ensure, to the greatest extent possible, and consistent with existing federal, state and local laws and regulations, that employment and contracting opportunities are provided to low and very low income persons. Section 3 applies to all contracts awarded for CDBG funded projects that exceed \$100,000.

### Definitions:

A low and very low income person who qualifies as a Section 3 Person is an individual who:

- resides in Washington County; and
- resides in public housing funded by the federal government; or
- receives housing assistance from the federal government; or
- resides in a household where the total household income is less than 50% of the area median income for Washington County using income limits provided by HUD.

A low and very low income person who benefits or qualifies as a Section 3 Business is defined as:

- a business that is 51% or more owned by Section 3 persons; or
- a business where 30% of the permanent, full time employees are currently Section 3 persons or within three (3) years of the date of first employment were Section 3 persons; or
- a business that commits to subcontract over 25% of the total contract award to businesses that meet the definition of a Section 3 business as described above.

Washington County, Maryland is the Section 3 Business and Employment Project Area for the Board of County Commissioners of Washington County, Maryland.

### Compliance:

The Board certifies that it will, to the greatest extent feasible, comply with Section 3 requirements when awarding contracts for construction, non-construction, materials, and supplies.

The Board will undertake the following steps when Section 3 applies:

1. Develop bid and solicitation documents which will identify Section 3 requirements and include the Section 3 Hiring Estimate Form which will be submitted with bid.
2. Advertise RFP/RFQ which will include the following statement, "Federal Section 3 hiring requirements apply to this project."
3. Notify local housing authority, county housing office, job training services, and other related agencies of federally funded projects that may result in hiring in the near future.
4. Require bid submittals from Section 3 Businesses or from businesses using Section 3 Business subcontractors to include a Section 3 Business Certification form.
5. Insert Section 3 Clause in selected contractor's contract and include specific language to detail contractor's Section 3 intent related to new hires and/or Section 3 Businesses as subcontractors.

**MARYLAND CDBG PROGRAM | FHEO**

6. At pre-construction conference, explain Section 3 requirements including certification process prior to hiring. Provide contractor with Section 3 Self-Certification Forms to use when accepting applications for employment.
7. Require contractor to submit a list of all current employees who will work on the project.
8. Review and approval by grantee of Section 3 Self-Certification Form submitted by the contractor before a hire is made.
9. Review payroll records to document the participation of Section 3 hire(s) on the project.
10. Review payroll records to document the participation of Section 3 Business employees on the project.
11. At the completion of the work under the contract, complete CDBG Section 3 Tracking Form which documents Section 3 compliance.

The Board will document efforts undertaken during the procurement process and maintain them in the CDBG files.

ATTEST/WITNESS:

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

\_\_\_\_\_  
Krista L. Hart, Clerk

BY: \_\_\_\_\_  
Terry L. Baker, President

This Section 3 Plan is hereby adopted by the Board of County Commissioners of Washington County, Maryland on \_\_\_\_\_, 2018. It is effective for a three (3) year period until \_\_\_\_\_.





## Agenda Report Form

### Open Session Item

**SUBJECT:** Smithsburg Wastewater Treatment Plant (WwTP) Upgrade

**PRESENTATION DATE:** September 18, 2018

**PRESENTATION BY:** Dan DiVito, Director, Division of Environmental Management, Mark Bradshaw, PE, Deputy Director, Engineering Services, Jeff Culton, PE, Buchart Horn, and Robert Andryszak, PE, RK&K Engineering

**RECOMMENDATION:** Information Purpose Only

**REPORT-IN-BRIEF:** To meet projected growth in the Town of Smithsburg, the Smithsburg WwTP is scheduled for a facility upgrade. As with all department projects, we have reviewed and value engineered the project to determine the most cost effective plan to meet the capacity requirements for future development. We asked our engineering consultants to provide a detailed analysis using current treatment parameters and flow numbers to suggest the most cost effective approach to this project. We have determined that the Smithsburg WwTP can be upgraded up to 0.45 million gallons per day (MGD) for less than the original estimate and still meet all the development requirements of the Town. The Smithsburg WwTP upgrade has money allocated for construction in FY 2020 and FY 2021. Before proceeding with the proposed upgrade to 0.60 MGD the following questions have to be asked: what capacity is available for future development, can the plant complete an intermediate upgrade before reaching the ultimate capacity of 0.60 MGD.

**DISCUSSION:** At the August 28, 2018 meeting with the Town of Smithsburg, the Town and the Commissioners had additional questions or clarification regarding the proposed upgrade to 0.45 MGD. Those questions are as follows:

1. Will maximizing the BioMag system work? What other systems will need to be upgraded?
2. What will be plant's capacity be after the upgrade and how many equivalent dwelling units (EDUs) are going to be available?
3. What is the estimated time timeline for design, permitting, and construction?
4. Is BioMag an interim or long-term solution to the upgrade?
5. Can the new equipment and proposed modification be utilized at the ultimate upgrade to 0.60 MGD and if so what is the impact to the proposed \$15M ultimate upgrade?
6. What is the proposed construction cost?

**FISCAL IMPACT:** The cost associated with expanding the plant's capacity to 0.45 or 0.60 MGD is approximately \$1.75M or \$15M respectively.

Smithsburg WwTP Alternatives

	Ex	New	Cost	Total	Approved	Proposed	Total	EDUs		Projected
Design Flow	EDU s	EDUs	Per New	EDUs	Developmental	Development	EDUs	Available After	Construction	Completion
(GPD)	Available		EDU	Available	Lots <sup>1</sup>	EDUs <sup>2</sup>	Needed <sup>3</sup>	Development Buildout	Cost	Time
330,000	161	0		161	138	275	413	-252	\$ -	
450,000	161	540	\$ 3,240.74	701	138	275	413	288	\$ 1,750,000	2020
600,000	161	1,485	\$10,101.01	1,646	138	275	413	1233	\$ 15,000,000	2021
<p>1. Approved Developmental Lots are lots that have been approved by the Town, but haven't been built on. Mt. Shadows is included in this category</p> <p>2. Includes the Cloverly development at 275 EDUs. At the meeting with the Town, the Ridenour development was mentioned, but no plans have been submitted to date.</p> <p>3. Total EDUs needed is the total of the approved developmental lots and proposed development EDUs added together.</p>										

**CONCURRENCES:** N/A

**ALTERNATIVES:** None

**ATTACHMENTS:** None

**AUDIO/VISUAL NEEDS:** None