



## Board of County Commissioners of Washington County, Maryland

### *Open Session Minutes*

September 17, 2024

#### **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**

A moment of silence was observed, followed by the Pledge of Allegiance to the Flag by the full assemblage.

#### **CALL TO ORDER**

President John F. Barr called the regular meeting of the Board of County Commissioners of Washington County, Maryland, to order at 8:01 a.m. with the following members present: Vice-President Jeffrey A. Cline, Commissioner Derek Harvey, Commissioner Randall E. Wagner and Commissioner Wayne K. Keefer.

#### **APPROVAL OF MINUTES**

Commissioner Wagner, seconded by Commissioner Keefer, moved to approve the minutes of August 12, 2024, (Special Meeting). The motion passed (4-0-1). Commissioner Harvey abstained.

Commissioner Wagner, seconded by Commissioner Cline, moved to approve the minutes of August 27, 2024. The motion passed (4-0-1). Commissioner Harvey abstained.

#### **FIRST CLOSED SESSION**

Commissioner Harvey, seconded by Commissioner Wagner, moved to convene in first closed session at 8:03 a.m. The motion passed unanimously (5-0).

To consult with counsel to obtain legal advice on a legal matter.

(7) Discussion is protected by attorney/client privilege.

To consult with staff, consultants or other individuals about pending or potential litigation.

(8) Discussion also includes legal advice as to litigation strategy, the discussion of which in open session would be disadvantageous to County in the course of said litigation.

- Discussion of ongoing litigation.

In closed session, the Commissioners discussed progress to date of ongoing litigation.

Present during first closed session at various times were Commissioners John F. Barr, Jeffrey A. Cline, Derek Harvey, Wayne K. Keefer and Randall E. Wagner; Dawn Marcus, County Clerk; Zachary J. Kieffer, County Attorney; Michelle Gordon, County Administrator; Rosalinda Pascual, Deputy County Attorney; Aaron Weiss, Assistant County Attorney; and Roger Schlossberg, Attorney.

#### **RECONVENE IN OPEN SESSION**

Commissioner Wagner, seconded by Commissioner Harvey, moved to reconvene in open session at 9:01 a.m. The motion passed unanimously (5-0).

#### **COMMISSIONERS' REPORTS AND COMMENTS**

Commissioner Keefer commented on citizen concerns regarding Grace Academy.

Commissioner Wagner attended and commented on Senator Paul Corderman's Town Hall Forum. He attended Remembrance in the Park.

Commissioner Harvey attended and commented on Senator Paul Corderman's Town Hall Forum. He shared that today is Constitution Day.

Commissioner Cline attended and thanked everyone who organized and participated in the Town Hall Forum. He attended Remembrance in the Park. Commissioner Cline attended the Boonsboro 911 Remembrance Parade. He attended the Hagerstown Aviation Museum Official Grand Opening.

Commissioner Barr congratulated the Hagerstown Aviation Museum on their grand opening. He shared the Civil War Battle of Antietam was one hundred and sixty-two (162) years ago today. Commissioner Barr shared upcoming events.

### **STAFF COMMENTS**

Dawn Marcus, County Clerk, presented the request to approve the reappointment of Gerald Kendle to serve a second, three-year term, from July 1, 2024 through June 30, 2027, as a Community Representative on the Local Management Board. This is not a paid board.

Commissioner Harvey, seconded by Commissioner Keefer, moved to approve the reappointment of Gerald Kendle as presented. The motion passed unanimously (5-0).

Michelle Gordon, County Administrator attended the Remembrance in the Park ceremony. She attended Senator Corderman's Town Hall Forum meeting.

### **CITIZEN PARTICIPATION**

Mary Heeringa, Hagerstown  
Wes Decker, Hagerstown

Commissioner Harvey requested a Point of Order regarding managing comments that were made on behalf of City Government employees while working and whether or not they should be considered citizen participation.

### **PROCLAMATION FOR CITIZENS' EMERGENCY PREPAREDNESS MONTH**

Board of County Commissioners presented a proclamation for Emergency Preparedness Month to Alan Matheny, Director, Emergency Management and Communications.

### **ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO) MITIGATION REQUEST - ELMWOOD FARM, SECTION 5C**

William Wantz, Attorney; Jim Fitzgerald, Developer; and John Dallavalle, Developer, presented the request for a motion to approve the Adequate Public Facilities (APFO) mitigation request for Elmwood Farms Section 5C subdivision plat. The request seeks to satisfy the school adequacy requirement of the APFO by making an alternate mitigation contribution with respect to 13 lots comprising proposed Section 5C.

Commissioner Harvey, seconded by Commissioner Wagner, moved to approve the Adequate Public Facilities (APFO) mitigation request for Elmwood Farms Section 5C as presented. The motion passed unanimously (5-0).

**GEORGE WASHINGTON STATUE FOR 250<sup>TH</sup> ANNIVERSARIES OF THE COUNTY AND THE SIGNING OF THE DECLARATION OF INDEPENDENCE (SUMMER OF 2026)**

Michelle Gordon, County Administrator; Tom Riford, Committee Member; Al Martin, Committee Chair; and Toby Mendez, Artistic Sculptor, presented the request to approve the allocation of \$25,000.00 of Hotel Rental Tax (HRT) funds in FY2025 and an additional \$25,000.00 of HRT funds in FY2026 (total \$50,000.00 of HRT funds) toward the design and construction of a commemorative George Washington statue to be unveiled as part of Washington County's 250th anniversary celebration, and to direct staff to return with the proposed agreements. Also in attendance were Steve Hummel, Treasurer of the Committee and Judge Paul Bannister, President of the Committee.

Commissioner Harvey, seconded by Commissioner Wagner, moved to approve the allocation of \$25,000.00 of Hotel Rental Tax (HRT) funds in FY2025 and an additional \$25,000.00 of HRT funds in FY2026, for a total of \$50,000.00, as presented. The motion passed unanimously (5-0).

Commissioner Keefer, seconded by Commissioner Cline, moved to approve the location for installation of the George Washington Statue as presented which is in the plaza in front of the Historic Courthouse (95 West Washington St). The motion passed unanimously (5-0).

**HAGERSTOWN/EASTERN PANHANDLE METROPOLITAN PLANNING ORGANIZATION (HEPMPO) BUDGET AMENDMENT REQUEST**

Matt Mullenax, Executive Director, HEPMPO; and Jill Baker, Director, Planning and Zoning, presented the request to approve a budget amendment in the amount of \$130,000.00. .

Commissioner Wagner, seconded by Commissioner Keefer, moved to approve the budget amendment in the amount of \$130,000.00 as presented. The motion passed unanimously (5-0).

**BUDGET ADJUSTMENT – PUBLIC SAFETY TRAINING CENTER CIP**

R David Hays, Director, Emergency Services, presented the request to approve a budget transfer in the amount of \$685,450.00 from Capital Reserves to the Public Safety Training Center (PSTC) CIP.

Commissioner Wagner, seconded by Commissioner Cline, moved to approve a budget transfer in the amount of \$685,450.00 from Capital Reserves to the Public Safety Training Center CIP as presented. The motion passed unanimously (5-0).

**CONTRACT RENEWAL (PUR-1659) – UNIFORMS FOR WASHINGTON COUNTY SHERIFF'S OFFICERS**

Brandi Naugle, Buyer, Purchasing; and Sheriff Brian Albert, Washington County Sheriff's Office, presented the request to renew the contract for uniforms for Washington County Sheriff's Officers with Galls, LLC of Lexington, KY, per the rates included in its letter dated August 12, 2024. Galls, LLC is requesting a 6.9% increase above the current rates.

Commissioner Wagner, seconded by Commissioner Cline, moved to approve to renew the contract for uniforms for Washington County Sheriff's Officers with Galls, LLC as presented. The motion passed unanimously (5-0).

**INTERGOVERNMENTAL COOPERATIVE PURCHASE (INTG-24-0155) – DELL COMPUTERS**

Brandi Naugle, Buyer, Purchasing; and Joshua O’Neal, Chief Technical Officer, Information Technology, presented the request to authorize by Resolution, the approval of the purchase for the replacement of outdated computers for county departments from Dell Technologies of Round Rock, TX at the contracted pricing totaling \$184,267.00 based on the contract awarded by Omnia – National Cooperative Purchasing Alliance (NCPA) RFP #45-22.

Commissioner Wagner, seconded by Commissioner Cline, moved to approve to authorize by Resolution, the approval of the purchase for the replacement of computers from Dell Technologies as presented. The motion passed unanimously (5-0).

**CONTRACT RENEWAL (PUR-1561) – PERFORMANCE TESTING FOR FIRE HOSE**

Brandi Naugle, Buyer, Purchasing; and R. David Hays, Director, Emergency Services, presented the request to renew the contract for the performance testing of fire hose with Industrial Inspection & Analysis of Peoria, AZ, per the rates included in its letter dated June 10, 2024. Industrial Inspection & Analysis is requesting a \$0.01/ft increase above the current rates.

Commissioner Wagner, seconded by Commissioner Cline, moved to approve to renew the contract for performance testing of fire hose with Industrial Inspection & Analysis as presented. The motion passed unanimously (5-0).

**BID AWARD (PUR-1699) – BULK DELIVERY OF ROAD SALT**

Brandi Naugle, Buyer, Purchasing; and Zane Rowe, Deputy Director, Highways Departments, presented the request to award the contract for the purchase and delivery of bulk road salt to the responsible, responsive bidder, Cargill, Incorporated – Road-Salt Safety, of North Olmsted, OH who submitted the price of \$74.86 per ton.

Commissioner Cline, seconded by Commissioner Harvey, moved to award the contract for bulk road salt to Cargill, Incorporated – Road-Salt Safety, as presented. The motion passed unanimously (5-0).

Commissioner Wagner left the meeting at 10:00 a.m. and returned at 10:12 a.m.

**WATER AND SEWER POLICY UPDATE**

Mark Bradshaw, Director, Environmental Management, provided an update and a request for future action. Initial proposed changes include: Establishing that the property owner will own and maintain the grinder pump from the date of this policy amendment approval moving forward; Allowing allocation to be transferred from one property to another property where both properties have the same owner and are both on the County’s water or sewer system; and, Allowing for the “buy back” or purchase of unused allocations provided that a developed property is not left with zero (0) EDU’s or a minimum allocation based on the size of the developed property, and to establish that minimum allocation based on property size.

The Commissioners requested additional information on how other jurisdictions have handled the above changes. This item will be brought back in the future for additional review and approval.

**DUVINAGE, LLC – DEFAULT OF TERMS OF FINANCIAL INCENTIVE AGREEMENT**

Linda Spence, Financial Programs Administrator, Business and Economic Development; and Jonathan Horowitz, Director, Business and Economic Development, presented the request to terminate the

financial incentive agreement of April 18, 2013, and written modification dated August 17, 2016, between the Washington County Board of County Commissioners and Duvinage, LLC, causing a waiver of all terms and further action in relation to the financial incentive agreement, which includes waiving the County's right to claw back the remaining balance of \$11,333.62 (\$6,666.84 in principal and \$4,666.78 in interest).

Commissioner Harvey, seconded by Commissioner Wagner, moved to approve the termination as presented. The motion passed unanimously (5-0).

### **SECOND CLOSED SESSION**

Commissioner Harvey, seconded by Commissioner Cline, moved to convene in second closed session at 10:35 a.m. The motion passed unanimously (5-0).

To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom the BOCC has jurisdiction, or any other personnel matter that affects one or more specific individuals.

- (1) Personnel matters are confidential and properly discussed in closed session.
  - Discussion of efforts to retain certain employees
  - Discussion of performance of certain employees in County departments and divisions.

To consult with counsel to obtain legal advice on a legal matter.

- (7) Discussion is protected by attorney/client privilege.
  - County attorney to provide legal advice on rules pertaining to County meetings.
  - County attorney to provide legal advice on prospective legislative items.

To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State.

- (4) Open session discussion could have negative effect on business locating in Washington County and County's ability to attract and retain business.
  - Discussion of business and economic development incentives.

To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to: (i) security assessments or deployments relating to information resources technology; (ii) network security information; or (iii) deployments or implementation of security personnel, critical infrastructure, or security devices.

- (15) Discussion in open session would constitute a risk to County's cyber security processes and programs.
  - Discussion of IT Department and County's IT system and update on work with consultant.

In closed session, the Commissioners discussed; and reached a consensus regarding:

- Business and Economic Development Incentives;
- Information Technology updates;
- Legal advice for rules pertaining to County meetings;
- Potential legislative items;
- Efforts to retain employees; and
- Employee performance and salary reviews.

Present during closed session at various times were Commissioners John F. Barr, Jeffrey A. Cline, Derek Harvey, Wayne K. Keefer and Randall E. Wagner; Dawn Marcus, County Clerk; Zachary J. Kieffer, County Attorney; Michelle Gordon, County Administrator; Rosalinda Pascual, Deputy County Attorney; Aaron Weiss, Assistant County Attorney; Jonathan Horowitz, Director, Business and Economic Development; Linda Spence, Financial Programs Administrator, Business and Economic Development; Chip Rose, Director Human Resources; Joshua O'Neal, Chief Technical Officer, Information Technology; David Elliott, Director, Information Technology; Tyler Snyder, Innovative Inc.; and Alexander Samuel, Innovative Inc.

**RECONVENE IN OPEN SESSION**

Commissioner Harvey, seconded by Commissioner Wagner, moved to reconvene in open session at 12:33 p.m. The motion passed unanimously (5-0).

**ADJOURNMENT**

Commissioner Wagner, seconded by Commissioner Harvey, moved to adjourn at 12:33 p.m. The motion passed unanimously (5-0).



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Dawn L. Marcus, *County Clerk*